

REINFORCING THE NPT REGIME: INTERNATIONAL CHALLENGES & OPPORTUNITIES

BY JAYANTHA DHANAPALA

The Treaty on the Non-Proliferation of Nuclear Weapons (NPT) consists of a series of mutually reinforcing and legally binding obligations. They pertain both to nuclear non-proliferation (under Articles I and II) and to nuclear disarmament (Article VI). The latter is the only binding commitment in a multilateral treaty on the part of the nuclear-weapon States with respect to the goal of nuclear disarmament. These fundamental obligations are accompanied by a system of international safeguards (Article III) and an assurance concerning the right to use nuclear technology for peaceful purposes (Article IV).

In 1995, the obligations under this Treaty were extended indefinitely by means of a package that included two important decisions on "Principles and Objectives for Nuclear Non-Proliferation and Disarmament" and on "Strengthening the Review Process for the Treaty." These decisions were also accompanied by a Resolution on the Middle East -- co-sponsored by the three depositaries*-- reaffirming the importance of establishing a zone free of all weapons of mass destruction in that region.

*Russian Federation, United Kingdom, United States.

While it is not my intention to review the Treaty and the 1995 Decisions in great detail, it would nevertheless be useful to consider some recent developments and their impact on the meaning and effect of those obligations.

Universality. The first goal identified in the "Principles and Objectives" Decision was to encourage all NPT States Parties to exert "every effort" to achieve universal adherence to this Treaty. In June 1998, after the fact of the South Asian tests, the United Nations Security Council unanimously approved Resolution 1172. It urged India, Pakistan, and all other States that have not yet done so to become Parties to the NPT without delay and without conditions.

Beyond the issuance of this resolution, however, it is difficult to identify any serious efforts -- national or international -- to achieve this goal with respect to the four countries that remain outside the treaty: India, Pakistan, Israel, and Cuba.

Non-Proliferation & Nuclear Disarmament. The findings of 1995 that the proliferation of nuclear weapons "would seriously increase the danger of nuclear war" remain even more valid in light of the nuclear tests in South Asia three years later. Yet despite these tests, there

remains broad and deep international support for the global non-proliferation norms found in Articles I and II of the Treaty, an important point to recall amid the waves of pessimism and fatalism that immediately followed these tests.

I believe there are two major dangers facing the future of these Articles. First, if the failure of the current nuclear-weapon States to make substantial progress in achieving nuclear disarmament continues indefinitely, I fear that the global consensus about the taboo of nuclear weapons proliferation may gradually break down, as more countries may reconsider their nuclear options.

Second, I am concerned that the twin processes of globalization -- coupled with growing economic and political pressures to export

Ambassador Dhanapala, of Sri Lanka, is Under-Secretary-General for Disarmament Affairs, United Nations. This article is based on his presentation at the International Workshop on the 2000 Conference of the Strengthened NPT Review Process, organized in November 1999 in New York, by the Monterey Institute of International Studies. Ambassador Dhanapala served as President of the 1995 Review Conference of Parties to the NPT.

sensitive dual-use goods -- may ultimately erode the taboo in Article I ("not in any way to assist..."), and also compromise the taboo in Article II ("not to seek or receive any assistance...."). The Treaty will be in grave jeopardy if either norm breaks down.

The absence of negotiations on nuclear disarmament is a continuing source of disappointment and concern, but not the only one. The strategic doctrine announced at the NATO summit in April 1999 strongly re-affirmed the first-use nuclear doctrine, the security value of nuclear weapons, and even the utility of such weapons as a deterrent of non-nuclear attacks. The Russian Federation has also placed greater reliance on nuclear weapons in its own strategic doctrine, which also includes a policy providing for the first-use of such weapons.

Another indicator of trouble is the inability of the Conference on Disarmament (CD) to agree on a programme of work and thus to make progress on several multilateral disarmament issues. These include the issues of nuclear disarmament, the prevention of an arms race in outer space, security assurances, and a ban on the production of fissile material for nuclear weapons and other nuclear explosive devices.

In addition, the failure of the United States Senate to give its consent to ratify the Comprehensive Nuclear-Test-Ban Treaty (CTBT) is just the latest of a series of alarming developments that will no doubt receive considerable attention at the NPT Review Conference scheduled in April 2000.

I am concerned that the good news in this area --namely, the continuing decline in the aggregate numbers of deployed nuclear weapons -- may, if current trends continue, prove to be a case of "too little, too late."

Nuclear-Weapon-Free Zones (NWFZs). The 1995 Decision also underscored the importance of nuclear-weapon-free zones. I was encouraged that the UN Disarmament Commission was able to reach a consensus last year on language concerning principles for the establishment of such zones -- an achievement that serves to illustrate the continuing value of this entity in the UN disarmament machinery. Though progress in establishing such a nuclear-weapon-free zone in Central Asia has not been as smooth or rapid as many had hoped, I remain optimistic that efforts will continue to conclude such an arrangement as soon as possible.

With respect to the creation of such a zone in the Middle East, there has been little progress to report, despite the 1995 Decision's emphasis that this goal should be pursued "as a matter of priority." Progress has also been very slow in acquiring the ratifications needed to bring the Pelindaba Treaty into force and in the signature of the Protocol of the Bangkok Treaty.

Safeguards and the Peaceful Uses of Nuclear Energy. The Additional Protocol negotiated under IAEA auspices to strengthen safeguards has been making steady progress in acquiring adherents. I am also encouraged by the precedent set by the Trilateral Agreement

between the Russian Federation, the United States, and the IAEA to place excess weapons materials under IAEA supervision. This agreement could usefully be expanded both in terms of quantities of materials and its geographic scope to include other nuclear-weapon States.

Yet I remain troubled that over 50 NPT States Parties have still not concluded safeguards agreements with the IAEA. I must also note regretfully that the IAEA remains unable to verify that all nuclear material subject to safeguards in the Democratic People's Republic of Korea (DPRK) has been declared to the Agency. The IAEA also remains unable to carry out its Security Council-mandated responsibilities in Iraq.

With respect to peaceful nuclear cooperation, the 1995 Decision also stressed that new nuclear supply arrangements should be accompanied by a commitment by the recipient to full-scope safeguards. This standard will be important to enforce not just with respect to prospects for nuclear cooperation in South Asia and the Middle East, but as a universal norm.

The 1995 Decision also stressed the importance of greater transparency in nuclear-related export controls. Yet today, opacity remains more the rule than the exception, most particularly with respect to data on exports of dual-use goods.

Strengthening the NPT Review Process. I very much regret to say that the results of the third meeting of the Preparatory Committee in May 1999 were inauspicious,

as were the previous two Preparatory Committee meetings. Deep differences continue to divide the non-nuclear-weapon States Parties from the nuclear-weapon States Parties especially over the nuclear disarmament issue. A key goal of the strengthened review process is, as the relevant Decision stated, “to promote the full implementation of the Treaty” -- and “full,” of course, necessarily includes the issue of disarmament. The inability of the three Preparatory Committees to the 2000 NPT Review Conference to reach any consensus on substantive recommendations is, in this respect, unfortunate to say the least.

In accordance with the Decision on strengthening the review process for the Treaty, NPT States Parties undertook to accept greater accountability of their actions. The success of the 2000 Review Conference will depend upon the willingness of all States Parties to live up to this commitment, as well as their readiness to show flexibility and avoid complacency over what some may consider the “done deal” of the Treaty’s indefinite extension.

CONCRETE STEPS FOR PROGRESS

The prospects for a successful 2000 Review Conference will improve if any of several steps are taken in the months ahead. My list is by no means comprehensive, yet it does identify some of the key areas where progress is urgently needed.

■ The ratification by the Russian Federation of the

START II Treaty would open the way for negotiations on deeper strategic arms reductions under the START process. Progress in this area, however, will require some negotiated understandings about the future of the ABM Treaty.

It will not be possible to separate these issues -- unilateral decisions on national missile defense may well seal the fate of the START process, destroy all hopes for near-term progress on deeper arms reductions, and open up new dangers of both nuclear and missile proliferation.

■ It would also be quite desirable for the United States and the Russian Federation to withdraw additional tactical nuclear weapons from active service, place considerably more weapons-usable nuclear materials under IAEA safeguards, reach reciprocal understandings to de-alert existing weapons, and, at long last, to declare publicly -- along with other States possessing such weapons -- the size of their stockpiles.

■ Another idea that has been proposed in recent years is the establishment of a nuclear weapons register. Agreement on such an initiative would help considerably in implementing the transparency provisions of the 1995 Decision on Principles and Objectives. The United Kingdom’s “Strategic Defence Review” in 1998 did help in achieving some degree of transparency with respect to that country’s nuclear weapons stockpile. States possessing such weapons could announce -- even unilaterally -- additional initiatives to

implement their nuclear disarmament responsibilities.

■ Progress in these areas would also help the Conference on Disarmament to establish subsidiary bodies on nuclear disarmament and the fissile material ban -- issues that were specifically highlighted in 1995. In addition, efforts should continue in the CD to commence negotiations on measures to prevent the advent of an arms race in outer space and to strengthen negative security assurances.

■ Parties to the Treaty must also deal with the problem of compliance, in particular the need to resume safeguards activities in the DPRK and Iraq. Progress on the latter will require a new consensus within the Security Council on how to resume the disarmament work required under Resolution 687 and subsequent resolutions. With respect to the DPRK, efforts must continue to enable the IAEA to undertake fully its safeguards responsibilities, which include the acquisition of data on past production of nuclear material. Initiatives like the Agreed Framework of 1994, as well as various other incentives that have been proposed in recent months, may help in achieving this goal. Such incentives, however, should serve as a means to advance non-proliferation and disarmament ends. They should not be viewed as ends in themselves.

■ Progress is also needed in restoring some momentum to international efforts to ban all nuclear tests. Though they were conducted by countries that are not Parties to the NPT, the effects of last year’s eleven

reported nuclear tests in South Asia have reverberated throughout the NPT regime, especially with respect to their impact on long-standing efforts to outlaw all such tests and, indeed, to delegitimize the possession of nuclear weapons. I hope the recent vote in the US Senate against the CTBT will serve to revitalize international efforts in defense of the norm against testing. This would be best accomplished by renewed efforts by all countries to expand membership in the Treaty and, pending its entry into force, by new commitments to ensure that the current national moratoria

on nuclear testing will continue until the Treaty becomes effective.

Strengthening the Foundation. On a somewhat broader level, I think it is clear that if the general level of confidence in the fundamental building blocks of strategic stability and international peace and security are crumbling, then so will all hopes for substantial progress on disarmament and non-proliferation. In our efforts to stimulate initiatives in these areas, therefore, we must never forget the overwhelming importance of building upon a stable foundation, a foundation best articulated in

the principles and obligations found in the UN Charter.

Finally, I would like to urge all who care about disarmament and non-proliferation -- the non-governmental organizations (NGOs) in particular -- to hold firm on global standards. Spread the word about the many benefits for all countries from accomplishing these goals. And oppose proposals that would only spread the diseases that the regime is designed to prevent.

The building of societal resistance to nuclear weapons will be, in the final analysis, the ultimate bulwark protecting the world from nuclear anarchy. □

INTERNATIONAL RESOURCES: NON-PROLIFERATION & DISARMAMENT

The United Nations Department for Disarmament Affairs carries out the essential role of advising the UN Secretary-General on disarmament and related security matters.

As part of its work, the Department maintains active liaison with the public and non-governmental organizations (NGOs), with which it organizes a number of events during the year. It also publishes a variety of reports and a periodical newsletter, called *DDA Update*, that reports on its activities and related issues. More information about the Department and its work is available on line through the UN's Web pages at www.un.org/Depts/dda.

Other information resources about nuclear non-proliferation and disarmament topics also are accessible over the Internet. In addition to the IAEA (www.iaea.org), they include the: n First Committee of the United Nations *General Assembly*, which deals with matters related to disarmament and international security, at www.un.org/ga/54/first

- *Conference on Disarmament*, based in Geneva, at www.unog.ch/disarm
- *United Nations Institute for Disarmament Research*, also based in Geneva, at www.unog.ch
- *United Nations Disarmament Commission*, at

www.un.org/Depts/dda/UNDC

- *Organization for the Prohibition of Chemical Weapons*, based in the Netherlands, at www.opcw.nl

- *Stockholm International Peace Research Institute*, in Sweden, at www.sipri.se

- *NGO Committee on Disarmament*, at www.peacenet.org/disarm

- *Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty*, based in Vienna, Austria, at www.ctbto.org

- *Monterey Institute of International Studies, Centre for Non-Proliferation Studies*, based in the United States, at cns.miis.edu

- *Institute for Science and International Security*, based in the United States, at www.isis-online.org

- *Programme for Promoting Nuclear Non-Proliferation*, at www.soton.ac.uk/-ppnn

- *Agency for the Prohibition of Nuclear Weapons in Latin America and the Caribbean*, based in Mexico, at www.opanal.org

- *Verification Technology Information Centre*, based in the United Kingdom, at www.fhit.org/vertic