

Preparatory Committee for the 2026 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

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Nuclear Submarine Cooperation among the United Kingdom of Great Britain and Northern Ireland and the United States of America and Australia

Working paper submitted by China

First, cooperation among the United States of America, the United Kingdom of Great Britain and Northern Ireland and Australia on nuclear-powered submarines undermines regional peace and stability, runs counter to the object and purpose of the Treaty on the Non-Proliferation of Nuclear Weapons, poses a serious risk of nuclear proliferation and will damage the international nuclear non-proliferation regime. China is gravely concerned about and firmly opposes such cooperation. This trilateral nuclear submarine cooperation represents the first time that a nuclear-weapon State has transferred a nuclear submarine power reactor and weapons-grade highly enriched uranium to a non-nuclear-weapon State and, under the current safeguards system, the International Atomic Energy Agency (hereinafter referred to as “the Agency”) is unable to implement effective safeguards to ensure that Australia does not divert the nuclear materials concerned to the manufacture of nuclear weapons or other nuclear explosive devices.

Second, China notes the statement made by the Director General of the Agency on 14 March, that Australia has formally requested the Agency to commence negotiations on an arrangement required under article 14 of Australia’s Controlled Substances Act and that the Agency would negotiate with Australia the relevant arrangements under article 14 of its comprehensive safeguards agreement in order to achieve the Agency’s technical objectives for safeguards in Australia.

Third, the United States, the United Kingdom, Australia and the Agency have no right to interpret article 14 of the comprehensive safeguards agreement and the issue of its application without authorization. There is considerable international controversy over the application of article 14. The article has never been applied in practice, and the international community has yet to reach a definitive conclusion on the definition of “non-peaceful activities” and “non-proscribed military activity”, and also on the scope of, and procedures for, safeguards exemptions. Historically, the drafting, amendment, interpretation and implementation of the Agency’s safeguards agreements of all types, whether comprehensive safeguards agreements and their additional protocols or small quantities protocols, have been concluded through



consultations among all the States members of the Agency and then approved and adopted by the Board of Governors. The interpretation of article 14 of this comprehensive safeguards agreement should therefore be no exception. In 1978, the then Director General of the Agency, in his response to a letter from Australia (GOV/INF/347), made it clear that, as no State party to the Treaty on the Non-Proliferation of Nuclear Weapons had sought to apply article 14, the Board of Governors had not had the opportunity to interpret the article and the related procedures. This amply demonstrates that, at that time, the Agency secretariat agreed that it was for the Board of Governors and not the secretariat to interpret article 14 and its application.

Fourth, any invocation by Australia of exemption from article 14 would set an undesirable precedent. Nuclear submarine cooperation among the United States, the United Kingdom and Australia involves large quantities of weapons-grade highly enriched uranium. If Australia were to seek an exemption from safeguards, it would set in place a new arrangement whereby non-nuclear-weapon States could fulfil their safeguards obligations in such a manner that only a part of their nuclear activities was subject to Agency safeguards, while a large amount of highly enriched uranium remained outside safeguards. The approach followed by Australia will open a Pandora's box which may encourage other countries to follow suit and seriously impair the international nuclear non-proliferation regime. It will also have a far-reaching negative impact on the resolution of regional nuclear hotspot issues.

Fifth, the Agency is in no position to exercise effective control over the nuclear material in the power reactor of Australian nuclear submarines. According to article 14, the Agency shall be kept informed of the total quantity and composition of the nuclear material in the power reactor of a nuclear submarine, provided that it does not involve "classified knowledge of the military activity". Under such circumstances, it will be difficult for Australia and the Agency secretariat to reach an effective safeguards arrangement in accordance with article 14, and the Agency will be unable to exercise effective control over the nuclear materials in the power reactor of the Australian nuclear submarines, rendering it difficult to eliminate the risk of nuclear proliferation.

Sixth, the Statute of the International Atomic Energy Agency is in conflict with the comprehensive safeguards agreement. Article 2 of the Statute provides that "it shall ensure, so far as it is able, that assistance provided by it or at its request or under its supervision or control is not used in such a way as to further any military purpose". Article 14 of the comprehensive safeguards agreement, however, exempts nuclear material in "non-proscribed military activities" from the application of safeguards. The Agency's agreement to the application of the provisions of article 14 would be tantamount to promoting the military activity in question, and thus in breach of the Statute.

Seventh, the issue of the application of safeguards to nuclear submarine cooperation among Australia, the United Kingdom and the United States involves complex political, legal and technical issues, relating to the authority, integrity and effectiveness of the Treaty on the Non-Proliferation of Nuclear Weapons and engaging the interests of the member States of the Agency, so it should be discussed by all the member States through an intergovernmental process that is transparent, open and inclusive, with a view to reaching a consensus decision, taking due account of the Agency's historical practice of strengthening the safeguards system. Until such time as a consensus decision is reached on the relevant issues, the three countries should not engage in any nuclear submarine cooperation, and the Agency secretariat should not undertake any unauthorized negotiation of safeguards arrangements with the three countries.

Eighth, China hopes that, during the current Nuclear Non-Proliferation Treaty review process, the States parties will be able to conduct in-depth discussions on all aspects of the nuclear submarine cooperation between the three States. The secretariat of the Eleventh Review Conference, together with the Agency secretariat, should, in accordance with their mandates, support the advancement of the intergovernmental discussion process in a fair, transparent and professional manner, and work to improve and strengthen the Agency safeguards system.
