CHAPTER TWO

TRANSFER OF NUCLEAR TECHNOLOGY FOR PEACEFUL PURPOSES UNDER INTERNATIONAL LAW

1. Introduction

Since the dawn of nuclear discovery, and the revelation of the benefits of the atom, countries have attempted to acquire nuclear capabilities. However, the military misuse or abuse of the atom has always posed a threat to the existence and safety of humanity. To balance the situation, the international community sought to establish a system to encourage the use of nuclear technology for peaceful purposes while simultaneously ensuring the non-proliferation of nuclear weapons.

During the Second World War, the US decision to impose tight secrecy on atomic energy dampened, for at least a decade, any possibility of cooperation in the development of nuclear energy for peaceful purposes. Later, the Eisenhower Atoms for Peace Programme in 1953 and the declassification of large amounts of nuclear information in 1955 at the first UN Geneva Conference on Peaceful Uses of Atomic Energy paved the way to exploit this knowledge. Encouraged by growing public enthusiasm, Canada and Sweden joined the US, the UK, the former USSR and France in developing nuclear reactor models. By 1964, there were fifteen reactors in operation or completed, using either natural or enriched uranium fuel and the sums thus invested were, already, considerable.¹

2. Atoms for Peace

At the UN, on 5 December 1953, President Eisenhower officially launched the “Atoms for Peace” plan, which included the following principles:²

– Separating civilian and military uses of atomic energy through effective safeguards and inspections.
– Imposing an embargo on the entire fuel cycle, except for certain sensitive nuclear material and equipment.
– Imposing control over any sensitive material and equipment that is transferred to NNWS.

In 1955, the UN-sponsored Geneva Conference on the Peaceful Uses of Atomic Energy laid the basis for establishing the IAEA in 1957 to promote the transfer of nuclear technology for peaceful purposes and to supervise the transferred technology in a manner to prevent its diversion to military purposes, as emphasised in Article II of the IAEA Statute.

3. Adoption of NPT

The establishment of the IAEA and the development of specific safeguards were not sufficient to prevent the non-proliferation of nuclear weapons. Consequently, the international community crowned its efforts to ensure the non-proliferation by concluding the NPT in 1968, which entered into force in 1970 and was extended indefinitely in 1995 under certain conditions that will be elaborated in this chapter. The NPT became the main pillar in the international nuclear non-proliferation regime. It did not establish an organisation to ensure the compliance of the NPT member States with their obligations under the Treaty, but instead entrusted the IAEA with this job.

In addition, the IAEA and the NPT recognised the role of regional and bilateral agreements in promoting the transfer of nuclear technology for peaceful purposes and encouraged it.

This chapter will discuss the following:

– Transfer of Nuclear Technology under NPT rules.
– Transfer of Nuclear Technology under IAEA rules.
– International Cooperation.