

# BEHIND the HEADLINES

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Our Nuclear Future: Hanging Together  
or Hanging Separately?

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Canadian Institute of International Affairs  
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# **Our Nuclear Future: Hanging Together or Hanging Separately?**

**PAUL HEINBECKER**

## **INTRODUCTION**

The one thing that President Bush and Senator Kerry could readily agree on during the 2004 presidential debates was that the nexus of terrorism and weapons of mass destruction was the most important problem the United States, and the world, faced. Since then, political divisions in the US have widened and fissures between the US and much of the rest of the international community have deepened, in some cases into chasms. From Afghanistan to Iraq to Palestine and Lebanon, the world has become more fractious and international consensus on security has become correspondingly scarcer. Not surprisingly, progress on the arms control and disarmament (ACD) agenda has foundered. Its prospects are worsened by the current American administration's disregard for multilateral cooperation it cannot control and its preference for a US-led strategy focusing on enforcement and compliance, suspect in the eyes of many. In addition, the nuclear weapons states are largely indifferent to their disarmament obligations under the Non-Proliferation Treaty (NPT), the corner stone of the arms control and disarmament regime, except as an instrument for

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constraining others. The evident nuclear weapons ambitions of North Korea, the alleged aspirations of Iran and the still-to-be-ratified US-Indian agreement on nuclear cooperation raise major questions about the continuing viability of the ACD treaty regime. Meanwhile, rising oil prices and deepening climate change are renewing interest in nuclear energy on the part of some countries who had renounced the option and others who had never aspired to it, raising in the process all the old unanswered safety, security and environmental questions and some new ones as well. The entire regime is, thus, in jeopardy precisely when events suggest it needs innovation and reinforcement. It can be made to work but that will require greater recognition of common interest and shared fate in major world capitals, especially Washington, than has been evident so far.

### **SEVERAL STEPS FORWARD...**

To understand where the world is tending on nuclear cooperation, a recapitulation of major developments helps. The story is far from totally discouraging. In the past decade, there have been numerous heartening advances. In 1995, the signatories to the 1968 Non-Proliferation Treaty (NPT), the most-ratified treaty in history, made the accord permanent, transforming its 25 year term into an open-ended commitment. To be sure, countries retained the right to secede but the bargains agreed to in the original NPT were preserved intact and an effective instrument to prevent the acquisition and use of nuclear weapons was reinforced. As part of those bargains, the non-nuclear weapons states (NNWS) had forsworn the development or acquisition of nuclear weapons (Articles II and III) in exchange for the “inalienable right” to nuclear energy for peaceful purposes (Article IV) and the undertaking of the nuclear weapons states (NWS) to “pursue negotiations in good faith” to cease the arms race and to negotiate general and complete disarmament (Article VI). International Atomic Energy Agency (IAEA) inspectors verified compliance by states parties.

It was an unequal bargain that most states were prepared to accept because they believed that, its inequity notwithstanding, the treaty made them safer. The larger the number of countries with nuclear weapons, the calculation went, the greater the chance that the weapons would one day be used. Against their better judgment, they also hoped that the nuclear weapons states would keep their ends of the bargain, if not immediately, then in some foreseeable future. In fact, as the Cold War receded, Russia and the United States first limited then began to reduce their strategic weapons systems significantly, although nuclear warhead destruction did not keep pace and there has been no international verification of these reductions. The UK and France have, also, reduced their comparatively smaller arsenals but China has augmented its weapons, albeit from a small base.

By 1995, 173 countries had ratified the NPT. Brazil came on board subsequently, as did Cuba, and ratifications now total 188. Belarus, Kazakhstan and Ukraine relinquished their nuclear weapons, as did South Africa. Ultimately, all but the three current outliers—India, Pakistan and Israel—gave up their nuclear weapons and programs. Meanwhile, following the discovery of the deception perpetrated by the Iraqi regime in the 1980's, the IAEA had begun to make progress on an "Additional Protocol" that allows IAEA inspectors to carry out substantially more intrusive inspections in participating countries; 70 countries have now signed on. At the same time, both safeguards agreements and additional protocols are focused on nuclear material, which means that the Agency's legal authority to investigate possible parallel weaponization activity is limited, unless there is some nexus linking the activity to nuclear material. In today's security environment, inspections that only verify what a country has declared are not likely to be judged "effective", in terms of the assurance they provide the international community.

In 2000, at the NPT Review Conference, the nuclear armed states gave an unequivocal undertaking "to accomplish the

total elimination of their nuclear arsenals leading to nuclear disarmament to which all States parties are committed under Article VI”, although none said when and few were certain how. Still, the NPT bargain remained intact. The nuclear weapons states also endorsed “Thirteen Steps”, measures by which they would give some effect to this commitment, including the early entry into force of the Comprehensive Test Ban Treaty (CTBT), conclusion within five years of a verifiable fissile material cut-off treaty (FMCT), initially proposed by President Clinton, a reduction in the number of tactical nuclear weapons, a reduction in the operational status of nuclear weapons systems, the application of the principle of irreversibility to all nuclear arms reductions and a diminished role for nuclear weapons in security policy.

The extraordinary statesmanship of the US-initiated Nunn-Lugar Cooperative Threat Reduction Program, launched in 1992, has been facilitating the dismantlement and securing of nuclear, biological and chemical weapons and materials in Russia and elsewhere in the former Soviet Union. Several thousand warheads, material for several thousand additional warheads and thousands of missiles and missile launchers have been deactivated or destroyed since the inception of the program. Otherwise idle scientists have been gainfully employed in non-lethal activity. In time, this initiative was joined by others. At the 2002 Kananaskis summit in Canada, the G-8 launched a \$20 billion “Global Partnership against the Spread of Weapons and Materials of Mass Destruction”. (Canada’s share is \$1 billion.). The US and Russia concluded the Treaty of Moscow on sharply reducing strategic nuclear weapons systems (not warheads), albeit without verification: problems remain with respect to hair-trigger alerts, launch on warning, the high numbers of strategic weapons remaining, and the need to withdraw tactical nuclear weapons from Europe. To complement existing export controls, the US launched the Proliferation Security Initiative, the use of military assets to intercept the transportation of

weapons systems, deliberately positioning it under its own leadership and apart from the multilateral framework of previous arms control mechanisms. The A. Q. Kahn private network of nuclear technology suppliers was wrapped up and, in 2003, the Libyan Government disclosed its clandestine nuclear weapons program and voluntarily dismantled it. The UN Security Council passed resolution 1540 by which all member states were directed to strengthen export controls of nuclear materials and to criminalize the unauthorized possession and transfers of these materials. The UN General Assembly has for its part concluded two directly relevant treaties, the International Convention on the Suppression of Acts of Nuclear Terrorism and the Convention on the Physical Protection of Nuclear Material. Parties to the latter have agreed on major changes that would make it legally binding for countries to protect nuclear facilities and material in domestic use, storage and transport.

### **...SEVERAL STEPS BACK**

The last decade chalked up significant successes, but it also registered dangerous setbacks. Most spectacularly, in 1998 India and Pakistan joined the nuclear weapons club, detonating five nuclear weapons each and building substantially more. The world held its collective breath as long-standing enemies, who had no geographic separation, no hotline and unproven command and control systems, faced off across the “Line of Control”, the de facto border and the site of major conventional fighting over Kashmir. Neither the NPT nor the IAEA had stopped two major countries from crossing the nuclear weapons threshold. North Korea put itself in and out of compliance with its NPT and IAEA obligations in an increasingly tragic and dangerous cycle, withdrawing from the NPT in 2003. Meanwhile, Iran came under heavy suspicion by the IAEA because of its clandestine activities and has been refusing even to suspend its uranium enrichment program. The US decided to initiate a nuclear partnership with India, in

contradiction if not contravention of its own obligations under the rules that had been long since agreed to with other nuclear suppliers. Starting in 1998, the Conference on Disarmament, shackled by its own consensus decision rules, failed to reach agreement on a work program, a situation that continues to prevail.

The attacks of 9/11 gave birth to the sum of all fears, that terrorists could acquire and use nuclear weapons. Countering the proliferation of nuclear weapons, in particular physically preventing their acquisition by terrorist groups and locking down existing stockpiles, became a new top priority. "Meeting this duty," President Bush said in February 2004, "has required changes in thinking and strategy. Doctrines designed to contain empires, deter aggressive states, and defeat massed armies cannot fully protect us from this new threat.... We're determined to confront those threats at the source. We will stop these weapons from being acquired or built. We'll block them from being transferred. We'll prevent them from ever being used."

Dramatically different approaches were, thus, launched in Washington, more focused on military prevention than on promotion of treaties and norms. Washington seemed to have concluded that multilateral mechanisms to avoid the spread of weapons were ineffectual and, equally bad, constrained American freedom of action, that strategic considerations (relations with India, partly as a counterweight to China) outweighed proliferation risks and, finally and most controversial, that the danger lay not in the nature of nuclear weapons but in the malevolent character of the regimes that possessed them, the National Rifle Association dictum that "guns don't kill people, people kill people" carried to its ultimate conclusion.

In 2002, Washington published both its new National Security Strategy (updated in 2006) and National Strategy to Combat Weapons of Mass Destruction, which postulated perpetual US superiority and a readiness to pre-empt others and contemplated readier use of nuclear weapons. Prior US

administrations had regarded verification regimes as providing if not certainty at least an important level of confidence in the behaviour of treaty partners. Washington now abandoned the famous “Trust but Verify” approach of President Reagan. To quote former Reagan administration arms negotiator Max Kampelman, “what is missing today from American foreign policy is a willingness ... to find a way to move from what “is” —a world with a risk of increasing global disaster—to what “ought” to be, a peaceful, civilized world free of weapons of mass destruction”, in his words: to be at once idealistic and realistic. In comparatively short order, the US broke off negotiations of a verification mechanism for the Biological Weapons Convention (BWTC), abrogated the Anti-Ballistic Missile Treaty and stood aside from the Comprehensive Test-Ban Treaty, while maintaining its testing moratorium.

In the UN context, not just the US but none of the nuclear weapons states took the Thirteen Steps they had promised at the 2000 NPT Review Conference. At the Conference on Disarmament (CD), the United States has been opposing a work program that many of the 65 members favor, including holding negotiations or at least talks on nuclear disarmament, the prevention of an arms race in outer space, and negative security assurances—assurances that nuclear armed states will not attack non-nuclear armed states. China, which had been blocking consensus to negotiate an agreement on the prevention of an arms race in outer space (PAROS) did agree (with Russia) to at least discuss it, a step that raised hopes that progress might also be possible on a Fissile Material Cut-off Treaty (FMCT), and on nuclear disarmament and negative security assurances . Washington did not reciprocate on space, apparently because it preferred not to risk constraining its options. It did present an FMCT proposal in the Conference on Disarmament in Geneva , albeit one that ignored elements of importance to other states (e.g. adequate verification), persuading some that it was little more than a ploy to sugar-coat its controversial initiative with India.

The US administration promised to help India develop its civilian nuclear programme without asking it to sign the nuclear non-proliferation treaty in return. The US Congress has been asked to amend US law to allow India to acquire nuclear fuel and advanced reactors from American and other suppliers, in return for India's allowing international inspections and safeguards on two-thirds of its existing and planned civil nuclear reactors. India has openly stated that CANDU-style facilities will be part of its nuclear weapons production complex, and thus excluded from inspection, presumably thereby closing the Indian market to Canada at a time when the US and others will be able to sell their nuclear technology. The proposal requires consensus agreement within the 45-member Nuclear Suppliers Group (NSG), including Canada. According to Secretary of State Rice, this initiative is supported by Russia, France and the United Kingdom and apparently by IAEA head Dr. Mohamed ElBaradei. There is, nevertheless, widespread concern, especially in the international arms control "community" that India-specific exemptions from NSG guidelines will erode the credibility of the effort of the NSG to restrict nuclear trade only to those states that meet global nuclear nonproliferation and disarmament standards. In any case, the US administration's welcoming of India to the nuclear high table, thereby undercutting Brazil, Argentina and South Africa who had actually adhered to NPT disciplines, will not have made the prevention of proliferation easier.

The 2005 World Summit, held in New York last September, achieved very few worthwhile outcomes (one notable exception being agreement on the Canadian commissioned report on the Responsibility to Protect). But, in Secretary-General Annan's words, the most "disgraceful" of the Summit's failings was its inability to agree on any language at all on non-proliferation and disarmament. Why did member States not live up to the world's expectations at a time when the multilateral non-proliferation regimes were being tested by a small number of

governments, and the ambition of terrorists to acquire WMD was clear? Principally, it was because, in keeping with the failure in 2005 of the NPT Review Conference to agree on any substantive outcome and the paralysis that persisted in the Conference on Disarmament in Geneva, member States simply did not have the political will to make the concessions necessary to achieve progress. At the UN summit negotiations in the fall, too many delegations had brought too much ideological baggage with them. The nuclear-armed states, including the US, deliberately or inadvertently played into the hands of spoilers such as Iran and Egypt in the latter's desire to deliver a non-outcome on arms control. At the subsequent UN General Assembly's First Committee discussion of nuclear issues, the US was alone in voting negatively on eight of the 20 resolutions that went to a vote.

### **THE CRUX OF THE DISAGREEMENT**

The ACD regime, not surprisingly, is in jeopardy. There are wide disagreements between the nuclear weapons states, principally but not exclusively the United States, on the one hand and much of the rest of the NPT membership, that is to say, most of the rest of the world on the other. These disagreements go to the heart of the NPT bargains, primordially that of disarmament. Some argue that disarmament by the nuclear-armed states has always been little more than a delusion on the part of the states without nuclear weapons, a necessary pretext that there would one day be a quid for the quo the latter were giving in renouncing their own nuclear weapons aspirations, a quid on which the nuclear-armed states never really intended to make good. In this light, everyone would be better off just to drop the pretence. Moreover, the NPT's non-proliferation undertakings were in any case not just a bargain between those with nuclear weapons and those without but also a binding commitment among the latter, many of whom had ample reason to fear or distrust one another. They had undertaken to each other as well as to the nuclear-armed states not to acquire

nuclear weapons. The argument holds, as well, that too much effort has been invested in obtaining signatures on treaties and not enough in ensuring compliance with them. Arms control agreements and export controls have been ineffectual with respect to India, Pakistan, Israel, North Korea and, prospectively, Iran. They also neither deterred nor much delayed A.Q. Khan in taking his nuclear activities private. Counting on their effectiveness is delusional and downright dangerous.

The counter arguments derive from the famous observation by President Kennedy, the only President to face a full fledged nuclear crisis, that “We must abolish the weapons of war before they abolish us.” These arguments hold that ridding the world of nuclear weapons was always seen as a goal for the very long term but that the goal ought never to be abandoned, against the possible day that political attitudes and security perceptions might change. Near term policies and programs should be framed in such a way as not to preclude reaching the goal in the longer term. Further, non-proliferation could only be achieved cooperatively. Treating the non-nuclear armed states as inherently and eternally inferior entities was likely to serve neither the goal of compliance nor that of enforcement. As for the effectiveness of the ACD regime, particularly the NPT, there are fewer than half as many governments in 2005 with nuclear weapons programs as there had been in the Sixties and more countries have given up nuclear weapons than had illicitly acquired them. Not insignificantly, each arms control agreement codifies an additional global norm and augments the international legal framework for preventing and constraining weapons programs. Securing sensitive assets would be much easier in the descent to a zero-arsenal world than in one where multiple states maintained operational nuclear forces and large related infrastructures with little or no transparency and international monitoring.

These differences have far-reaching implications. Countries make their decisions to acquire nuclear weapons for a mix of motives, including security, prestige and religion.

Simple fairness probably enters into the calculation as well. Weapons of mass destruction have considerable political value and nuclear weapons, in particular, are great equalizers. Countries with nuclear weapons command respect, even if only of the kind accorded to a well-armed criminal.

Were Iran to develop nuclear weapons, a “political chain reaction” could well follow, involving at least Saudi Arabia, Egypt and Turkey. It could very well be the beginning of the end of the NPT, and potentially of the world as we know it. The dangers inherent in North Korea’s nuclear program could produce a similar chain reaction, involving Japan and South Korea. The India-US deal may be equally momentous if, as seems likely, it seeks to enshrine a double standard. As the NPT and Nuclear Supplier Group regulations preclude nuclear trade with non-signatories, a special dispensation for India would have to be given. Some argue that that would only be a welcome acknowledgment of reality. Others worry that in these fundamentally changed circumstances, it would be unrealistic to expect other near nuclear weapons states to forbear forever from developing their own arsenals. Once the NPT started to unravel, its collapse could be sudden and catastrophic. Then it really would become “a jungle out there”, a jungle full of well-armed inhabitants.

### **WHAT NOW?**

In 20 years it is expected that the world will consume 40% more oil than it does today. By 2030, the number of automobiles in the world is predicted to increase by 50%. By 2100, global temperatures could, according to current projections, be 5-6 °C warmer than they were in 1990. This would make the earth warmer than it has been in 50 million years. Preventing further climate change and adapting to it is no longer a question for the future, but an imperative now to avoid new economic and human disasters, which would disproportionately affect developing countries and vulnerable populations in those nations.

Technology, especially nuclear technology, will be part of the response. India has a flourishing and largely indigenous nuclear power program and by some estimates expects to have 20,000 MW nuclear capacity on line by 2020. China has apparently announced plans to build 30 new reactors by 2020. A study in 2003 by a blue-ribbon American commission headed by former CIA director John Deutch, concludes that by 2050 China could require the equivalent of 200 full-scale nuclear plants. A team of Chinese scientists advising the Beijing leadership is said to have put the figure even higher at 300 gigawatts of nuclear output, not much less than the 350 gigawatts produced worldwide today. Nor will China and India be the only countries going increasingly nuclear. Some existing nuclear countries are rethinking earlier decisions to withdraw from using nuclear energy and others with no nuclear history will likely see this climate-friendly energy as part of their futures. The world is going to need to manage this new dissemination of nuclear technology and the vastly greater availability of nuclear materials just at a time when the arms control and disarmament regime looks increasingly fragile.

Experience shows that arms control and disarmament, like trade liberalization, cannot sustain immobility for long. The “good news” is, in fact, that many ideas are emanating from the US, Europe and elsewhere for both problem-specific and more general governance responses. A good deal of work is being done, conceptually at least, on what it would take to build a more effective security order. It is becoming evident that for all to be truly safe, our common approach can and must be comprehensive, in terms both of treaties and laws and of compliance and enforcement. Simply put, the non-proliferation goal should be universal compliance with a much tougher regime. Part of the task is technical, to develop the ideas that, if implemented, will enhance security. Part of it is political, to get the governance structures right. Success will take the sustained cooperation of nuclear weapons states and

others with advanced nuclear assets and capabilities in order that nuclear weapons, technology and material be kept out of dangerous hands.

### *Ideas*

Even if states with nuclear weapons can expect to enjoy a quasi-monopoly for a very long time, they need to make clear, if only for the sake of attracting cooperation on preventing proliferation, that it does not mean eternity. Russia and the US, especially, need to revisit their calculations of the minimum stockpile of nuclear weapons they need for deterrence, make a priority of eliminating tactical nuclear weapons, which because of their relative portability are probably the greatest danger the world faces, and make their stockpile management more transparent. They and the other nuclear-armed states could take several other initiatives, for example making the nuclear weapons reductions that they have agreed irreversible and verifiable, and discussing what financial, technical and institutional issues would be entailed in disposing of nuclear inventories. They need especially to make it clear that they will not develop new types of nuclear weapons. The refusal of the US Congress to fund research on the “bunker buster” sent a strong signal. Further, talk of tactical uses of nuclear weapons, as the US has engaged in, should be stifled. It increases the motivation of others to develop or acquire their own deterrent. Launching negotiations on a Fissile Material Cutoff Treaty and ratifying the Test Ban Treaty (CTBT) would help. Former National Security Advisor general Brent Scowcroft has proposed making the term of the CTBT five years, renewable. Although there are other means for ensuring the fitness of weapons, this way no one is locked in perpetually, left with a potentially, at least, deteriorating deterrent at a time when that could be risky. The verification issue that apparently troubles the US would remain but no arms control agreement is completely verifiable, and that does not vitiate them of all utility. That is particularly so when the

current main objective is stopping nuclear terrorism, not deterring nuclear attacks by states. Making the perfect the enemy of the good in these circumstances is not just shortsighted; it is self-defeating and dangerous.

Self-selecting cooperative initiatives, like the Global Threat Reduction initiative and the Global Partnership, targeted at cleaning up the residual problems of defunct weapons programs, fill important voids. Still, a great deal remains to be done before the world can assure itself that nuclear weapons and nuclear materials and other weapons precursors are being safeguarded to a Fort Knox standard. Foreshortened deadlines for these programs would help expedite matters. Equally, international law needs to be expanded to facilitate the international response to errant states and the prosecution of non-state actors. To be ready for those cases where export controls fail, the membership of the Security Proliferation Initiative could be expanded, its net of coverage made more dense and its legal base strengthened by the Security Council to facilitate interceptions of illegal traffic in domestic waters, on the high seas and in the air.

More fundamentally, the international community needs to develop greater consensus on the key challenges to non-proliferation and the most effective responses needed. Some, for example Israel, feel genuinely threatened and see nuclear weapons as deterring others from attacking them. Others, including Iran, probably feel insecure as well but possibly see nuclear weapons also in religious terms. India is very conscious of its nuclear-armed neighbours and also quite aware of the benefits in terms of political power enjoyed by states with nuclear weapons, not least permanent membership of the UN Security Council. Pakistan feels for security and nationalism reasons that it cannot allow itself to fall very far behind India. For North Korea, security is obviously an issue, as are the commercial prospects of weapons sales, including possibly to terrorists.

The common factor is fear. Major diplomatic efforts especially by the nuclear-armed and other major powers are needed,

therefore, to redress over time regional security concerns. For example, on North Korea, there is a suggestion that there could be some kind of assurance against aggression and diplomatic relations with the United States and Japan, as well as discussion at least about a peace treaty. All of these things would be geared to assure North Korea that they would not be subject to a military attack, any regime change efforts, and intervention to that effect. Similarly, dialogue with Iran is likely to be more productive than threats. And, a resolution of the Middle East issue that safeguards the interests of the Israelis and the Palestinians by reconciling the territorial and security interests of both sides could lead the Israelis one day to recalculate the necessity of their nuclear deterrent. Ultimately, the interests of nuclear disarmament and non-proliferation will be served when the political utility of nuclear weapons is reduced to coincide with their military utility—something close to zero. In any case, it is not only the transgressions of the few that should drive the non-proliferation agenda but rather the need for the cooperation of the many to prevent things from getting worse.

### *Institutional Reforms*

Looking ahead, political strategies for reviving multilateral work are likely to focus on two tasks: i) initiating and conducting a multilateral process that actually allows for the substance of the ACD agenda to be discussed; and ii) persuading key nuclear weapons states that it is in their national security interests to permit the resumption of multilateral ACD work. Currently, a handful of states are taking advantage of consensus rules to prevent not just negotiated outcomes but even the discussion of issues of interest to the vast majority of states. Given the eight year long impasse over adoption of a Program of Work at the Conference on Disarmament, it is hardly precipitous to look for a way to start work on the core ACD issues that have long been identified in that forum. There are four issues that, taken together, would constitute a comprehensive

and balanced agenda; i) progress on nuclear disarmament, ii) negotiation of a FMCT, iii) negotiations on the prevention of an arms race in outer space and iv) negative security assurances. So long as the Conference on Disarmament is prevented from taking up these issues, other multilateral avenues, some formal, some informal, for addressing them are bound to be explored.

A few powerful countries need to be persuaded that allowing the Conference on Disarmament and other multilateral forums at least to talk about some ACD issues of concern is not inimical to their security interests. It is not realistic of them to expect cooperation on non-proliferation and counter-proliferation issues and, at the same time, to brush aside the legitimate concerns for more action on disarmament and other issues of interest to them.

IAEA procedures are not problem free. Under the basic safeguards approach, its inspectors can only inspect declared nuclear sites. Further, states can legally acquire much of the technology and even assemble the elements of a future nuclear weapons program so long as they are declared to be for peaceful purposes, a loophole that Iran may be exploiting. A related issue is that under the current regime, countries can, like North Korea, leave the treaty regime with impunity, taking with them effectively whatever technology they were transferred in good faith while they were states parties. Also, the intensity of IAEA verification is determined more by the size of a nuclear program (Canada) than by the likelihood of compliance (Iran). The IAEA's "Additional Protocols" do increase the Agency's capacity to ensure that states parties' declarations are complete, improve the Agency's chances of detecting undeclared material and activities and thus deter states from engaging in prohibited activities. Only 84 Additional Protocols have been signed and approximately 70 have come into force. To make IAEA inspections more effective, Additional Protocols should become the new accountability norm. Transfers by members of the Nuclear Suppliers Group

should be made conditional on the recipient state's accepting the Protocol. Further, the IAEA's resources should be augmented to reflect the seriousness with which the international community takes this issue. Consideration also needs to be given to severing the Agency's proliferation control mandate from its nuclear promotion functions.

More can be done. IAEA Director General Mohamed ElBaradei has argued that the only way, ultimately, to prevent non-nuclear weapons states from acquiring their own plutonium or highly enriched uranium for weapons purposes is to restrict enrichment and reprocessing activities by individual states and to create an international suppliers group of some kind, possibly a nuclear fuel bank under IAEA authority. An actual or a virtual IAEA fuel bank, functioning exclusively for non-proliferation purposes not other political reasons, comprising several fuel suppliers in order to preclude politically motivated decisions to withhold supply, would remove the non-weapon incentives to build new national enrichment or reprocessing facilities. Surplus highly enriched uranium could be downgraded and supplied to the IAEA bank, as the US has apparently offered to do and Russia has contemplated doing, thus removing material that could be used to make bombs, thereby killing two birds with one stone. States could agree to end the production of highly enriched uranium and pause in the separation of plutonium.

Support for the idea has grown including in Washington, where the Bush administration has proposed a Global Nuclear Energy Partnership (GNEP), designed to restrict the number of countries enriching uranium to existing players such as the US, Britain, China, Russia and France, although two major uranium supplying countries, Canada and Australia, would have to be included if the Partnership were to be effective. Under the GNEP, nuclear fuel would be supplied to energy-hungry countries and taken back, spent, by the supplier in order to preclude its reprocessing for weapons. Such an approach would not deny NPT member countries access to nuclear energy but

it would close the loophole that Iran is suspected of exploiting in order to put itself in a position to produce highly enriched uranium or plutonium and, thus, weapons. (At the same time, Japan already has plutonium production for its civil program, making consistent behaviour by the international community difficult to say the least.) Simple though it sounds, qualifying or nullifying “the inalienable right of all parties to the treaty to develop, research, produce and use nuclear energy for peaceful purposes without discrimination” will be a tough sell, particularly in light of the disdain of the nuclear weapons states for disarmament.

### *Institutional Innovations*

In a situation of such scope and complexity, and in light of such significant disagreements, can effective multilateral consensus be achieved and channeled? Universal participation or as close as possible to that is important to a nuclear treaty’s legitimacy and effectiveness. But large negotiating bodies are inefficient and prone to lowest common denominator outcomes, when there are outcomes at all. The Conference on Disarmament is notoriously paralyzed. The UN General Assembly (UNGA) does not usually negotiate at the level of 191 countries; it has recourse to regional and other groups. At the same time, not all countries have the capacity or the interest to contribute meaningfully to complex technical negotiations. Smaller existing state-to-state forums can be used or new ones created. One obvious forum is the UN Security Council; another is the G-8; another could be the so-called L-20, a leaders’ forum akin to the G-8 but larger, comprising developed and developing countries.

The UN Security Council can be made more effective, assuming an adequate degree of common interest among the permanent five members and contingent upon the line-up of nonpermanent members on a given Council. The Security Council has the power under Article 39 of the Charter to determine whether a situation constitutes a threat to international

peace and security, to design obligatory sanctions against the perpetrator under Article 41, and to mandate military action under Article 42. The Council has in the recent past been very effective on discrete issues, such as in authorizing member states to end the Iraqi occupation of Kuwait and curtailing the role of blood diamonds in illicit arms transfers in the Angola civil war. It has, also, been moderately effective on counter-terrorism, post 9/11. With resolution 1373, the Council prohibited and criminalized financial and other support for terrorists. In adopting Resolution 1540 under Chapter VII, the Council had further recourse to its “legislative powers”, requiring all UN members to criminalize support to non-State actors that attempt to develop, acquire, manufacture, possess, transport, transfer or use nuclear, chemical or biological weapons and to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery. Member states are also obliged to enhance controls over nuclear and other materials. Such action by the Council will work only if the body is united and determined. The fecklessness evident in bringing Iran into the Security Council dock does not inspire confidence. Nor has the Council been allowed to amount to much on North Korea. There is, however, some scope for the Security Council to do more. It could for example “legislate” a mandatory response by the international community to North Korea’s withdrawal from the NPT. It could impose sanctions on other miscreants, like Iran, for deceptive behaviour. It could possibly give the force of international law to the decisions of suppliers groups. Beyond the nuclear and chemical domains, whose treaty bodies have their own highly proficient inspections and verification capabilities, the Security Council could give itself an enhanced inspection capability by acquiring the residual staff and expertise of UNMOVIC, which proved effective under the most adverse circumstances in Iraq. The existence and the operations of a UN Security Council inspectorate would make willful blindness by member countries much harder to sustain.

While there is a limit to how effective the Security Council can be as an instrument of non- and counter-proliferation, it does have the great advantages of simplicity and authority. Statutorily, only nine countries including the Permanent five members—on proliferation issues often like-minded—need to be persuaded before action can be taken. Further, the Council has a Charter-mandated role on all matters affecting international peace and security. Simplicity and authority do not necessarily constitute legitimacy, however. Most UN members do not believe that in adopting the Charter they were empowering the Council systematically to bypass the General Assembly or, more important, to act as unaccountable executive and legislative branches, supplanting the constitutional roles of their own parliaments and cabinets. There remains, moreover, after the failure of the UN Summit, the representational deficit in so far as permanent members from the Third World are concerned, which includes two actual and two potential nuclear weapons states. Moreover, the allergy to disarmament of the nuclear-armed states and the earlier threats by the US against Iran are undoubtedly generating sympathy for the Iranians, however misplaced. Clearly, those wishing to expand the Council's writ will need to be circumspect about how fast to go on proliferation and how far to outpace the General Assembly consensus.

The G-8 continues to provide a forum in which the world's leading economic powers bring their extraordinary resources to bear in support of the security of their members. In the Eighties and Nineties, the G-8 proved to be very effective in producing counter-terrorism cooperation. More recently, at Kananaskis, the G-8 reached agreement on the Global Partnership. In 2003, at Evian, the G-8 launched its Radioactive Source Security Initiative. In 2004, at Sea Island, the group laid out a Non-Proliferation Action Plan. In 2004, at Gleneagles, they followed up on previous commitments, particularly as regards the Global Partnership, indicating their preparedness to expand its coverage to other countries. They also undertook to enhance the Nuclear Suppliers Group guidelines and to

refrain from transfers of enrichment and reprocessing equipment and technologies to additional states. Although it has no statutory authority and effectively leads by example, the G-8 can, thus, be effective in and of itself, and in acting as a high level ginger group for international action.

The L-20 (which might turn out yet to be an L-13), or Leaders Summit idea was born of the experience of the financial crises of the 1990s, when successively Mexico and countries in Latin America, then South Korea and ASEAN countries and finally Russia experienced serious economic and financial distress. The finance ministers of the G-7 proved too restrictive a group to set the direction for sound crisis management for countries that were not themselves part of it. "Buy-in" by the debtor states simply could not be imposed. Ultimately, a larger group had to be formed, the G-20, which comprised the G-8 countries plus regional powers, representing approximately 90 percent of the world's economic output, 75 percent of its trade, and 67 percent of its population. The Leaders' Summit idea recognizes that not just financial but also geopolitical realities are changing. For non-proliferation and disarmament purposes, the Leaders' Summit could comprise countries with substantial actual or latent nuclear material and technology, from North and South. It would include those countries whose participation was necessary to the achievement of the group's purpose. It would meet annually at the summit level and deal with cross-institutional and inter-disciplinary issues that exceeded the writs of existing international organs and/or the portfolios of individual ministers/secretaries. Where the Security Council meets in continuous session at ambassadorial level, a Leaders Summit would meet annually at heads level. It would undoubtedly facilitate the development of consensus, making it possible, as the key countries on a given issue would be present, to telescope consensus development in the UN or specialized institutions.

## **CONCLUSION**

What is missing, clearly, is not ideas about how to proceed but

acknowledgment that all have a stake in nuclear security, and that the arms control and disarmament regime and its cornerstone, the Non-Proliferation Treaty, are indispensable. There seems to be inadequate recognition among the nuclear-armed states that the legitimate interests of the non-nuclear states in preserving the arms control and disarmament regime are critical to their own interests. It does not escape international attention that the very country that insists on holding others to their NPT undertakings has been cavalier about its own obligations and those of its allies. Nor is this a problem afflicting only the current US administration. The nuclear states generally have evinced little concern with disarmament, a term they have virtually excised from their vocabularies. For their own sakes and ours, they need to reacquire a sense of common interest and shared fate with the rest of humanity. History is ruthless in teaching that nothing is forever, least of all military superiority.

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