



## **Middle Powers Initiative Forum**

### ***Ensuring Full Implementation of the Non-Proliferation Treaty***

**United Nations, New York: 26 April 2004**

## **Strengthening the Nuclear Non-Proliferation Treaty Regime**

**by  
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The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is the world's most successful and the most widely adhered to multilateral arms control treaty. The Director General of the International Atomic Energy Agency (IAEA), Dr. Mohamed ElBaradei, has said that the "Non-Proliferation Treaty has served us well since 1970" when it entered into force. However, NPT member States are meeting, in the Preparatory Committee for the 2005 NPT Review Conference, at a time when the multilateral nuclear non-proliferation and nuclear disarmament process is facing critical challenges that include: the continuing refusal by the Democratic People's Republic of Korea to submit its nuclear programme to IAEA verification; on-going IAEA efforts to verify the nuclear activities of Iran and Libya; the discovery of a sophisticated illicit market in nuclear technology and materials; and slow progress in nuclear disarmament. The political value ascribed to nuclear weapons remains high and nuclear disarmament commitments seem to be under question, while strengthening compliance with the safeguards and disarmament obligations of the Non-Proliferation Treaty continues to pose critical challenges.

The Agency's role as an independent, objective verification body remains central to the effectiveness of the nuclear non-proliferation treaty regime. However, for the Agency to provide the required assurance about the peaceful nature of States' nuclear programmes, it must have the required authority. As you are aware, the authority given to the Agency remains uneven. Currently, 44 States party to the NPT have yet to fulfil their legal obligation to bring into force NPT safeguards agreements with the Agency. For those 44 countries, the IAEA cannot provide any assurance regarding their nuclear non-proliferation commitments.

Nearly seven years after the Model Additional Protocol to safeguards agreements was approved by the IAEA Board of Governors, additional protocols have been signed by just 83 States, and only 39 of these States have brought their protocols into force. This means that

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106 NPT States have not yet concluded additional protocols. For countries without an additional protocol in force, the IAEA has limited ability to provide comprehensive and credible assurances – particularly about the absence of undeclared nuclear activities and material. Only for those countries with both a safeguards agreement and an additional protocol in force, can the IAEA provide such assurances and move towards implementing integrated safeguards – which is the optimal combination of all safeguards measures.

Clearly, the way forward for ensuring the full implementation of the NPT, includes the conclusion and bringing into force of the required comprehensive safeguards agreements and additional protocols by all NPT States parties – preferably prior to the opening of the 2005 NPT Review Conference.

Sluggish performance in implementing the various provisions of the NPT, signals the need for a different, more robust, approach. Reluctance by one party to fulfil its obligations breeds reluctance in others. Each discovery of a clandestine nuclear programme makes us question whether more exist, and any retrenchment of nuclear disarmament commitments brings into question the viability of the NPT bargain. While in no way wishing to undercut the importance of States' adherence to their NPT obligations, one must recognize that it is time to begin designing a framework more suited to the threats and realities of the 21st century.

Dr. ElBaradei has expressed the hope that "at next year's NPT Review Conference, parties to the Treaty will consider urgently needed measures and agree on a specific course of action that will help re-engineer the nuclear non-proliferation regime and revive the stalling nuclear arms control and disarmament process". I will briefly describe some of the measures that should be undertaken to strengthen the NPT regime.

### **IAEA Director General's Proposals to Strengthen the NPT Regime**

Over the past six months, IAEA Director General Dr. Mohamed ElBaradei has made several proposals which, without threatening national sovereignty, can strengthen the existing nuclear non-proliferation treaty regime:

- The first step is to tighten controls over the export of nuclear material and technology. The current system relies on informal arrangements that are not only non-binding, but also limited in membership, and do not include many countries with growing industrial capacity. And even some members fail to control the exports of companies unaffiliated with government enterprise. The nuclear export control system should be universalized through enacting binding, treaty-based controls – while preserving the inalienable rights of all States to peaceful nuclear technology, as noted in Article IV of the NPT. In addition, the actions of individuals and companies that seek to assist others in nuclear proliferation should be criminalized.
- In parallel, nuclear inspectors must be empowered. Much effort was recently expended – and rightly so – in persuading Iran and Libya to give the International Atomic Energy Agency much broader rights of inspection, by accepting the provisions of the Additional Protocol to safeguards agreements. But the Agency should have the right to conduct such inspections in all countries. Verification of NPT and nuclear-weapon-free zone treaty obligations requires more stringent measures, but to date, only 39

States—fewer than 20 percent of the 189 NPT members have approved a protocol allowing broader IAEA inspection rights. Additional protocols to safeguards agreements should be in force for all countries. And, 44 of the 184 NNWS parties to the NPT, have yet to bring into force their comprehensive safeguards agreements as required under Article III.1 of the Treaty – they should conclude and bring into force their NPT safeguards agreements together with additional protocols. All NPT States, ideally, should have their safeguards agreements and additional protocols in force before the opening of the 2005 NPT Review Conference, or even earlier if possible.

- Third, it is time to limit the processing of weapon-usable material (separated plutonium and high-enriched uranium) in civilian nuclear programmes, as well as the production of new material through reprocessing and enrichment, by agreeing to restrict these operations exclusively to facilities under multilateral control. These limitations would need to be accompanied by proper rules of transparency and, above all, by a reliable assurance that legitimate would-be users could get their supplies.
- Fourth, nuclear-energy systems should be deployed that, by design, avoid the use of materials that may be applied directly to making nuclear weapons. These systems should have built-in features that would prevent countries diverting material to weapons production; prevent the misuse of the facilities and equipment for clandestine manufacture of such materials; and facilitate efficient oversight to ensure continued peaceful use. This is not a futuristic dream; much of the technology for proliferation-resistant nuclear-energy systems has already been developed or is actively being researched. In addition, existing facilities around the world that use high-enriched uranium applications—for example, to produce medical radioisotopes—should continue, gradually but irreversibly, to be converted to low-enriched processes.
- Fifth, we should consider multilateral approaches to the management and disposal of spent fuel and radioactive waste. More than 50 countries have spent fuel stored in temporary sites, awaiting reprocessing or disposal. Not all countries have the right geology to store waste underground and, for many countries with small nuclear programmes for electricity generation or for research, the costs of such a facility are prohibitive. Considerable advantages—in cost, safety, security and non-proliferation—would be gained from international co-operation in these stages of the nuclear fuel cycle. These initiatives would not simply add more non-proliferation controls, to limit access to weapon-usable nuclear material; they would also provide access to the benefits of nuclear technology for more people in more countries.
- Sixth, the new framework should also “turn off the tap”, for all countries, for the production of new material for nuclear weapons. This year will mark the eleventh anniversary of an historic United Nations resolution calling for a ban on the production of fissile material for weapons use—the Fissile Material (Cut-off) Treaty—but negotiation on such a treaty has yet to commence. This treaty could cap and make public all inventories of fissile material still available, bring them under international verification, and serve as a starting point for further future nuclear arms reductions.
- Seventh, no country should be allowed to withdraw from the NPT. The Treaty now allows any member to do so with three months' notice. Any nation invoking this

escape clause is almost certainly a threat to international peace and security. This provision of the Treaty should be curtailed – at a minimum, notice of NPT withdrawal should prompt an automatic review by the United Nations Security Council and by NPT States Parties.

These proposals could be considered at the 2005 NPT Review Conference and efforts should be made to agree on an action plan for re-vitalizing the NPT regime that adds to and supplements the decisions and resolution agreed at the 1995 NPT Review and Extension Conference and the Final Document of the 2000 NPT Review Conference. Any new action plan should be inclusive; nuclear-weapon States, non-nuclear-weapon States, and even those outside the current non-proliferation regime should all have a say at the nuclear non-proliferation/nuclear-disarmament table. The security concerns of all parties should be heard and weighed, and the aim should be to achieve full parity among them under a new security structure that does not depend on nuclear-weapon status, nuclear weapons or nuclear deterrence. This naturally should include agreement on a concrete programme for verified, irreversible nuclear disarmament, complete with a timetable.

And lastly, once in force, this new framework should be regarded as a "peremptory norm" of international law—not vulnerable to any nation subsequently withdrawing, based on the whim of a new government or a vote of the latest parliament. In short, it should be enduring and permanent.

As regards the review process for the Treaty – this was strengthened in 1995, in the context of “permanence with accountability”. The PrepCom’s mandate, which heretofore had focused solely on procedural issues, was supplemented and enhanced to include substantive matters relating to the implementation of the NPT. In recognition of these expanded tasks, the PrepCom was extended from 5 working days to 10, in each of its sessions. In 2000, the strengthened review process was further improved, to include inter alia pronouncing on matters affecting the authority and operation of the Treaty. But in doing so, the 2000 Final Document reaffirmed the 1995 package of historic decisions + resolution. Any attempt, no matter how well meaning, to detract from the 1995 package and its reaffirmation in 2000, would not be well advised. Any such attempt, for example, to reduce the PrepCom back to 5 working days, or to transform its core purpose, would clearly fall into this category – it would risk weakening the strengthened review process and render it sub-optimal, creating new perils for an already imperiled Treaty – caveat emptor.

## **Conclusion – A Call for Leadership**

IAEA Director General Dr. ElBaradei has laid down a challenge – that, in all of human history, no civilisation has ever voluntarily laid down its most powerful weapons: it remains to be seen whether ours can be the first? We have not yet reached the mid-1960s’ prediction of a nuclear-armed crowd of 15 or more nuclear-weapon States, but we are more than halfway there. And, the trends indicated by recent events should have us all worried.

In our collective memories, the horrors of nuclear-weapon use in Hiroshima and Nagasaki have begun to fade. New dangers abound regarding nuclear weapons falling into the hands of terrorists or ruthless dictators. Nuclear weapons in existing arsenals also remain of

paramount concern—because as long as these weapons exist, there is no absolute guarantee against the disastrous consequences of their theft, sabotage or accidental launch, and even democracies are not immune to radical shifts in their security anxieties and nuclear policies or irresponsible behaviour.

The importance of disarmament and non-proliferation education has been recognized and endorsed by the United Nations General Assembly, through a resolution adopted unanimously by all its member States. It is important for us to know where we have been, where we currently are, and where we should wish to go in terms of nuclear non-proliferation and nuclear disarmament, and also to educate the present and future generations on these vital issues of life and death. The IAEA is playing its part by providing, inter alia, challenging new ideas, information on nuclear issues through its web portal ([www.iaea.org](http://www.iaea.org)), which had seven million hits just in March, and by participating in civil society events such as this MPI Forum.

We must also begin to address the root causes of insecurity. In areas of longstanding conflict like the Middle East, South Asia and the Korean Peninsula, the pursuit of weapons of mass destruction – while never justified – can be expected as long as we fail to introduce alternatives that redress the security deficit. We must abandon the unworkable notion that it is morally reprehensible for some countries to pursue weapons of mass destruction yet morally acceptable for others to rely on them for security – and indeed to continue to refine their capacities and postulate plans for their use.

Similarly, we must abandon the traditional approach of defining security in terms of boundaries – city walls, border patrols, racial and religious groupings. The global community has become irreversibly interdependent, with the constant movement of people, ideas, goods and resources. In such a world, we must combat terrorism with a security culture that transcends national and political borders – an inclusive approach to security based on solidarity and the value of human life. In such a world, nuclear and other weapons of mass destruction would have no place.

The IAEA stands ready to do its part in verifying the nuclear non-proliferation commitments of States, as well as in verifying upon request nuclear disarmament measures.

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