

**Preparatory Committee for the 2010
Review Conference of the Parties to
the Treaty on the Non-Proliferation
of Nuclear Weapons**

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**ARTICLE III AND PREAMBULAR PARAGRAPHS 4 AND 5,
ESPECIALLY IN THEIR RELATIONSHIP TO ARTICLE IV AND
PREAMBULAR PARAGRAPHS 6 AND 7: COMPLIANCE AND
VERIFICATION**

Working Paper submitted by Australia, Austria, Canada, Denmark, Hungary, Ireland,
the Netherlands, New Zealand, Norway, and Sweden (the “Vienna Group of Ten”)

1. The Vienna Group of Ten (hereafter “The Vienna Group”) stresses the important contribution of the Treaty to worldwide security and its undoubted effectiveness in checking nuclear proliferation, and thus preventing the destabilisation caused by nuclear arms races. The group underlines the importance of all States Party demonstrating strong commitment to the Treaty, not least in the face of the revelations of non-compliance.
2. The Vienna Group expresses the understanding that the Treaty confers a set of interrelated and mutually-reinforcing obligations and rights on States Party. Accountability is a key element of the Treaty regime, which can be made stronger and more transparent through adherence by all States Party to the strengthened safeguards system pursuant to Article III of the Treaty, in order to provide assurances of compliance with Article II, and to create the stable international environment necessary to allow for the full realisation of Article IV.

3. The Vienna Group notes that meeting current and potential compliance challenges are key tasks for the NPT Strengthened Review Process. These challenges pose a significant test for the Treaty, and need to be met firmly by upholding the Treaty's integrity and reinforcing the authority of the safeguards system of the IAEA. The group notes that intense international concern about nuclear weapons proliferation, including potentially to non-State actors, has added to the importance of the Treaty-based nuclear non-proliferation regime.

4. The Vienna Group affirms the fundamental importance of full compliance with all the provisions of the Treaty including with relevant safeguards agreements, and relevant subsidiary arrangements. It notes that the integrity of the Treaty depends upon full respect by States Party for their obligations under the Treaty and deriving from the Treaty. The group reaffirms the statutory role of the Board of Governors and the Director General of the IAEA in relation to States' compliance with safeguards agreements, and underscores the importance of the Agency's access to the UN Security Council and to other relevant organs of the United Nations, particularly though not exclusively in cases of non-compliance. In this regard the Vienna Group supports the former United Nations Secretary-General's encouragement of the Security Council to regularly invite the IAEA Director General to brief the Council on the status of safeguards and other relevant verification processes. The group underscores the mandate of the UN Security Council, in accordance with the UN Charter, to ensure and uphold compliance with the Treaty and with safeguards agreements, and to take appropriate measures in cases of non-compliance with the Treaty and with safeguards agreements when notified by the IAEA of non-compliance. Further, the group recalls United Nations Security Council Resolution 1540 of April 2004 and Resolution 1673 of April 2006, in which the Council reaffirmed that the proliferation of nuclear weapons constitutes a threat to international peace and security.

5. The Vienna Group notes that any State Party which does not comply with its obligations under the Treaty isolates itself through its own actions from the benefits of constructive international relationships, and from the benefits which accrue from adherence to the Treaty, including inter alia from cooperation in the peaceful uses of nuclear energy, until it enters into full compliance.

6. The Vienna Group reaffirms its conviction that IAEA safeguards provide assurance that States are complying with their non-proliferation undertakings, and provide the mechanism for States to demonstrate this compliance and in this regard notes that the vast majority of States Party are in compliance with their Treaty obligations. The group further reaffirms that IAEA safeguards thereby promote further confidence among States and, being a fundamental element of the Treaty, help to strengthen their collective security and to build the confidence essential for enhanced nuclear cooperation among States. It is the conviction of the group that safeguards play a key role in preventing the proliferation of nuclear weapons and other nuclear explosive devices. Accordingly, IAEA safeguards, which play an indispensable role in ensuring the effective implementation of the Treaty, are an important, integral part of the international regime for nuclear non-proliferation.

7. The Vienna Group calls for the universal application of IAEA safeguards in all States Party in accordance with the provisions of the Treaty. The group notes that since the 2005 Review Conference, nine further Comprehensive Safeguards Agreements pursuant to the NPT have been brought into force, but expresses its deep concern that thirty States have yet to fulfil their respective obligations under the Treaty. The group therefore urges those States Party which have not yet done so to conclude such agreements. In addition, the group calls on all States to submit all nuclear material and activities, both current and future, to IAEA safeguards.

8. The Vienna Group underlines the importance of building and maintaining confidence in the peaceful nature of nuclear activities in non-nuclear weapons states. In this respect, it recognizes the importance of the annual safeguards conclusions drawn by the IAEA with respect to the correctness and completeness of States' declarations. The group urges all States to cooperate fully with the IAEA in implementing safeguards agreements and in expeditiously addressing anomalies, inconsistencies and questions identified by the IAEA with a view to obtaining and maintaining the required conclusions. The group notes the importance of full use of all tools at the IAEA's disposal for resolution of safeguards issues.

9. The Vienna Group recalls that Article III.1 of the Treaty requires each non-nuclear weapon State Party to accept safeguards on all source and special fissionable material in all peaceful nuclear activities. The Group recognizes that a State's Comprehensive Safeguards

Agreement based on document INFCIRC/153 (Corrected) embodies the obligation for the State to provide the required declarations to the IAEA as well as the IAEA's right and obligation to implement safeguards and to verify that the declarations are both correct and complete. The Group further reaffirms that the IAEA, as the competent authority designated under Article III to apply safeguards, verifies the correctness and completeness of a State's declarations with a view to providing assurances of the non-diversion of nuclear material from declared activities and of the absence of undeclared nuclear material and activities.

10. While recognising the value of a Comprehensive Safeguards Agreement in providing measures for verifying the non-diversion of declared nuclear material, the Vienna Group is conscious that such measures are limited and not sufficient for the Agency to provide credible assurances regarding the absence of undeclared nuclear material and activities. The group therefore considers that it is necessary for a Comprehensive Safeguards Agreement to be supplemented by an Additional Protocol based on document INFCIRC/540 (Corrected). The group fully endorses the measures contained in the Model Additional Protocol, noting that the implementation of an Additional Protocol provides increased confidence about a State's compliance with Article II of the Treaty. In this regard, the group recognises the Additional Protocol as an integral part of the IAEA's safeguards system and affirms that a Comprehensive Safeguards Agreement together with an Additional Protocol represents the verification standard pursuant to Article III.1 of the Treaty.

11. The Vienna Group notes that 116 States have signed Additional Protocols, and that such protocols are in force for 87 States. Thus, a majority of States have accepted the verification standard. The group therefore urges all States Party which have not yet done so to conclude and to bring into force an Additional Protocol as soon as possible.

12. The Vienna Group recognises the need for the IAEA to further facilitate and assist States Party in the conclusion and entry into force of safeguards agreements and Additional Protocols. In this regard the group welcomes the efforts of the IAEA Secretariat and a number of IAEA Member States to implement a plan of action to encourage wider adherence to the safeguards system, including the promotion of universal adherence to the Additional Protocol, and the organisation of regional seminars.

13. The Vienna Group notes the conclusion reached in June 2005 by the IAEA Board of Governors that the then existing Small Quantities Protocol (SQP) – which held in abeyance certain provisions of the Comprehensive Safeguards Agreement for qualifying States – constituted a weakness in the safeguards system. The group further notes the IAEA Board of Governors' decision in 2006 to modify the standard SQP text and change the eligibility for an SQP. The group calls on all SQP States which have not already done so to take the steps necessary to adopt the revised SQP without delay. The group urges SQP States that are planning to acquire nuclear facilities or to otherwise exceed the criteria of the revised SQP to renounce their SQPs and to resume full application of Comprehensive Safeguards Agreement provisions without delay. The group further urges all States with SQPs to bring into force an Additional Protocol in order to provide maximum transparency.

14. The Vienna Group notes that pursuant to Article 7 of a Comprehensive Safeguards Agreement, a State Party shall establish and maintain a system of accounting for and control of nuclear material subject to safeguards under the agreement. The group recognizes the importance of an effective State and/or Regional System of Accounting for and Control of nuclear material (SSAC/RSAC) to the effective and efficient implementation of safeguards. The group urges all States Party to ensure that their respective SSAC/RSAC cooperates fully with the Secretariat and requests the Secretariat to continue to assist States with SQPs, including non-members of the Agency, through available resources, in the establishment and maintenance of an effective SSAC;

15. The Vienna Group welcomes the important work being undertaken by the IAEA in the conceptualization and the development of State-level approaches to safeguards implementation and evaluation. The group also welcomes the implementation of State-level integrated safeguards approaches by the IAEA, which results in a system for verification that is more comprehensive, as well as being more flexible and effective, than other approaches. The group welcomes the IAEA's implementation of integrated safeguards in 26 States, including eight with nuclear power plants. Attention needs to be drawn, however, to the fact that States Party must have both a Comprehensive Safeguards Agreement and an Additional Protocol in place for the IAEA to be able to make full use of this improved safeguards system. Implementation of the

integrated system can only proceed after an Additional Protocol has entered into force, and the IAEA has drawn the whole of state safeguards conclusion essential to enable implementation.

16. The Vienna Group notes that in order to draw well-founded safeguards conclusions, the IAEA needs to receive early design information in accordance with the IAEA Board of Governors' 1992 decision in GOV/2554/Attachment 2/Rev. 2, to determine whenever appropriate the status of any nuclear facilities, and to verify, on an ongoing basis, that all nuclear material in non-nuclear-weapon States is placed under safeguards. The group stresses the need for all non-nuclear-weapon States Party to provide this information to the Agency on a timely basis.

Annex

1. The Vienna Group takes note of the expressions of grave concern by States Party concerning the actions of the DPRK since the latter's stated intention in January 2003 to withdraw from the NPT and its test of a nuclear explosive device in October 2006. In this regard, the group notes adoption in 2006 of UN Security Council resolutions 1695 and 1718 on the DPRK. The group recalls that the IAEA Board of Governors reported the DPRK's non-compliance with its NPT safeguards obligations to the UN Security Council in 2003. While the group welcomes the most recent progress achieved at the Six Party Talks, it is cognizant that an important part of any normalization of the DPRK's status with regard to the Treaty will be the verified dismantlement of nuclear weapons and the resumption of safeguards activities in the DPRK consistent with the requirements of Article III.

2. The Vienna Group condemns the nuclear test carried out by the DPRK on 9 October 2006. The group underlines that the DPRK's nuclear weapons programs remain a serious challenge to the international nuclear non-proliferation regime as well as to peace and stability in the Korean Peninsula and beyond. The group deeply regrets the DPRK's announcement of withdrawal from the Treaty and calls upon the DPRK to come into compliance with the NPT and with IAEA safeguards. In this context, the group calls upon the DPRK to dismantle completely its nuclear weapons programme in a prompt, verifiable and irreversible way.

3. The Vienna Group endorses the actions taken by the IAEA Board of Governors, particularly its resolution of 12 February 2003 in which the Board declared the DPRK to be in further non-compliance with its obligations under its Safeguards Agreement and decided to report that non-compliance to the UN Security Council as provided for in Article XII.C of the IAEA Statute.

4. The Vienna Group welcomes the agreement of 13 February 2007 on initial actions for the implementation of the Joint Statement and the progress made in implementing that agreement, particularly the DPRK's shut down and sealing of the core nuclear facilities at Yongbyon and the admission of International Atomic Energy Agency (IAEA) to monitor and verify these actions. Likewise, the Vienna Group welcomes the agreement of 3 October 2007 on second phase actions

and the DPRK's commitments under that agreement to disable the core nuclear facilities at Yongbyon and to provide a complete and correct declaration of all of its nuclear programs. The Vienna Group looks forward to the DPRK fulfilling these commitments, which would contribute to the verifiable denuclearization of the Korean Peninsula.

5. The Vienna Group takes note of the IAEA Director General's assessment that Iran created a confidence deficit through many years of undeclared nuclear activities and expresses grave concern about Iran's failure to establish confidence in the peaceful nature of its nuclear activities. The Group recognises that Iran's nuclear program continues to present a major challenge to the non-proliferation regime. In this regard, the group notes adoption by the UN Security Council of resolutions 1696 (2006), 1737 (2006), 1747 (2007), and 1803 (2008) following the IAEA Board of Governors' reporting of Iran's non-compliance with its NPT safeguards agreement to the Security Council in February 2006 (IAEA document GOV/2006/14). The group stresses the importance of UN Security Council resolutions which made mandatory the IAEA Board's calls for Iran to implement a suspension on enrichment-related activities and to take additional confidence-building measures.

6. The Vienna Group notes that since 2003 Iran's nuclear program has been the subject of ongoing and intense verification measures by the IAEA. Although the group recognises that the IAEA has made some progress in clarifying issues, important outstanding questions remain. The Director General has identified possible linkages between Iran's nuclear and military programs, including possible administrative connections between projects related to uranium conversion, high explosives testing and the design for a missile re-entry vehicle, which could, in his words, "have a military nuclear dimension". The Director General has also made clear some of these possible linkages may still have some bearing on issues that are now identified as "no longer outstanding." A complete resolution of all the Agency's questions regarding these possible linkages is required if the Agency is to verify that Iran's nuclear program is exclusively peaceful in nature. The Group recognizes that the Agency's information regarding these linkages is derived from multiple sources and is consistent with findings in the Agency's own investigations and therefore calls on Iran to take note of the scope, nature and gravity of the information presented and to respond in a meaningful way. The group underlines that a full resolution of all

outstanding issues would be a first step towards credible assurances that Iran's nuclear program is of an entirely peaceful nature.

7. Given Iran's past failures to declare fully its nuclear activities, the Vienna Group affirms that the establishment of confidence in Iran's nuclear program requires not only assurances of the non-diversion of declared nuclear material, but equally importantly, of the absence of undeclared nuclear material and activities. In this regard, Iran must fully implement its NPT safeguards agreement, including its modified code 3.1 obligations as they were agreed between Iran and the Agency, and ratify and fully implement its Additional Protocol and all other transparency and access measures requested by the IAEA Director General. The group notes with serious concern Iran's continuing failure to implement the Additional Protocol that it signed in 2003. The group underlines the importance of full cooperation from those States that have provided nuclear technology and equipment to Iran and urges Iran to extend full and prompt cooperation to the IAEA.

8. The Vienna Group endorses the action taken by the IAEA Board of Governors on Iran's nuclear program, including the September 2005 IAEA Board Resolution finding that Iran's many failures and breaches of its obligations to comply with its NPT safeguards agreement constitute non-compliance in the context of Article XII.C of the Agency's Statute, and the February 2006 IAEA Board Resolution requesting the Director General of the IAEA to report to the Security Council of the United Nations the steps required of Iran by the IAEA Board to establish confidence in the peaceful nature of its nuclear program.

9. The Vienna Group expresses serious concern at Iran's continuing uranium enrichment activities in defiance of IAEA Board resolutions and Security Council resolutions. The group further expresses concern at Iran's rejection of the UN Security Council endorsed proposals of China, France, Germany, the Russian Federation, the United Kingdom and the United States, with the support of the EU High Representative, for a long-term comprehensive solution to the Iran nuclear issue including the provision of legally binding, multilayered nuclear fuel assurances for Iran. The group urges Iran to explore alternatives to indigenous enrichment capability. A lasting solution that can alleviate the concerns of the international community as to

the nature of Iran's nuclear program will be an important contribution to the stability of the region.

10. The Vienna Group welcomes Libya's decision announced in December 2003 to abandon its programme for developing weapons of mass destruction and their means of delivery, and Libya's simultaneous decision to request the IAEA to ensure through verification that all of Libya's nuclear activities would henceforth be under safeguards and exclusively for peaceful purposes. The group further welcomes Libya's signing of an Additional Protocol in March 2004 and ratification in August 2006. The group considers Libya's actions as a prominent example of the benefits available to States that embrace transparency and commit to compliance with the highest non-proliferation standards.
