

## The Nuclear Nonproliferation Regime in Crisis

TOM SAUER

The nuclear nonproliferation regime is under more pressure than ever and from different corners. It has to be adapted if it wants to stay alive. The current nuclear nonproliferation regime contains multilateral arms control agreements like the Nuclear Nonproliferation Treaty (NPT) and the Comprehensive Test Ban Treaty (CTBT), international organizations like the International Atomic Energy Agency (IAEA) and the UN Conference on Disarmament, export-control regimes like the Zangger Committee and the Nuclear Suppliers Group (NSG), positive and negative security guarantees, and other political statements and declarations. The cornerstone of the regime is the NPT. The main focus of the NPT was that non-nuclear weapon states agreed never to acquire nuclear weapons (Article 2) on the condition that nuclear weapon states would disarm their nuclear weapons over time (Article 6). It also states that non-nuclear weapon states would have access to civilian nuclear technology and materials (Article 4), on the condition that all materials and facilities would be declared to and verified by the IAEA (Article 3).

The success rate of the nuclear nonproliferation regime cannot be easily evaluated. Does the arrival of one additional nuclear weapon state, after the entry into force of the NPT (1970), constitute a failure? Two additional nuclear weapon states? Five? Ten? If the criterion corresponds to the first two standards, then the regime has failed. The number of nuclear weapon states has risen from five in 1968 to eight or nine in 2006, depending on whether North Korea is considered a nuclear weapon state. However, if the yardstick is that the world would have seen 30 or 40 nuclear weapon states in 20 years time, as was predicted in the beginning of the 1960s, then the regime can only be regarded as a success. Most experts agree that the NPT has slowed down the pace of nuclear proliferation, but at the same time, they believe that it is extremely difficult to counter a state that is willing to spend a lot of time, energy, and money to acquire nuclear weapons.

In fact, all states in the world, except Israel, India, and Pakistan, have signed and ratified the NPT. In this sense, also, the treaty can be regarded as a success. In the meantime, only one state that had signed the NPT withdrew from the treaty, namely North Korea in 2003. Not incidentally, all four “outsiders” possess nuclear weapons, or as in the case of North Korea, are, at most, a screwdriver away from nuclear weapons.

The question that needs to be answered is to what extent the global nuclear nonproliferation regime can survive in the future. A common characteristic of regimes is that they do not fall apart once a difficulty arises. On the other hand, there are limits to the problem-solving capacity of regimes. A good standard to judge the viability of a regime is whether most member states still expect that others will abide by the rules. If a substantial number of the member states feel that others do not fulfill their obligations, that efforts to correct deficiencies have failed or that a similar group of countries do not believe these problems can be solved in the future, then the survival of the regime is at stake. This is precisely what is happening today.

Although there have been tensions, inconsistencies, and crises in the nuclear nonproliferation regime before, the cracks in the system are growing bigger. In fact, each important treaty article is either undermined by non-compliant behavior or questioned by a substantial group of member states.

**A**rticle 2 of the treaty stipulates that non-nuclear weapon states are not allowed to acquire nuclear weapons. Whereas more than 90 percent of the non-nuclear weapon states acted (and still act) accordingly, a couple of so-called rogue states had, or still have, a secret nuclear weapons program. The list of cheaters is well-known: Iraq, Libya, North Korea, and Iran. Whereas both the Iraqi and Libyan cases have been “resolved” by military and economic means, North Korea has probably succeeded in acquiring nuclear weapons. Iran is trying to follow in the footsteps of Pyongyang, but is, at the same time, under heavy international pressure to come clean. In addition to these four “outlaw states,” there may be other states and non-state actors (like terrorist organizations) that are secretly trying to acquire nuclear weapons. Countries that are sometimes mentioned in this regard are Saudi Arabia, Egypt, Algeria, Brazil, Argentina, and South Korea. Al Qaeda has also shown a more than casual interest in obtaining nuclear weapons.

To what extent are the aforementioned cases of non-compliance a new phenomenon? Although the spread of nuclear weapons had been a concern right from the beginning of the nuclear age, nuclear proliferation was upgraded to a threat after the end of the Cold War. Before 1989, no state that had signed the NPT stood in the international spotlight due to accusations of non-compliance except Iraq in the beginning of the 1980s. After

the fall of the Berlin Wall, a neutral observer could have gotten the impression by following the news that at each moment there was always some state cheating. Iraq and North Korea figured prominently in the international spotlights in the first half of the 1990s. Although they do not exemplify non-compliance of the NPT, India and Pakistan openly proliferated in 1998. After 9/11, Iraqi weapons of mass destruction triggered the U.S.-led war in 2003.

For nearly four consecutive years, the international community has struggled with two hard cases, namely North Korea and Iran. North Korea created a precedent by withdrawing from the NPT in 2003. Iran may follow if the international community increases the pressure. In the same period, it became public that Dr. Khan, a non-state actor in Pakistan (although many believe that the government was well aware), succeeded in exporting nuclear materials and know-how to countries like North Korea, Libya, and Iran. In short, the intensity of the nuclear proliferation crisis has grown during the last fifteen, and especially the last five years.

At the same time, the reaction of the international community vis-à-vis the four “outlaw states” has been rather harsh, which is also new. The U.S. National Security Strategy of 2002, updated in March 2006, regards nuclear proliferation as the biggest threat to its security. It upgraded the idea of preventive strikes, such as those against secret weapons of mass destruction programs, to a security doctrine. Increased nuclear weaponry is one of the top five threats to Europe, at least according to the European Security Strategy of December 2003. As a result of these cases of non-compliance, both the U.S. and Europe agreed to make life harder for non-nuclear weapon states. In 2003, the U.S., supported by different European Union member states, introduced the *Proliferation Security Initiative*, allowing aircraft and ships that may carry illegal materials to be controlled in open seas. The U.S. also proposed that acquiring enrichment and reprocessing facilities by non-nuclear weapon states in the future should be prohibited.

According to Article 6 of the NPT, nuclear weapon states are supposed to disarm their nuclear weapons. There are however no indications whatsoever that they are fulfilling this obligation. This is the second crack in the system. The non-nuclear weapon states, who never had the intention to give up the right to acquire nuclear weapons indefinitely, feel frustrated about the pace of nuclear disarmament. Even worse, they rightly question whether the nuclear weapons states really want to get rid of their nuclear weapons. During the Cold War, many of the non-nuclear weapon states were allied to one or more nuclear weapon states and did not dare to criticize them. This has not been the case since the fall of the Berlin Wall. Indications of dissent on behalf of the non-nuclear weapon states are the rising support for antinuclear resolutions in the UN First Committee and General

Assembly, as well as the established individual groups, like the Canberra Commission in 1996, and states, like the New Agenda Coalition in 1998, that actively promote nuclear elimination.

The nuclear weapon states have used different arguments in the past to defend themselves against any criticism in this regard. First, they argued that disarmament did not mean elimination. Secondly, they stated that nuclear disarmament was linked to conventional disarmament. For both arguments, they referred to a literal interpretation of Article 6 of the NPT that reads as follows:

Each of the parties to the treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

The 1995 and 2000 NPT Review Conferences, however, twisted the argument in favor of “nuclear elimination,” regardless of the level of conventional disarmament. Twenty-five years after the NPT entered into force, the non-nuclear weapon states would have never agreed with the indefinite extension of the NPT in 1995 without the approval of the Principles and Objectives Document. Paragraph 4 of that document states:

The achievement of the following measures is important in the full realization and effective implementation of Article 6, including the Program of Action as reflected below: . . . (c) the determined pursuit by the nuclear-weapon states of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goals of eliminating those weapons, and by all states of general and complete disarmament under strict and effective international control.

Although the latter can still be interpreted as linking nuclear disarmament to conventional disarmament, this is no longer the case for the Action Plan that was approved at the 2000 NPT Review Conference, which contained 13 disarmament steps. Paragraph 6 of the Action Plan reads, “An unequivocal undertaking by the nuclear weapon states to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament to which all states parties are committed under Article 6.” In other words, all parties to the treaty in 2000, including the nuclear weapon states, explicitly acknowledged that nuclear weapons had to be eliminated, regardless of the level of conventional disarmament.

**W**ith the end of the Cold War, the threat of a nuclear Al Qaeda, and the disappearance of the ambiguities regarding the exact goal of nuclear disarmament, one could have expected that the nuclear weapon states would have started negotiations with respect to a Nuclear Weapons

Convention. The latter would be the logical extension of the Biological Weapons Convention (1972) and the Chemical Weapons Convention (1993). The idea of a nuclear weapons-free world, however, is still taboo in foreign policy circles. Worse, the nuclear weapon states started backtracking on their agreements in 1995 and 2000. Already during the 2004 NPT Prepcom meeting that was supposed to prepare the upcoming 2005 Review Conference, U.S. representative John Bolton wanted to downgrade the 13 disarmament steps that had been agreed on in 2000. Similarly, in the run-up to the 2005 NPT Review Conference, Bruno Tertrais, a French nuclear weapons expert who is closely related to the French government, criticized what had been agreed at the 2000 NPT Review Conference, "Art.VI remains ambiguous and open to different interpretations. For all practical purposes, it puts nuclear disarmament and general and complete disarmament on an equal footing." Tertrais also explicitly rejected the 13 disarmament steps.

As a result, the non-nuclear weapon states feel more than ever that the obligations under the NPT are only fulfilled by themselves. This frustration, this feeling of discrimination, is largely responsible for the failure of the 2005 NPT Review Conference that, for the first time, did not even discuss substantial issues. The Brazilian diplomat Sergio Duarte, who chaired the 2005 NPT Review Conference, anticipated the thoughts of the nuclear weapon states by pointing out a couple of months before the start of the conference: "So, if every five years you accept a number of political commitments, and then five years later you say you no longer support those commitments or part of those commitments, the results for the international community is [sic] a very bad one." The sensitive discussion about nuclear disarmament has turned up at every five-yearly Review Conference since 1970. Sometimes, it was responsible for the failure to adopt a Final Document.

The Conference in 2005, however, was different. Because of the growing gap between the nuclear weapon states (with the U.S. as spokesperson) and the non-nuclear weapon states (with Egypt as spokesperson), the representatives of the 180+ member states could not even agree on an agenda, and therefore did not have any substantial discussions, except during the last week of the four-week long conference. At that point, however, it was too late. This event is even more remarkable and astonishing, considering the increased danger of nuclear proliferation, or at least its perception. The UN Millennium +5 Summit with the heads of states in September 2005 could have restored confidence in the nuclear regime, but also failed. After the Summit, UN Secretary-General Kofi Annan remarked: "The big item missing is nonproliferation and disarmament. This is a real disgrace. We have failed twice this year: we failed at the NPT Conference, and we failed now."

The same feelings of frustration and discrimination may further stimulate advocates inside non-nuclear weapon states to demand a reversal of their policies, and consequently, may further stimulate proliferation. Advocates of an Iranian nuclear weapons program may, in the domestic debate, easily refer to the refusal of the U.S. and the other nuclear weapon states to fulfill their obligations under Article 6. This feeling of institutionalized discrimination may also make it more difficult to convince non-nuclear weapon states to take harsh measures against so-called proliferators. Many states will, for instance, ask themselves whether it is legitimate to deny Iran the right (under Article 4 of the NPT) to enrich uranium while the nuclear weapon states themselves do not fulfill their obligations under the same treaty?

**T**hese feelings also reject the idea of downgrading Article 4 of the NPT. Again, the non-nuclear weapon states refer to the original NPT deal and they, rightly, assess that it is time for the nuclear weapon states to start fulfilling their obligations before the nuclear weapon states come up with new obligations for the non-nuclear weapon states.

Under Article 4 of the NPT, all member states, including the non-nuclear weapon states, have the right to develop civilian nuclear programs, including enrichment and reprocessing, as long as they declare everything to the IAEA and as long as the IAEA can inspect their nuclear facilities (Article 3). The nuclear weapon states were exempted from IAEA controls, but have unilaterally agreed to limited IAEA inspections in their civilian facilities.

The proposals made by the Western world regarding the dangers related to the right to develop extensive civilian nuclear programs are new. For a long time, the assumptions behind Article 4 were not questioned. As a result of the Iraqi nuclear crisis in the 1990s, however, the Additional Protocol of the IAEA was worked out and gave more power to the IAEA and its inspectors. Since the nuclear crises with North Korea and Iran, the Bush administration is pushing for even stricter rules, in particular to forbid the non-nuclear weapon states from acquiring all the parts needed for a complete nuclear fuel cycle (including enrichment and reprocessing facilities). As the non-nuclear weapon states clearly regard it as their inherent right to get all the support they need to develop a civilian nuclear program, whatever its scale, this is a third new evolution that questions the viability of the nuclear proliferation regime.

From a neutral point of view, the argument of the nuclear weapon states makes sense. One could indeed question the wisdom of Article 4, taking into account the fact that countries that possess extensive civilian nuclear facilities may easily convert their civilian programs into military ones. Without Article 4, however, the NPT would never have existed. As a result, it will

be politically impossible to change the rules of the game, particularly if it remains one-sided.

**T**he U.S. is not very consistent regarding nuclear export and nuclear safeguards. Although it wants to make life harder for all non-nuclear weapon states, it has rewarded India—one of the few states choosing to stay outside the nonproliferation regime and, at the same time, illicitly converting a civilian program to a military one—with substantial nuclear support through a bilateral nuclear agreement in March 2006. This is turning the logic upside-down. The deal does not only go against U.S. law, it also contradicts the basic rules of the Nuclear Suppliers Group, as well as the basic deal under the NPT. In addition, it opens Pandora's Box. If the U.S. is allowed to make an exception for India, why should China not ask to make an exception for Pakistan?

As the reactions of the international community reveal, states with both a large nuclear infrastructure and an interest in new export markets are eager to embrace the new rules proposed by the U.S., France, and Russia fall under this category. Countries belonging to, for instance, the New Agenda Coalition, protest heavily. It remains to be seen to what extent the Nuclear Suppliers Group will either make an exception for India, incorporate the new rules, or end up in complete paralysis.

More generally, it remains to be seen how the NPT will survive these multiple cracks in the system. It is hard not to conclude that the viability of the NPT and the nuclear nonproliferation regime is at stake. It seems that we are at a crossroad. There is no reason to believe that the gap between the nuclear weapon states and those with an interest in exporting nuclear materials, such as the U.S., Russia, France, and the U.K., on the one hand, and the non-nuclear weapon states belonging to the Non-Aligned Movement or the New Agenda Coalition, on the other hand, will become smaller.

To the contrary, different scenarios can be imagined where the nuclear nonproliferation regime will be further weakened: the implementation of the U.S.–Indian deal; the signing of similar deals between other states (between China and Pakistan, or France and India, or Russia and India); economic sanctions against Iran; a preventive military attack against the nuclear installations in Iran by the U.S. and/or Israel; a withdrawal from the NPT by Iran; nuclear tests by North Korea; new proliferators like Saudi Arabia, Egypt, or Brazil; or even a decision by the U.K. to replace the Trident system after 2020. According to our analysis, many of these scenarios are not only possible, but also likely. As a result, the nuclear nonproliferation regime, as it now stands, will further unravel.

**T**he non-nuclear weapon states will, and should, agree to strengthen Article 4 on the condition that the nuclear weapon states agree to start

multilateral negotiations for a Nuclear Weapons Convention, as required by Article 6. Nuclear proliferation and nuclear disarmament are two sides of the same coin. If nuclear weapons are fundamentally de-legitimized by the nuclear weapon states, it will also become easier to punish non-nuclear weapon states who are accused of being in non-compliance. Although a nuclear weapons-free world, on the condition of universality and a far-reaching verification regime, also carries risks, they are small in comparison with the dangers related to a nuclear proliferating world. What does not exist cannot proliferate.

The alternative consists in waiting until a catastrophe happens and hoping that the latter would entail a radical policy change in the direction of a nuclear weapons-free world. As the Chernobyl disaster showed, even catastrophes do not always do the trick. It is, in the first place, up to the citizens of the nuclear weapon states to question the relevance of their nuclear deterrents and to link their own nuclear arsenals to growing global nuclear dangers, such as nuclear proliferation and nuclear terrorism. The citizens of the non-nuclear weapon states should ask their politicians to pressure the nuclear weapon states to disarm and to form meaningful allies among each other in the fight for nuclear disarmament. It is also up to the citizens of non-nuclear weapon states to provide information about the costs of nuclear deterrence to the citizens of the nuclear weapon states. Creative ideas are needed to put pressure on nuclear weapon states. As IAEA Director-General Mohamed El Baradei, the 2005 Nobel Peace Prize Winner, stated in 2003, “We need to bite the bullet and see how we can move beyond nuclear weapons deterrence, and I think we have not done that yet.”

## RECOMMENDED READINGS

- Allison, Graham. 2004. *Nuclear Terrorism: The Ultimate Preventable Catastrophe*. New York: Times Books.
- Amorim, Celso, et al. 2005. “What Does Not Exist Cannot Proliferate.” *International Herald Tribune* (May 2): [www.iht.com/articles/2005/05/01/opinion/edministers.php](http://www.iht.com/articles/2005/05/01/opinion/edministers.php)
- Arbatov, Alexei. 2005. “Superseding US-Russian Nuclear Deterrence.” *Arms Control Today*. (January/February): 12–15.
- Müller, Harald. 2005. “Farewell to Arms: What’s Blocking Nuclear Disarmament?” *IAEA Bulletin*. (March): 12–15.
- Perkovich, George. 2003. “Bush’s Nuclear Revolution: A Regime Change in Non-proliferation.” *Foreign Affairs* (March/April): 2.
- Pomper, Miles & Paul Kerr. 2003. “Curbing Nuclear Proliferation.” *Arms Control Today*. (November): 9–11.
- Sauer, Tom. 2005. *Nuclear Inertia: U.S. Nuclear Weapons Policy after the Cold War*. London: I.B.Tauris.
- Tyson, Rhianna. 2005. “Reframing the Debate against Nuclear Weapons.” *IAEA Bulletin*. (March): 16–19.

---

Tom Sauer is a Lecturer in Diplomacy at the University of Antwerp (Belgium) and a Post-Doctoral Research Fellow at the Institute for International and European Policy at the Katholieke Universiteit Leuven (Belgium). He is the author of *Nuclear Inertia: U.S. Nuclear Weapons Policy after the Cold War* (London: I.B.Tauris). E-mail: [tom.sauer@soc.kuleuven.be](mailto:tom.sauer@soc.kuleuven.be)