The Delegation of the United States of America to the
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STATEMENT BY

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TREATY ON THE NON-PROLIFERATION
OF NUCLEAR WEAPONS

MAIN COMMITTEE III

ARTICLE IV

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CHECK AGAINST DELIVERY
Mr. Chairman,

Past Review Conferences have focused considerable attention on the question of whether States Parties were doing as much as they could to facilitate the peaceful uses of nuclear energy, as called for in Article IV. This Conference, like its predecessors, should address that question, and the United States looks forward to engaging in a fruitful discussion of that topic. However, gives the crisis of noncompliance now confronting the NPT and the spurious claims by certain states that other states are wrongfully seeking to halt their legitimate nuclear programs or access to certain nuclear-related technologies, this Conference must address in depth all aspects of Article IV.

As we all know, Article IV of the NPT contains two very important provisions. The first provision, contained in Paragraph 1 of Article IV provides that “nothing in this Treaty shall be interpreted as affecting the inalienable right” of States Parties to pursue the use nuclear energy “for peaceful purposes” and “in conformity with articles I and II of the Treaty.” Thus, States Parties to the Treaty accept the condition that their nuclear activities must comply with Articles I and II of the Treaty. The second provision is Paragraph 2 of Article IV, and it calls upon all parties to the treaty to facilitate the “fattest possible exchange of equipment, materials and scientific and technological information” on peaceful uses of nuclear energy. Clearly, any right to receive benefits under Article IV also is conditioned on the fulfillment of the Treaty’s nonproliferation obligations.

But the language of Article IV speaks to more than just access to benefits; it also places specific responsibilities upon suppliers. As the United States has pointed out in its statement in Main Committee I regarding Articles I and II, Article I requires the nuclear-weapon States not in any way to assist, encourage or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other explosive devices. To fulfill these obligations, the nuclear-weapon States must establish and implement comprehensive and effective export controls. They also should halt nuclear assistance to violators of Article II. Moreover, through appropriate measures, they should seek to halt the use of nuclear material and equipment, acquired or produced by an NPT state as a result of a material violation of the NPT’s nonproliferation undertakings, and require the elimination or return of those items to the original supplier.
Article II requires the non-nuclear-weapon States not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices and not to seek or receive any assistance in the manufacture of nuclear weapons or other explosive nuclear devices. As the United States outlined in its Main Committee I statement, fulfillment of this obligation requires that non-nuclear-weapon States refrain from activities designed to develop a nuclear weapons capability. Further, they should provide transparency into their activities sufficient to demonstrate their peaceful intent, and have in place the necessary laws and regulations to enforce their Article II obligations.

There are a number of counter-indicators to peaceful intent that other states should consider to be warning signs of a nuclear weapons purpose -- and hence of a possible Article II violation. They include the presence of undeclared nuclear facilities, procurement patterns inconsistent with a civil nuclear program (e.g., clandestine procurement networks, possibly including the use of front companies and fraudulent documentation); security measures beyond what would be appropriate for peaceful, civil nuclear installations; a pattern of Article III safeguards violations suggestive of mere mistake but of willful violation, and/or systematic deception and denial efforts aimed at concealing nuclear activities from the IAEA; and a nuclear program that has little coherence for peaceful purposes but great coherence for weapons purposes. Such danger signals are relevant for all States Parties, all of whom should have an interest in strict compliance with the NPT. They hold additional relevance for supplier countries, which should take steps to verify the intent of their potential clients so that they do not place themselves in jeopardy of an Article I violation and/or of actions that are contrary to the NPT’s core nonproliferation and security purposes.

Some States Parties have argued that Paragraph 1 of Article IV provides an unconditional right to nuclear energy for peaceful purposes -- and that steps by other states to deny them that right somehow violates their NPT rights. Nothing could be further from the truth: by agreeing to the NPT, countries have agreed that their nuclear activities must be in “conformity with articles I and II” (as well as with Article III). Article IV does not provide States Parties that have violated the nonproliferation provisions of the Treaty any protection from the consequences of breach, including the imposition of measures by other states, jointly or separately, against their nuclear programs -- and States Parties who so claim are guilty of treaty revisionism.

Let me now turn to Paragraph 2 of Article IV. Paragraph 2 of Article IV calls on parties “to facilitate … the fullest possible exchange” of technology
for the peaceful uses of nuclear energy. The use of the term “fullest possible” is an acknowledgement that cooperation may be limited. Parties are not compelled by Article IV to engage in nuclear cooperation with any given state — or to provide any particular form of nuclear assistance to any other state. The NPT does not require any specific sharing of nuclear technology between particular States Parties, nor does it oblige technology-possessors to share any specific materials or technology with non-possessors. Indeed, to conform both to the overall objective of the NPT — strengthening security by halting nuclear proliferation — and to any Article I and III obligations, supplier states must consider whether certain types of assistance or assistance to certain countries are consistent with the nonproliferation purposes and obligations of the NPT, other international obligations and their national requirements. They should withhold assistance if they believe that a specific form of cooperation would encourage or facilitate proliferation, or if they believe that a state is pursuing a nuclear weapons program is not in full compliance with its safeguards obligations, or is in violation of Articles I or II.

Let me underscore the U.S. view: NPT parties have the responsibility to implement Article IV in such a way that not only preserves NPT compliant parties’ right to develop peaceful uses of nuclear energy, but also ensures against abuse of this right by States Parties pursuing nuclear weapons capabilities. Thus, nonproliferation efforts such as export control restrictions, Nuclear Suppliers Group supply guidelines, end-use restrictions, interdiction measures such as the Proliferation Security Initiative, the imposition of national or international sanctions in response to nuclear-related proliferation problems, and efforts to restrict the spread of proliferation-sensitive enrichment and reprocessing technology are in no way inconsistent with Article IV.

Some have asserted that a State Party in demonstrable compliance with the NPT has a specific right to develop the full nuclear fuel cycle, and that efforts to restrict access to the relevant technologies is inconsistent with the NPT. The Treaty is silent on the issue of whether compliant states have the right to develop the full nuclear fuel cycle, but as I have noted, it does provide for discretion on the part of supplier states regarding the nature of their cooperation with other states. Paragraph 2 of Article IV speaks to the “fullest possible exchange” and sharing in the development of applications of nuclear energy for peaceful purposes. Further, the Preamble to the NPT affirms the general “principle that the benefits of peaceful applications of
nuclear technology ... should be available for peaceful purposes to all Parties.” While compliant State Parties should be able to avail themselves of the benefits that the peaceful use of nuclear energy has brought to mankind, the Treaty establishes no right to receive any particular nuclear technology from other States Parties -- and most particularly, no right to receive technologies that pose a significant proliferation risk.

Further, we dare not lose sight of the fact that during the past two decades, several states, including Iran, Iraq, Libya and North Korea, have sought enrichment and/or reprocessing capabilities to support efforts to develop nuclear weapons in violation of the NPT. This reality leads to the inevitable conclusion that states parties should, in the interests of furthering the nonproliferation and security goals of the NPT, undertake steps to limit the spread of enrichment and reprocessing capabilities.

In order to account for this new reality, my President has proposed that we should agree to limit transfers of enrichment and reprocessing equipment and technologies to those NPT compliant states that currently already possess full-scale, functioning enrichment and reprocessing plants. States that are in compliance with their Article II and Article III obligations and forego enrichment and reprocessing would have reliable access at reasonable cost to fuel for their civilian nuclear reactors. This approach would prevent states such as Iran from using a purportedly peaceful nuclear program as cover to pursue fissile material for nuclear weapons, while ensuring that the benefits of nuclear energy would be available for compliant NPT States Parties. It would put into place a new standard that will help prevent the proliferation of nuclear weapons while ensuring that sufficient capacity is retained to provide fuel cycle services to all NPT parties.

Let me underscore, NPT states that are in full compliance with their Article II and Article III obligations would not be adversely affected in any way. They would face no real or imagined discrimination. Indeed, more than 170 NPT parties already have decided that enrichment and reprocessing technologies are costly and unnecessary. Under the U.S. proposal, these and other compliant States Parties would benefit from assured access to nuclear fuel at reasonable prices and, above all, from greater assurance that other states are not developing nuclear capabilities for weapons purposes.

Mr. Chairman, the United States strongly supports the fullest possible exchange among NPT compliant States Parties and between NPT compliant
States Parties and the IAEA in the sphere of peaceful uses of nuclear energy, and we will continue to provide such assistance to states that comply with their NPT and safeguards obligations. We are the largest financial contributor to the IAEA’s Technical Cooperation program, measured both in terms of our statutory and voluntary contributions. We maintain, on a national basis, 21 agreements with individual countries and groups of countries that permit the export of reactors and fuel to 45 NPT parties. We also have a separate agreement that permits similar transfers to members of the IAEA that are prepared to meet U.S. legal and policy requirements for such cooperation. We are engaged in cooperative research and development projects with nuclear-weapon States and non-nuclear-weapon States, developed countries and developing countries. These cooperative projects will help address the nuclear power needs of the 21st century. Our nuclear cooperation also has supported important advances in medicine, agriculture and water management in over 100 countries. The additional statement that I am, in the interest of time, entering into the formal record of these proceedings as a written document, provides additional details on our strong support for peaceful cooperation. That statement also outlines our strong support for ensuring the safety and security of peaceful nuclear programs, including through the efforts of the IAEA, and provides additional details on our approach to the problem posed by the proliferation of sensitive enrichment and reprocessing technologies.

In conclusion, Mr. Chairman, the peaceful application of nuclear energy holds great promise for mankind. The United States will continue to contribute to its development throughout the world. But, today, we face a situation that is threatening to undermine our ability to implement Article IV in a way that contributes to the core objectives of the NPT. As we move forward in our consideration of Article IV, we urge all States Parties to remember that the nuclear activities of States Parties must comply with Articles I and II of the Treaty, and that by calling for the “fairest possible” cooperation in the field of nuclear energy, Article IV recognizes that achievement of the nonproliferation goals of the Treaty must be foremost. States not in compliance with Articles I, II or Article III should not receive Article IV benefits, including assistance in peaceful nuclear cooperation from other States or from the IAEA, and should instead become the focus of enforcement attention. Sound NPT implementation and enforcement -- as well as sound nonproliferation policy -- can and should entail reducing violators’ access to nuclear technology. Finally, sound NPT implementation and sound nonproliferation policy can and should close the loophole that has
allowed certain states to use a purportedly peaceful nuclear program as cover to pursue fissile material for nuclear weapons, while ensuring that the benefits of nuclear energy are available for compliant NPT States Parties.