

A Revised Model Treaty on the Northeast Asia Nuclear-Weapon-Free Zone (Draft)

as of January 2023

Preamble

The States Parties to this Treaty,

1. Recalling that Northeast Asia is the only region of the entire world where nuclear weapons have been used in reality,
2. Acknowledging the hardship, both human and social, beyond all description, which has been brought about by the atomic bombings, with the damage to hundreds of thousand citizens and the destruction of two cities, and that still continues to the present date after almost eighty (80) years,
3. Considering that there are a great number of atomic-bomb survivors even today who are living their lives in fear of anxiety and uncertainty in Japan as well as in the Korean Peninsula,
4. Recognizing that the nuclear weapons of today have the massive destructive power much greater than those used at the time of the aforementioned nuclear bombing, and are the only weapons that are able to destroy non only the human civilization created to date, but all living organisms on this earth,
5. Recognizing the new threat emerging today, implying the actual use of nuclear weapons by state actors and/or non-state actors,
6. Recalling the reality that the threat of an armed attack, whether with nuclear weapons or conventional weapons, from any nuclear weapon state could be an incentive for the proliferation of nuclear weapons and/or nuclear wars,
7. Recalling solemnly the history that in the Korean Peninsula, despite the fact that joint will for denuclearization has been repeatedly expressed in the Joint Declaration of South and North Korea on the Denuclearization of the Korean Peninsula (1992), the Panmunjom Declaration between North and South Korea (2018), and the Joint Statement by the leaders of the United States and North Korea (2018), denuclearization has not been realized to this day,
8. Reaffirming that behind these joint statements and declarations are the strong aspirations of the people for sustainable peace and reunification of the Korean Peninsula, and that the denuclearization of the Korean Peninsula with security assurances is an important first step toward this goal,
9. Reaffirming, on the other hand, that in Japan, the three non-nuclear principles have been established as a national principle since 1967 and the strong public opinion for the abolition of nuclear weapons have persisted to this day,
10. Recalling further that the six (6) countries deeply concerned in the Northeast Asian region including the Korean Peninsula and Japan issued a joint statement on the denuclearization of the Korean Peninsula (September 2005)

and "agreed to explore ways to promote security cooperation in the Northeast Asian region,"

11. Sharing, therefore, a common recognition that it constitutes a natural aspiration, which arises in the course of regional history, to seek to establish a Northeast Asia Nuclear-Weapon-Free Zone on the basis of arrangements freely arrived at among the States concerned,
12. Recalling, on the other hand, many hardships that have arisen in the course of history, such as the wars of aggression and colonial rule that took place in the region at one time in the past, and the Korean War that began afterwards and has continued to this day under a state of truce,
13. Recalling, at the same time, the sustained and strenuous efforts, having been exerted by the successive governments of the States in the region, in order to overcome such hardships for the better future,
14. Bearing in mind the importance of developing friendship and pursuing peaceful cooperation by and among the States in the region, on the basis of such past efforts, while inheriting only the greatest legacies of such efforts.
15. Convinced that the establishment of a Nuclear-Weapon-Free Zone is the first step to be taken in preference to all other measures, in order to develop cooperative security in the region,
16. Recognizing, at the same time, that the establishment of a nuclear-weapon-free zone requires a comprehensive approach that simultaneously pursues an end to the Korean War and the conclusion of a peace treaty, the establishment of a regional mechanism for economic and energy cooperation, and the establishment of a permanent Northeast Asian Security Council,
17. Desiring, by establishment of the Northeast Asia Nuclear-Weapon-Free Zone, to promote, in this region, the accession to and compliance with the already existent international treaties related to disarmament and arms control, such as the "Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction," which entered into force in 1997, as well as the "Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction," which took effect in 1972,
18. Convinced, by its establishment, of its contribution to promoting implementation of the nuclear disarmament obligation, set forth in Article 6 of the "Treaty on the Non-Proliferation of Nuclear Weapons(NPT)," which entered into force in 1970, and duly reaffirmed by the advisory opinion of the International Court of Justice on the "Legality of the Threat or Use of Nuclear Weapons," issued on July 8, 1996,
19. Convinced further, that its establishment will be an additional contribution to the early realization of the aspiration of the peoples of the world for a verified total prohibition and complete elimination of nuclear weapons, which has been

embodied in the resolutions of many other international treaties and international organizations,
Have agreed as follows:

Article 1

Definition of Terms

For the purpose of this Treaty and its Protocol:

- (a) "Northeast Asia Nuclear-Weapon-Free Zone" means the area comprising the region consisting of the national territories of the Democratic People's Republic of Korea, Japan, and the Republic of Korea.
- (b) "Territory" means the land territory, internal waters and territorial seas, the seabed, and the subsoil thereof, as well as the airspace above them.
- (c) "Intrazonal States" mean Democratic People's Republic of Korea, Japan, and the Republic of Korea.
- (d) "Neighboring Nuclear Weapon States" mean the People's Republic of China, the Russian Federation, and the United States of America among the nuclear weapon states as defined in the Treaty on the Non-Proliferation of Nuclear Weapons.
- (e) "Contracting State Party" means a State that has deposited the instrument of ratification according to the provisions set forth in this Treaty, from among the six (6) States of the "Intrazonal States" and "Neighboring Nuclear Weapon States" altogether.
- (f) "Nuclear explosive device" means any nuclear weapon or any other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used. The term includes such weapon or device in unassembled and partly assembled forms, but does not include the means of transport or delivery of such weapon or device if separable from and not an indivisible part of it.
- (g) "Radioactive material" means any material containing radionuclide exceeding the clearance level and/or exemption level recommended by the International Atomic Energy Agency (IAEA).
- (h) "Radioactive waste" means any material that contains and/or contaminated with radionuclides in concentrations and/or with radioactivity in excess of the clearance level recommended by the IAEA and which no practical use is foreseen.
- (i) "Nuclear material" means any source material or special fissionable material as defined in Article 20 of the Statute of the IAEA and as amended from time to time by the IAEA.
- (j) "Nuclear installation" means a nuclear-power reactor, a nuclear research reactor, a critical facility, a reprocessing plant, a nuclear fuel fabrication plant, a spent fuel storage installation, a nuclear waste storage installation and any other installation or location in or at which significant quantities of nuclear materials, irradiated

nuclear materials, radioactive materials or radioactive wastes are present.

- (k) "Transitional Phase" means the phase in the implementation of this Treaty from its entry into force until the Democratic People's Republic of Korea completes the destruction of or irreversibly converts its nuclear explosive devices and their production facilities, as well as nuclear materials usable for nuclear explosive devices, in accordance with the methods agreed upon in this Treaty, the duration of which shall be set to ten (10) years after the entry into force of this Treaty. (Note 1)
- (l) "Final Phase" means the phase of implementation of this Treaty after the entry into force of this Treaty following the completion of the Transitional Phase.

Article 2

Application of the Treaty

1. Except where otherwise specified, this Treaty and its Protocol shall apply to the "Northeast Asia Nuclear-Weapon-Free Zone."
2. Should there be any dispute in relation with territory, nothing in this Treaty shall influence the status quo of the construction of dominium.
3. Nothing in this Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regards to freedom of the seas.
4. Military facilities under the control of a Neighboring Nuclear Weapon State that are located within the territory of an Intrazonal State are considered to be a part of the Northeast Asia Nuclear-Weapon-Free Zone, and are subject to this Treaty and its Protocol.

Article 3

Fundamental Undertakings with regard to Nuclear Explosive Devices and Ensuring Security in the Final Phase

1. Undertakings by Intrazonal States
Each Intrazonal State shall undertake:

- (a) Not to conduct research on, develop, test, manufacture, produce, acquire, possess, stockpile, deploy or use any nuclear explosive device by any means, anywhere inside or outside the Northeast Asia Nuclear-Weapon-Free Zone.
- (b) To comply with the NPT as non-nuclear weapon state who is party to the NPT.
- (c) Not to allow, inside any of the territories of the Intrazonal States, any other State, group, or person to perform any act set forth in Article 1 (a) hereof.
- (d) To eliminate all dependence whatsoever on any nuclear weapon or other nuclear explosive device in all aspects of its national security policy.

- (e) To exert effort for the diffusion of education worldwide with regard to the urgency of nuclear disarmament, including the transmission to the present and future generations of the facts on the damage inflicted on the citizens and cities by the atomic bombs dropped in 1945.

2. Undertakings by Neighboring Nuclear Weapon States

Each Neighboring Nuclear Weapon State shall undertake:

- (a) Not to engage in an armed attack, or threaten with an armed attack, against the Intrazonal State using any nuclear explosive device;
- (b) Not to engage in any form of an armed attack against an Intrazonal State unless the said Intrazonal State has engaged in an armed attack against a Neighboring Nuclear Weapon State;
- (c) Not to contribute, in any way, to any act of hindrance against the execution by each Intrazonal State of the undertakings set forth in Article 1 hereof, while paying due respect to said undertakings.
- (d) Not to allow, any vessel or aircraft carrying any nuclear explosive device, to call port, land, transit through airspace, or temporarily navigate the territorial waters of any Intrazonal States by any means not included in the rights of innocent passage or the rights of transit passage inside the Northeast Asia Nuclear-Weapon-Free Zone; and
- (e) Pursue in good faith negotiations for the complete elimination of nuclear weapons in accordance with international agreements, including Article 6 of the NPT, and achieve agreement as early as possible.

Article 4

Undertakings of the Contracting States Parties during the Transitional Phase

1. **The Democratic People's Republic of Korea** shall completely destroy or irreversibly convert its nuclear explosive devices and their production facilities, as well as nuclear materials usable for nuclear explosive devices, in accordance with the phases and time line set forth in the separately agreed upon Annex "Destruction of Nuclear Explosive Devices and Other Equipment in the Transitional Phase" (hereinafter referred to as the "Annex on the Transitional Phase").(Note 2)
2. **Intrazonal States other than the Democratic People's Republic of Korea** shall continue to adhere to the NPT Treaty as non-nuclear weapon states.
3. Neighboring Nuclear Weapon States shall not engage in any armed attack against any Intrazonal State unless the said Intrazonal State engages in an armed attack against a Neighboring Nuclear Weapon State.
4. **The Contracting State Party** shall establish a "**Transitional Phase Committee**" to consult on and implement compliance with the obligations of each Contracting State

Party during the Transitional Phase.

- (a) The Committee shall be set up under the Commission for the Northeast Asia Nuclear-Weapon-Free Zone established pursuant to Article 8 of this Treaty.
- (b) The Committee shall comprise of one (1) member representing each Contracting State Party, who may be accompanied by multiple assistants.
- (c) The regular meeting of the Committee shall be convened one (1) time a year.
- (d) The Emergency Session of the Committee may be convened by the request of one (1) of the Contracting State Parties.
- (e) A secretariat of the Committee shall be staffed by the Contracting State Party on a yearly rotating basis.

Article 5

Non-Military Use of Nuclear Energy

1. Nothing in this Treaty shall prejudice the right of the Contracting States Party to use nuclear energy for peaceful purposes.
2. During the Final Phase, the Intrazonal States shall use nuclear energy for the peaceful purposes in strict conformity with the safeguards agreement stipulated in Article 3 of the NPT. Use of nuclear energy for peaceful purposes during the Transitional Phase shall be conducted in accordance with the provisions of the "Annex on Transitional Phase."
3. Each Intrazonal State which has not done so shall conclude such full-scope safeguards agreement and its additional protocols with IAEA not later than eighteen (18) months after this Treaty enters the Final Phase.
4. The Contracting State Parties shall develop necessary cooperation among themselves to ensure stable and sustainable access for the Intrazonal States to secure their energy needs, in particular, with active cooperation on the development of renewable energies.

Article 6

Sea Disposal and Air Release of Radioactive Materials

Each Intrazonal State shall undertake:

- (a) Not to dump at the sea or release into the air any radioactive materials or radioactive wastes anywhere inside the Northeast Asia Nuclear-Weapon-Free Zone, and;
- (b) Not to allow any other State, group, or person to dump at the sea or release into the air any radioactive materials or radioactive wastes anywhere inside the Northeast Asia Nuclear-Weapon-Free Zone.

Article 7

Prohibition of Armed Attack on Nuclear Installations

Each Contracting State Party hereto shall undertake not to take, assist, or encourage, in any way, any action aimed at an armed attack by any means against nuclear installations within the Northeast Asia Nuclear-Weapon-Free Zone.

Article 8

Establishment of the Commission for the Northeast Asia Nuclear-Weapon-Free Zone

For the purpose of ensuring the implementation of the provisions set forth in this Treaty, the Contracting States Parties agree to establish the Commission for the Treaty on Northeast Asia Nuclear-Weapon-Free Zone (hereinafter referred to as the "Treaty Commission").

- (a) All Contracting States Parties are ipso facto members of the Treaty Commission. Each Contracting State Party shall be represented by its minister of Foreign Affairs or his/her representative, accompanied by alternates and advisers.
- (b) The function of the Treaty Commission shall be to oversee the implementation of this Treaty and ensure compliance with its provisions. In relation thereto, the Commission shall have deliberation with regard to the text set forth in the Preamble hereof in case of need.
- (c) The Treaty Commission shall meet as and when necessary, at the request of any Contracting State Party, the Transitional Committee established pursuant to Article 4, and/or the Executive Committee established pursuant to Article 9 of this Treaty.
- (d) All of the Contracting States Parties shall be present in order to constitute a quorum for the Treaty Commission. Decisions of the Commission shall be taken by consensus, or failing consensus, by consensus of all but one (1) Contracting States Parties.
- (e) The Treaty Commission shall elect, at the beginning of each meeting, its Chairperson and other officers as may be required. The Chairperson shall be elected from among the three (3) Intrazonal States among the Contracting State Parties. Their tenure of office shall last until an election of a new Chairperson, and other officers at the next meeting.
- (f) The Treaty Commission shall decide the location of its headquarters, the financial matters of the Commission as well as its subsidiary organs, and the rules and procedures related to any other matters needed for their operations.

Article 9

Establishment of the Executive Committee

1. The Contracting States Parties agree to establish the Executive Committee as a subsidiary organ of the Treaty Commission.
 - (a) The Executive Committee shall be composed of all of the Contracting States Parties to this Treaty. Each Contracting State Party shall be represented by one senior official as its representative, who may be accompanied by alternates and advisors.
 - (b) The Executive Committee shall meet as and when necessary for the efficient exercise of its functions as set forth in Section 2 of this article.
 - (c) A constituent member of the Executive Committee that represents the Chairperson of the Treaty Commission at the time shall assume the chairpersonship of the Executive Committee. All submission or communication made by a Contracting State Party to the Chairperson of the Executive Committee shall be disseminated to the other members of the Executive Committee.
 - (d) All of the Contracting States Parties shall be present in order to constitute a quorum for the Executive Committee. In the event the Committee fails to reach a consensus, the Committee shall carry the decision by consensus of all but one (1) Contracting States Parties.

2. The functions of the Executive Committee shall be:
 - (a) To secure appropriate application of the Control System as stipulated in Article 10 hereof for the verification of full compliance with the provisions of this Treaty;
 - (b) To consider and decide on the "Request for Clarification" or the "Request for a Fact-Finding Mission" stipulated in Article 7, Section 2(b), in the event of such requests;
 - (c) To set up a Fact-Finding Mission in accordance with the "Annex on the Control System" of this Treaty;
 - (d) To consider and decide on the findings of a Fact-Finding Mission and report to the Treaty Commission;
 - (e) To request the Treaty Commission to convene a meeting when appropriate and necessary;
 - (f) To conclude agreements with IAEA or any other international organizations on behalf of the Treaty Commission after being duly authorized to do so by the Treaty Commission;
 - (g) To conduct such other tasks as may, from time to time, to be assigned by the Treaty Commission.

Article 10

Establishment of the Control System

1. A Control System is established hereby for the purpose of verifying compliance with the obliged undertakings of the Contracting States Parties under this Treaty. However, compliance with obligations during the Transitional Phase, including the fulfillment of obligations set forth in the Annex on the Transitional Phase, shall be managed by the Transitional Phase Committee in accordance with Article 4, Section 4.
2. The Control System shall comprise:
 - (a) The IAEA safeguards system as provided for in Section 3, Article 5 hereof;
 - (b) A number of systems as provided for in the "Annex for the Control System" to this Treaty. The Annex shall include provisions for such systems as the "report and exchange of information" with regard to the information deemed to affect the implementation of this Treaty, the "request for clarification" with regard to a situation which may be considered ambiguous or which may give rise to doubts about the compliances with the provisions set forth in this Treaty, the "request for a fact-finding mission" in order to clarify and resolve a situation which may be considered ambiguous or which may give rise to doubts about the compliance with the provisions provided for in this Treaty, and the remedial measures to be taken in the event the Executive Committee identifies a breach of this Treaty, as well as any other necessary provisions.

Article 11

Signature, Ratification, Deposit and Entry into Force

1. This Treaty shall be open for signature by the People's Republic of China, the Democratic People's Republic of Korea, Japan, the Republic of Korea, the Russian Federation, and the United States of America.
2. This Treaty shall be subject to ratification in accordance with the constitutional procedure of the signatory States. The instruments of ratification shall be deposited with XXX which is hereby designated as the Depository. (Note 3)
3. This Treaty shall enter into force on the date when the deposit of the instruments of ratification by all of the Intrazonal States Parties and by at least two (2) of the Neighboring Nuclear Weapon States are completed.

Article 12

Prohibition of Reservation

This Treaty shall not be subject to reservations.

Article 13

Amendments to the Treaty

1. Any Contracting State Party may propose amendments to this Treaty and its Protocol, including the “Annex on Transitional Stages” and the “Annex on Control System.” An amendment proposal shall be submitted to the Executive Committee, which, upon receipt of such proposal, shall immediately request the Treaty Commission to convene a meeting in order to examine such proposal. All of the Contracting States Parties shall be present in order to constitute a quorum for the Treaty Commission for amendment, and decisions of the Treaty Commission for amendment shall be taken by consensus.
2. The amendments once adopted shall enter into force thirty (30) days after the receipt by the Depositary of the fifth instrument of acceptance from the Contracting States Parties.

Article 14

Meeting for Review

Ten (10) years after the entry into force of this Treaty, meaning after the completion of the Transitional Stage, a meeting of the Treaty Commission shall be convened for the purpose of reviewing the operation of this Treaty. A meeting for review of the Treaty Commission for the same purpose may also be convened at any time thereafter if there is consensus among all of the Contracting States Parties that comprise the Treaty Commission.

Article 15

Settlement of Disputes

Any dispute arising from the interpretation of the provision set forth in this Treaty shall be settled by peaceful means as may be agreed upon by the Contracting States Parties to the dispute. If within one (1) month the parties to the dispute are unable to achieve a peaceful settlement of the dispute by negotiation, mediation, enquiry, or conciliation, any of the parties concerned shall, with the prior consent of the other parties concerned, refer the dispute to arbitration or to the International Court of Justice.

Article 16

Duration

This Treaty shall remain in force indefinitely.

A Model Protocol to The Treaty on the Northeast Asia Nuclear-Weapon-Free Zone (revised draft)

The Contracting States Parties to this Protocol,

1. Desiring to contribute to efforts towards achieving total prohibition and complete elimination of nuclear weapons, and thereby ensuring international peace and security, including the Northeast Asia;
2. Noting the Northeast Asia Nuclear Weapon Free Zone Treaty, signed at XX on the YY day of ZZ, 2--,

Have agreed as follows:

Article 1

Respect for the Treaty on the Northeast Asia Nuclear-Weapon-Free Zone

Each Contracting State Party to the Protocol shall undertake to respect the Northeast Asia Nuclear-Weapon-Free Zone Treaty (hereinafter referred to as the "Treaty"), and not to contribute to any act which constitutes a violation of the Treaty by the Contracting States Parties thereto or its Protocol by the Contracting State Parties thereto.

Article 2

Security Assurance

The Contracting State Party to the Protocol shall not engage in an armed attack, or threaten with an armed attack, whether by nuclear explosive devices or by conventional weapons, against the Northeast Asia Nuclear-Weapon-Free Zone.

Article 3

Visit and Transit

The Contracting State Party to the Protocol shall not allow, any vessel or aircraft carrying any nuclear explosive device to call port, land, transit through airspace, or temporarily navigate the territorial waters of any Intrazonal States by any means not included in the rights of innocent passage or the rights of transit passage inside the Northeast Asia Nuclear-Weapon-Free Zone.

Article 4

Signature, Ratification and Entry into Force

1. This Protocol shall be open for signature by the French Republic, and the United Kingdom of Great Britain and Northern Ireland.
2. This Protocol shall be subject to ratification. The instruments of ratification shall be deposited with the Depositary.
3. This Protocol shall enter into force for each Contracting State Party on the date of its deposit of its instrument of ratification with the Depositary.

Note 1: The Action Plan adopted at the First Meeting of States Parties to the Treaty on the Prohibition of Nuclear Weapons, which set a maximum period of 10 years for nuclear weapon states to destroy their nuclear weapons upon accession, has been used as a reference. (TPNW/MSP/2022/6)

Note 2: The "Annex on the Transitional Phase" shall provide details on the phased destruction of nuclear explosive devices and other nuclear equipment by the Democratic People's Republic of Korea, as well as a verification system specific to the Transitional Phase. For example, nuclear weapons experts from Neighboring Nuclear Weapon States could be included in the verification process. The Annex shall also provide safeguards for peaceful uses during the Transitional Phase.

The "Annex on the Transitional Phase" is part of the Treaty on the Northeast Asia Nuclear-Weapon-Free Zone, which will enter into force simultaneously with the Treaty.

Note 3: The Depositary may be the Secretary-General of the United Nations, or the Republic of Korea, which is located in the geographic center of the Intra-zonal States, or two of the Neighboring Nuclear Weapon States (the United States of America and the People's Republic of China) that are easily accessible to the Intra-zonal States.