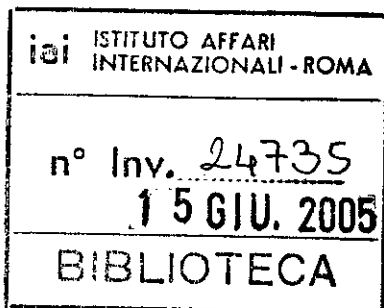


## TRANSATLANTIC SECURITY AND NUCLEAR PROLIFERATION

Istituto affari internazionali (IAI)  
EU Institute of Security Studies (EU-ISS)  
Rome, 10-11/VI/2005

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- b. List of participants
  1. Non proliferation initiatives and the NPT review / Serge Sur (7 p.)
  2. The 2005 NPT review conference: 188 states in search of consensus / William Potter (11 p.)
  3. The European Union and nuclear non-proliferation: does soft power work? / Bruno Tertrais (11 p.)
  4. A new non-proliferation strategy / Joseph Cirincione (12 p.)
  5. The Iranian nuclear program and the West: from reactive to effective policies (slides) / Maurizio Martellini, Riccardo Redaelli (13 p.)
  6. North Korea: a non proliferation test case / Darryl Howlett (10 p.)
  7. Prospects for a common transatlantic strategy to deal with the new trends in nuclear proliferation / Gerrard Quille (10 p.)





International Conference on

**TRANSATLANTIC SECURITY  
AND  
NUCLEAR PROLIFERATION**

*organized by the*  
**Istituto Affari Internazionali**

*in cooperation with*  
**The EU Institute of Security Studies (EU-ISS)**

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**Compagnia di San Paolo, Turin**  
**Friedrich Ebert Stiftung, Rome Office**  
**The Embassy of the United States in Rome**

**ROME, 10-11 JUNE 2005**

**AGENDA**

Venue: Palazzo Rondinini, Via del Corso 518, Rome

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## Friday, 10 June 2005

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13:00-14:00 *Lunch-Buffer*

14:00-14:10 **Welcome Address**

Giovanni Gasparini, Co-Director, Transatlantic Programme on ESDP, Istituto Affari Internazionali, Rome

14:10-16:00 **First Session**

**Non Proliferation Initiatives and NPT Review**

Chair: Ettore Greco, Deputy-Director, Istituto Affari Internazionali, Rome

Introduction: Serge Sur, Professor at Panthéon-Assas University in Paris 2, Director of the Thucyde Centre and Director of the *Annuaire Français de Relations Internationales*, Paris

William Potter, Director, Center for Non proliferation Studies at Monterey Institute of International Studies, USA

Discussants: Natalino Ronzitti, Scientific Counsellor, Istituto Affari Internazionali and Professor of International Law, LUISS University, Rome  
Harald Müller, Executive Director, Peace Research Institute of Frankfurt

16:00-16:15 *Coffee-Break*

16:15-18:15 **Second Session**

**EU and US Non Proliferation Strategies**

Chair: Marcin Zaborowski, Research-Fellow, European Union Institute for Security Studies, Paris

Introduction: **EU:** Bruno Tertrais, Senior Research-Fellow, Fondation pour la Recherche Stratégique, Paris

**USA:** Joseph Cirincione, Senior Associate and Director for Non-Proliferation, Carnegie Endowment for International Peace, Washington DC

Discussants: Sverre Lodgaard, Director, Norwegian Institute of International Affairs, Oslo

Annalisa Giannella, HR Solana's Personal Representative for WMD, Council of the European Union, Brussels

Ralph Thiele, Colonel Commander, Bundeswehr Center for Analyses and Studies, Waldbröl, Germany

20:00 *Dinner*

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**Saturday, 11 June 2005**

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9:00-11:00 **Third Session**

**Test cases: Iran and North Korea**

Chair: Vincenzo Camporini, President, Center for Defence High Studies (CASD), Rome

Introduction: **Iran:** Riccardo Redaelli, Director of the Middle East Program, Landau Network – Centro Volta of Como and Catholic University of the S. Heart, Milan

**North Korea:** Darryl Howlett, Senior Lecturer, Mountbatten Centre for International Studies, Division of Politics and International Relations, School of Social Sciences, University of Southampton, UK

Discussants: David S. Yost, Senior Research-Fellow, Nato Defense College, Rome  
Sharam Chubin, Director of Research, Geneva Center for Security Policy

Paolo Cotta-Ramusino, Secretary General of Pugwash Conferences on Science and World Affairs, Rome and Professor at the University of Milan

11:00-11:15 *Coffee-Break*

11:15-13:15 **Fourth Session**

**Prospects for a common Transatlantic Strategy to deal with the new trends in Nuclear Proliferation**

Chair: Stefano Silvestri, President, Istituto Affari Internazionali, Rome

Introduction: Gerrard Quille, Acting Executive Director, International Security Information Service Europe, Brussels

Discussants: Gustav Lindstrom, Senior Research-Fellow, European Union Institute for Security Studies, Paris

David Mosher, Senior Policy Analyst, RAND, Arlington, USA

Roberto Zadra, Deputy Head WMD Center, Political Affairs Division, NATO, Brussels

13:15-13:30 Concluding remarks

13:30-14:30 *Lunch-Buffer*

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International Conference on

**TRANSATLANTIC SECURITY AND  
NUCLEAR PROLIFERATION**

Rome, 10-11 June 2005

**LIST OF PARTICIPANTS**

<b>Riccardo Alcaro</b>	Research-Fellow, Istituto Affari Internazionali, Rome
<b>Michael Braun</b>	Director, Friedrich Ebert Stiftung - Rome Office
<b>Gaia Brenna</b>	Department for European Community Policies, Italian Prime Minister's Office, Rome
<b>Lee R. Brown</b>	Political-Military Counselor, U.S. Embassy, Rome
<b>Iride Ceccacci</b>	Intern, Istituto Affari Internazionali, Rome
<b>Sharam Chubin</b>	Director of Research, Geneva Center for Security Policy
<b>Joseph Cirincione</b>	Senior Associate and Director for Non-Proliferation, Carnegie Endowment for International Peace, Washington DC
<b>Paolo Cotta-Ramusino</b>	Secretary General of Pugwash Conferences on Science and World Affairs, Rome and Professor at the University of Milan
<b>Federica Di Camillo</b>	Research-Fellow, Istituto Affari Internazionali, Rome
<b>Giovanni Gasparini</b>	Research-Fellow and Co-Director of the Transatlantic Programme on ESDP, Istituto Affari Internazionali, Rome
<b>Annalisa Giannella</b>	HR Solana's Personal Representative for WMD, Council of the European Union, Brussels
<b>Ettore Greco</b>	Deputy-Director, Istituto Affari Internazionali, Rome
<b>Darryl Howlett</b>	Senior Lecturer, Mountbatten Centre for International Studies, Division of Politics and International Relations, School of Social Sciences, University of Southampton, UK
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<b>Gustav Lindstrom</b>	Senior Research-Fellow, European Union Institute for Security Studies, Paris

<b>Sverre Lodgaard</b>	Director, Norwegian Institute of International Affairs, Oslo
<b>Raffaello Matarazzo</b>	Research-Fellow, Istituto Affari Internazionali, Rome
<b>David E. Mosher</b>	Senior Policy Analyst, RAND, Arlington, USA
<b>Harald Müller</b>	Executive Director, Peace Research Institute of Frankfurt
<b>William Potter</b>	Director, Center for Nonproliferation Studies at Monterey Institute of International Studies, USA
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<b>Natalino Ronzitti</b>	Scientific Counsellor, IAI and Professor of International Law, LUISS University, Rome
<b>Stefano Silvestri</b>	President, Istituto Affari Internazionali, Rome
<b>Serge Sur</b>	Professor at Panthéon-Assas University in Paris 2, Director of the Thucydide Centre and Director of the <i>Annuaire Français de Relations Internationales</i> , Paris
<b>Bruno Tertrais</b>	Senior Research-Fellow, Fondation pour la Recherche Stratégique, Paris
<b>Ralph Thiele</b>	Colonel Commander, Bundeswehr Center for Analyses and Studies, Waldbröl, Germany
<b>Gabriele Tonne</b>	Assistant Editor of <i>The International Spectator</i> , Istituto Affari Internazionali, Rome
<b>Ernesto Vellano</b>	Secretary-Treasurer, Italian Group of the Trilateral Commission, Turin
<b>Joseph Walla</b>	Intern, Political Office, U.S. Embassy, Rome
<b>David S. Yost</b>	Senior Research-Fellow, Nato Defense College, Rome
<b>Marcin Zaborowski</b>	Research-Fellow, European Union Institute for Security Studies, Paris
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**ROME, 10-11 JUNE 2005**

Draft by

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Panthéon-Assas University, Paris

# NON PROLIFERATION INITIATIVES AND THE NPT REVIEW

## *An Introduction*

1. At this preliminary stage of our meeting, it seems useful to present a general assessment of the situation in the field of nuclear proliferation / non proliferation as it stands after the failure of the latest NPT Review Conference.
2. One can look at the situation from the perspective of the difficulties which multilateral instruments have been encountering as a whole in recent years. It indeed appears to have become more and more difficult, not to keep alive, but to enlarge and to smoothly implement multilateral treaties – the Kyoto Protocol, the Roma Convention establishing an International Criminal Court being good examples. We are all aware of the complexities and uncertainties of the UN reform proposals. If we also consider the European building process, the difficulties of the so-called European Constitution are similarly obvious. What we are now facing may thus perhaps actually be a general crisis of multilateral institutions, of which the failure of the NPT Review Conference might not even be the worst instance.
3. Moreover, looking more specifically at the preventive multilateral regimes in the field of arms control, we face the same kind of problems : it was in particular impossible to agree on a verification protocol for the BW Convention, while the CTBT is not, and most probably will never be, in force. As for the NPT itself, we could after all draw consolation from the fact that it is not the first time that there is no final document to such a conference, without the Treaty finding itself to be endangered by this. This situation does however at the very least reveal the existence of doubts concerning the implementation and the efficiency of this Treaty. It shows a weakening of the consensus among States Parties, a certain amount of frustration as well as a lack of confidence in each other. But the main question seems to be : What does this mean ? What is the significance of these doubts, of this lack of consensus, of this lack of confidence ? Most probably, the answer lies beyond mere technical problems.
4. In this respect, we should consider two different hypothesis. None of them are optimistic, but the second one is the most pessimistic of the two. The first hypothesis supposes that the main objective of the NPT, i.e. the non proliferation of nuclear weapons, remains untouched, is still agreed upon by the Parties, and that the doubts about the Treaty relate to its efficiency. If such is the case, we need to evaluate these doubts, their origins, and their consequences. A first set of remarks will deal with this hypothesis. The second hypothesis supposes that these doubts are about the very objective of nuclear weapons non proliferation. The latter could be perceived as no longer being useful for the security of the Parties, or even dangerous, either because it would be too weak and too flawed, or because it stabilizes the inequality between the have and the have nots. As unpleasant as is such a hypothesis, we must also consider it, and we will devote a second set of remarks to it.

## I - The weakening of confidence and consensus surrounding the NPT

5. In general terms, we can identify four reasons for this weakening : The NPT no longer protects against proliferation ; it allows the Parties to get ready for proliferation ; coercive measures against proliferation either do not exist or do not work ; the imbalance between NWS and NNWS remains at best untouched, and may be aggravated.

### *(a) The NPT no longer protects against proliferation*

6. As we can see, there are several States, either Parties or non Parties to the NPT, which are currently asserting or developing their nuclear capabilities, even to the point of possessing nuclear weapons. For a long time, around three decades, the NPT, even if it was not a universal norm prohibiting the proliferation of nuclear weapons – and such a norm simply does not exist – was efficiently preventing the non parties to the NPT, from becoming nuclear, at least officially. Indeed, Israel, South Africa, India after 1974, were covertly or unofficially, NWS. But the very existence of the NPT prevented them from declaring themselves to be so. When South Africa destroyed its nuclear weapons and joined the NPT in 1991, this was seen as representing a great success for the international consensus on non proliferation, and for the return of this country to the virtuous circle of the civilized countries. Nowadays, only Israel among the non Parties keeps a low profile. But with the spectacular nuclear tests which were carried out by India and Parkistan in 1998, it is as if a kind of taboo has been broken.

7. At least, these countries were not Parties to the NPT, so they did not break any international rule. The picture is very different some years later, when we see North Korea first, then Iran, undertaking to proliferate. Iraq was the first to be uncovered, and its coercitive disarmament after 1991 was seen by the same token as reflecting a weakness of the NPT and, at the happy end, as representing a success for non proliferation. Improvement of the Vienna Agency safeguards, plus the indefinite extension of the NPT followed quickly. But, despite these positive developments for the NPT, the picture changed in the following years. Nowadays, it is some Parties to this treaty which are in the process of undertaking proliferation. So, why should the others remain committed to an obligation which does not appear to be fully respected by others ?

8. We must add to this a new risk, which has not been considered by the NPT, and which is the acquisition of nuclear weapons and / or material by private groups, terrorists networks, or even by criminal circles. It would for certain be difficult for such groups to possess nuclear devices without some kind of complicity on the part of States – but to prevent such a complicity, even to identify the culprits, could prove to be difficult. The story of the Khan network is illuminating. One cannot find in the prohibitions of the NPT, or in the agreements surrounding it, a clear way of preventing this indirect proliferation, which is no less threatening to international security than the acquisition of nuclear weapons by States.

***(b) The NPT leaves room for the preparation of proliferation***

9. As far as the « *research, production and use of nuclear energy for peaceful purposes* », to quote the wording of article IV § 1 of the NPT, is allowed for States Parties, it is not necessarily wrong for a NNWS Party to enrich uranium, and then possess the fissile material necessary for building nuclear weapons. It is a matter of intentions, and no longer of capacity. We all know the Iran case, following the North Korean one. Obviously, one must have doubts as to the clarity of the intentions behind the production of enriched uranium, especially when the country is a huge producer of oil, and does not seem to have energy supply problems. But the burden of proof belongs to other States which raise these doubts, and such evidence is always difficult to establish. We can see here the degradation of the NPT regime : it was based not only on legal obligations and on their verification, but at its very roots on confidence, and confidence no longer exists – not from NWS, less and less from NNWS. In a context of mutual distrust, the room is open to exploit the weaknesses of the NPT in order to quietly get ready for proliferation.

***(c) Coercive means to enforce the NPT are weak***

10. We will probably have to discuss intensively this point in the following sessions, so we may be brief on that. Here is a point of fact, and a point of theoretical options. As far as the facts are concerned, coercion was efficient in the case of Iraq en 1991, but it was a kind of side effect, even an accidental effect, of the military intervention, which was not intended for this purpose. In 2003, the military intervention against Iraq was clearly missing the point, as the alleged nuclear capabilities or weapons simply did not exist. Maybe some collateral coercion was useful to get Libya to renounce its nuclear program, as a side effect of the war against Iraq. But any threat of such a military coercion would not be useful by now either against North Korea or Iran.

11. At the theoretical level, the coercion option is ambiguous. If it is undertaken by a State or a coalition of States against a proliferator, it could be efficient. But the risk is twofold : first, it would have to be a real war, not a threat, or even a strike against a limited target or softer, non military measures. Otherwise, it would leave room for the resumption of undercover proliferation activities, as in the case of Iraq after the bombing of Osirak ; second, it could lead other States to rush into the acquisition of nuclear weapons for themselves, in order to deter such coercive actions.

12. It would certainly be better if an armed action were authorized and legitimized by an international body such as the Security Council, and applied without any kind of discrimination. The UNSC has obviously the right to decide such interventions, if it considers proliferation to be a threat to international peace and security, either following a violation of the NPT by a State Party, or on an objective basis for a non Party. With the Declaration of 31 January 1992, and with Res. 1540 ( April 28 04), the UNSC has taken some steps in this direction – but cautiously, and it seems difficult to come back to the Iraq enforced disarmament, given the events which followed.

*(d) Persistent imbalance between NWS and NNWS*

13. There was initially some balance in the asymmetrical obligations of the NPT Parties. In exchange for their renunciation of nuclear weapons, there was for the NNS the prospect of better security, as long as nobody was proliferating, as NWS were supposed not to rush into an arms race, and were giving to NNWS negative and positive security guarantees, which showed they were committed to nuclear disarmament. There was also, from the point of view of their development, the prospect of enjoying the benefits of the civil uses of nuclear energy. These hopes, thirty five years after the entry into force of the NPT, have been dashed. For a majority of countries, civil nuclear energy did not deliver on its promises from some decades ago ; NWS are not prepared to abandon their nuclear weapons, and the US seems to be on the verge of developing new ones ; nuclear weapons proliferation is taking place, nothing serious has been done about it, and it could be perceived as representing a security threat for non nuclear neighbouring States. So imbalances persist, and are even aggravated by the very existence of new NWS, which remain out of the NPT. One must admit that the frustrations of the NNWS are partly legitimate.

14. Indeed, some progress has been made. The security guarantees given by the NWS to the NNWS, individually, collectively and by the UNSC have been improved ; nuclear tests are no longer being carried out; the reduction of nuclear weapons has been a real one ; there is no longer a threat of nuclear war among the NWS, or at least among the Parties to the NPT. An initiative like the PSI could persuade the NNWS that the NWS are concerned and serious about the enforcement of non proliferation, and that they are willing to associate them to this endeavour – but at the same time the PSI is outside the NPT, and may cast new doubts as to its efficiency.

15. To conclude this first set of remarks on a provocative note, one could put into question the wisdom of the indefinite extension of the NPT ten years ago. It was at that time perceived to be a success for the Treaty. Now, one could ask whether it may not have transformed the NPT into some kind of icon, impossible to amend, impossible to adjust. It seems even more difficult to reform the NPT than the UN Charter. So the new developments are taking place outside of the Treaty : PSI, management of the North Korean and of the Iranian case, Res. 1540 of the UNSC ... And what could be the status of India, Israel, Pakistan within the Treaty ?

16. Would it not have been better, in order to keep the NPT at the core of the non proliferation efforts, to extend it for limited periods, allowing, for instance every ten or fifteen years, for renegotiation in order to improve it, or, if such improvements were not possible, to go beyond, instead of letting it become weaker and weaker ? And we know that it is always possible for a State Party to withdraw from the NPT, which means that the indefinite extension is in a way a precarious one.

## II. - Doubts about the non proliferation objective

17. Despite all these shortcomings and weaknesses, the NPT has played a very positive role in preventing nuclear weapons proliferation for the past thirty years. It has helped establish non proliferation as an international norm, as an objective which has to be maintained for the sake of international security, both of NNWS and of NWS, and for the stabilization of nuclear deterrence and arms control. This is the reason why, beyond any technical criticism of the NPT and beyond the lack of confidence in its efficiency, we may predict that the very objective of non proliferation itself will be thrown into doubt. To put it in other words, it seems that non proliferation is in itself no longer perceived to be the main purpose, the distinction between Good and Evil. Behind this endeavour, we can see another one, more limited and at the same time less neutral : a distinction between acceptable and unacceptable proliferation. Let us begin with the facts : proliferators and would be proliferators are acting more and more publicly, claiming legitimacy. Then proceed on motives : They are less and less security driven, and more and more legitimated by national interest, national pride and by the rejection of discrimination among States.

### *(a) A proliferation process more and more public*

18. At first, proliferators were outside the NPT, and were hiding their possession of nuclear weapons : look at Israël, at South Africa. We still do not officially know whether Israël is a NWS, and we learnt publicly about South Africa when this country, for internal rather than international reasons, announced the destruction of its nuclear weapons. To keep the proliferation secret was a value for the countries involved, a way to protect their behaviour, to escape harsh criticism. Another step was taken by India and Pakistan. They also were outside the NPT, but they came publicly nuclear without serious reactions, and in way they have won the diplomatic battle of legitimacy. Nowadays, in a third step, we have followed and are still following the Soap Opera of North Korea, in its fourth or fifth season, and Iran is playing even more overtly the same game. If these two countries succeed in becoming NWS, no doubt they will be accepted as such and other States will follow. As usual in international relations, facts are overcoming law, whether we like it or not. And the fact that by now the would be proliferators are acting more and more publicly, playing cynical games with non proliferation, illustrates the fact that proliferation is seen by an increasing number of States as representing a legitimate process.

### *(b) An increased perception of a legitimate proliferation*

19. One can identify three kinds of motives behind proliferation. The first one is related to national interests and pride. The perception is strong, even if it is a false one, that to have a say in international affairs, to be taken seriously, a State must possess nuclear weapons. This does not necessarily imply an aggressive behaviour, but it does limit the pressures that can be applied on such States. In this respect the American intervention against Iraq in 2003 contributes to this vision in two ways : the US was acting overtly on the basis not of international norms but of its national interests ; so will other States able to do the same. The US was acting to prevent a State from becoming a NWS : the picture would have been different if Iraq had already been nuclear. So some States were

encouraged to consider the acquisition of nuclear weapons as a safeguard against such military invasions.

20. The second motive is related to the rejection of discrimination. At the regional level, the case of Israël is striking. Obviously, Israël has a specific status in this respect, and no one seems ready to exert efficient pressures for its nuclear disarmament, even if nuclear weapons do not seem really useful for its security. So it is difficult to persuade some countries of this region that they should permanently be denied the possibility to follow the same path. A solution is the proposal, endorsed by the UN and by the SC, of a Zone free of Weapons of Mass Destruction, but its prospects look remote for the moment. On a global level, why should some States be treated differently from India and Pakistan? And the fact that official NWS do not seem ready for nuclear disarmament reinforces the perception of an illegitimate discrimination among States.

21. A third motive is the relative ease with which it is now possible to build nuclear weapons. For a long time, it was a difficult process, full of financial, technical and industrial obstacles. So, beyond the legal obligations, States had other priorities. Proliferation is no longer the privilege of rich and developed countries, and it may be that the developing ones are finding in nuclear weapons greater interest and attractiveness, which reinforces the power of the two other motives. This should not be taken as a conclusion, at least because there is no conclusion to an introduction – only food for our discussion.

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**ROME, 10-11 JUNE 2005**

Draft by

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## **THE 2005 NPT REVIEW CONFERENCE: 188 STATES IN SEARCH OF CONSENSUS**

### **I. INTRODUCTION**

This was not a good year for theater productions on or off Broadway. By far the most costly and disappointing spectacle staged in New York this past season was the 2005 NPT Review Conference – an ill-conceived amalgam of farce and tragedy performed with little direction by an uninspired cast and with an all too predictable ending.

As a bit player in the recent drama and as a veteran of two prior Review Conference “blockbusters,” as well as six Preparatory Committee rehearsals, I see my task today as a theater critic. Since the script itself is well known, I will dwell primarily on two themes: (1) Why did the production fail? and (2) What are the implications of its failure?

### **II. HISTORICAL CONTEXT**

In order to address these topics, it is useful to place the most recent Review Conference in historical perspective. In this regard, one should recall that of the seven review conferences held since the entry into force of the NPT, only three of them – 1975, 1985, and 2000 – produced “consensus” final declarations. Even the historic 1995 NPT Review and Extension Conference failed to generate an agreed-upon final declaration, although it yielded three very significant decisions and a resolution. One, therefore, must be cautious in the standard one uses or the criteria one adopts for evaluating the success or failure of a Review Conference, which need not correspond to the presence or absence of an agreed final declaration.

It also is useful to recall that the NPT was widely perceived to be under significant challenge prior to earlier Review Conferences, although for reasons different than those in 2005. Prior to the 2000 Review Conference, for example, expectations for a successful outcome were very low, in part because of the disastrous 1998 Prep Com and the inability of the 1999 Prep Com to reach agreement on any substantive recommendations or to agree on an agenda for the Review Conference. In 2000, however, this perception of high threat to the Treaty led most key delegations to display considerable flexibility in their positions on both procedural and substantive matters. As a consequence, in stark contrast to 2005, it was possible in 2000 to adopt an agenda at the start of the meeting and to negotiate a rich and consensus final document.

In 2000, there was great concern that the issue of national missile defense and, more specifically, Russian and Chinese reaction to the new U.S. position on the ABM treaty, might torpedo the Review Conference. This prospect, however, was removed when the P-5 made a joint statement during the first week of the 2000 Review Conference, which effectively took the divisive ABM issue off the conference table. By contrast, in 2005 not only were the P-5 unable to put forward a statement of substance at the outset of the Review Conference, they were unable to agree on any statement before the Conference concluded.

Finally, by way of historical comparison, prior to the 2000 Review Conference there was tremendous unease in many capitals that the great promise of the 1995 package of decisions (and one resolution) had been squandered. While both nuclear weapon states (NWS) and non-nuclear weapon states (NNWS) parties continued to play lip service to the key provisions of the NPT, in practice they were very selective in implementing their obligations. The NWS emphasized horizontal nonproliferation, but shunned major steps in nuclear disarmament; the NNWS trumpeted the need for rapid nuclear disarmament, but remained too complacent regarding other major challenges. Fortunately, in 2000 a new political grouping – the New Agenda Coalition – emerged and provided a vision regarding disarmament that could be largely embraced by almost all states – both NWS and NNWS – a vision that helped to forge a consensus around the 2000 NPT Final Document. No such political grouping with a comparable vision emerged in 2005.

### **III. WHAT WENT WRONG?**

A number of outside analysts – myself included – were very pessimistic long before the start of the 2005 NPT Review Conference about the prospects for negotiating a substantial final document. At meetings for many of the principals in New York in October 2004 and again in Annecy, France in March 2005, few senior diplomats were prepared to acknowledge that the NPT faced a crisis. President-designate Sergio Duarte, in particular, very much opposed the use of the term “crisis” to characterize the status of the NPT. Few national representatives took seriously the warning of some NGO experts that procedural issues, such as the adoption of an agenda or the designation of subsidiary bodies, could delay the work of the Review Conference beyond the first week. Indeed, at a working dinner in Geneva of one dozen of the key Review Conference representatives less than three months before the start of the Conference, many of the participants characterized the issue of subsidiary bodies as a “silly one” that did not merit much attention. Few of these individuals, however, had ever attended a prior Review Conference. Like their counterparts on most delegations to the 2005 Review Conference, they had very little institutional memory or first-hand recollection of the significance of crucial bargains that had been struck at prior conferences, crises that had been narrowly averted, and lessons – both positive and

negative – that should have been learned. Indeed, by far the most experienced delegates at the 2005 Review Conference were those from the NGO community.

Although the final outcome of the 2005 Review Conference was predictable, the process by which the Conference sputtered and then collapsed generally was not anticipated. Among the principal surprises – at least to this analyst/participant – were the extent of divisions within a number of the major political groupings and the vigor with which one state party sought to block almost every attempt at forging consensus on both procedural and substantive issues.

Many commentators have portrayed the 2005 Review Conference as a classic battle between NWS (and especially the United States) and the NNWS. Although this divide certainly was evident in many respects, as it always has been in NPT negotiations, more striking were the fissures within the Non-Aligned Movement (NAM), the New Agenda Coalition (NAC), and the P-5.

Given the large size (116 NPT members and 16 observers) and diversity of NAM, it is customary to observe considerable friction in the hammering out of NAM positions on NPT-related issues. At the 2005 Review Conference, however, these typical tendencies were magnified by personal animosities, fundamental disagreements over tactics, the absence of a shared vision about what would constitute a desirable conference outcome, and an uncompromising negotiating stance by Egypt. As a consequence, NAM's ability to promote the substantive positions it had agreed upon prior to the Review Conference was significantly diminished.

The same paralysis that impeded the promotion of NAM objectives at the Review Conference also was reflected in the stunted contribution of NAC. Although at first glance this development may appear to be linked to the overlap between three of the main protagonists in NAM – Egypt, South Africa, and Brazil\* – and NAC, in fact the demise of NAC probably is more attributable to the growing gulf between its NAM and non-NAM members. Indeed, the differences within NAC over the scope of the disarmament agenda and the pace and manner with which it is pursued are now so great as to doom the persistence of that body as a political grouping. Almost certainly, NAC will cease to function, at least as it is presently constituted.

The United States and Russia (and previously the Soviet Union) historically have pursued many parallel policies at NPT Review Conferences, and often have coordinated their approaches. Although the two NWS continue to share a number of common perspectives on issues related to disarmament, nonproliferation, and

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\* Technically, Brazil is an observer to NAM, but actively participates in its deliberations on NPT issues.

peaceful nuclear energy, the coordination of their policies was not much in evidence at the 2005 Review Conference. The focus of much of the Conference on procedural issues, the reliance on the Conference President on consultation with the chairs of the main political groupings, and the absence for most practical purposes of an "Eastern Group," effectively marginalized the role of the Russian Federation. The head of the Russian delegation, in fact, complained to the President in a plenary session of his delegation's frustration at not being actively engaged in consultations.

A low-level and, for the most part, inexperienced U.S. delegation also had the effect of diminishing joint U.S.-Russian or broader P-5 initiatives. Little effort appeared to have been invested in promoting common objectives in any of the main committees or subsidiary bodies. Confusion was particularly evident in Main Committee III when the United States – to the surprise of at least some of its P-5 colleagues – chose at the last moment to block the transmittal of the bracketed text of the Committee to the Plenary.

In contrast to NAM, NAC, and the P-5, the European Union (EU) generally presented a solid front at the Review Conference with a well-defined set of positions, which were actively promoted by Luxembourg on behalf of the EU. The EU perspective was especially well-developed on the subject of Article X (withdrawal), which was the focal point for discussion in the subsidiary body associated with Main Committee III. The impact of the common EU position on Conference developments, however, was diminished by the reluctance of most EU states to reiterate that position in separate national interventions. The influence of the EU – and all other political groupings – also was reduced by the absence of a clear conception of what the Conference could and should achieve and a coherent strategy for realizing that objective. Unfortunately, it was not obvious that any key player – including the President – had such a vision or strategy, with the exception of several states for which an immobilized Review Conference appears to have been a desirous outcome.

Given the pronounced intra-group, as well as between-group, differences at the 2005 Review Conference, it is doubtful that even a full four weeks of time for substantive debate would have yielded consensus on any significant issue. Nevertheless, the success of procedural brinkmanship and the absence of time for debate in the main committees and subsidiary bodies prevented much headway from being made on a number of important subjects for which considerable common ground may have existed. One such issue is preventing non-state actors from gaining access to nuclear weapons.

When the NPT was concluded in 1968, the drafters did not contemplate the danger of nuclear terrorism, and the Treaty provides no guidance on this subject. In April 2004, however, the United Nations Security Council adopted an important resolution (SCR 1540) requiring all UN member states to establish effective domestic controls to prevent non-state actors from acquiring nuclear, chemical, or biological weapons, their means of delivery, and related materials. This rare display of unanimity by the Security Council, and the subsequent acceptance of the mandate by most states, was indicative of the potential at the 2005 NPT Review Conference to make progress on the nuclear terrorism front. In fact, at least one significant initiative was launched, which gained considerable support and is likely to be pursued further outside of the context of the review process. This initiative, conceived of by Kyrgyzstan and Norway, and with useful input from Germany, Canada, Austria, Japan, Greece, the United States, and Sweden, seeks to combat the risk of nuclear terrorism by reducing the use of highly-enriched uranium (HEU) in the civilian nuclear sector.\* More specifically, the initiative identifies HEU as the likely fissile material of choice for a non-state actor intent upon constructing a crude nuclear explosive device, and in the context of the Review Conference, sought to:

- Encourage all countries to consider, and if deemed necessary, implement additional measures to protect and control existing HEU stocks;
- Express the view that minimizing the use of and commerce in HEU for civilian purposes is desirable, as is the goal of total elimination of HEU in the civilian nuclear sector as soon as technically feasible;
- Encourage all countries to eliminate or commit to converting those civilian HEU-fueled installations under their control, for which there is a continuing need, to LEU fuels as soon as technically feasible;
- Discourage all countries from undertaking or supporting new civilian projects involving HEU fuel other than for the purpose of down-blending that fuel to LEU;
- Encourage the IAEA to establish a comprehensive global inventory of HEU in civilian use and to report to the next NPT Review Conference on the progress made in fuel conversion and in the elimination of reactors and critical assemblies internationally.

The general intent of this working paper was captured in the chair's draft report for Main Committee III. Only one state (Egypt) expressed opposition to the relevant language in the report during the Committee debate, and even that opposition appeared to be driven more by a Review Conference dispute with one

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\* See "Combating the Risk of Nuclear Terrorism by Reducing the Civilian Use of Highly Enriched Uranium," Working Paper submitted by Iceland, Lithuania, Norway, and Sweden, 2005 Review Conference on the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, May 20, 2005 (NPT/CONF.2005/MC III/WP.5).

of the sponsors of the initiative than with its content. Although the United States ultimately blocked the transmittal of the text of Main Committee III to the plenary – most likely due to a mistake on the part of the senior U.S. official in the Committee meeting at the time – the Review Conference afforded an opportunity to build significant support for a new approach to reducing the risk of nuclear terrorism. The coalition forged at the Review Conference on the issue of HEU elimination now has the opportunity to promote the initiative in other international fora, including the IAEA and the First Committee.

#### **IV. THE CONSEQUENCES OF FAILURE**

My greatest fear prior to the start of the 2005 NPT Review Conference was that states parties would be so intent upon producing an anodyne final document that they would pretend there was no crisis confronting the NPT, would put aside the tough issues, and would adopt a path of least resistance. Such an approach ran the risk of making the NPT review process irrelevant and would have been applauded by the critics of the NPT who question the ability of a multilateral and nearly universal forum to adapt to new circumstances in a creative and timely fashion. In some respects, the actual Review Conference outcome was even more disappointing than my worst case expectation as many states parties appeared almost indifferent to the calamity. Telling in this regard was the apparent lack of constructive engagement in the endgame of the negotiations by very senior policy-makers – the foreign minister of Japan being the notable exception.

Should one infer from this disengagement and lack of investment by the senior political leadership of many major states in the strengthening of the review process that these states parties are content with the Conference outcome? If so, to what extent did they actively seek to obtain what they got? Also, is the outcome symptomatic of the more general dire state of nonproliferation affairs or does it reflect the rigidity of the NPT itself and its inability to adapt to new circumstances? Finally, what are likely to be the short and longer-term effects on the nonproliferation regime of the inability of states parties to reach any agreement on substantive matters at the 2005 Review Conference?

It probably is too early to answer most of these questions conclusively. At first glance, however, one can identify a number of states which appear to be content with the results of the recent Review Conference, albeit for very different reasons. They include both NPT states parties and NPT outliers. At the top of this list must be the Democratic Peoples Republic of Korea (DPRK).

As was the case in 2003 and 2004 Preparatory Committees, the only consensus that was reached regarding the DPRK was the procedural decision to entrust the country's name plate to the Secretariat, thus begging the question of

whether or not the DPRK remained an NPT party. The inability of the Review Conference to acknowledge that a member state – for the first time – had withdrawn from the Treaty must have been confusing for the DPRK leadership. They could only have taken great satisfaction, however, from the fact that the Review Conference was unable to make any comment about – much less condemnation of – their nuclear weapons brinkmanship – arguably the most significant challenge to the NPT in the past five years. Although considerable informed debate took place on the issue of Article X in the subsidiary body associated with Main Committee Two, states parties remained very far apart on the wisdom of reinterpreting that article or otherwise increasing the costs of treaty withdrawal. As a consequence, it proved impossible even to transmit the bracketed chair's report on the subject of the Conference plenary.

Iran, Egypt, and the United States are the states parties which appear to have been most content with the outcome of the Review Conference. The situation is clearest with respect to Iran, which avoided any Conference language about its lack of compliance with Treaty and IAEA obligations, or new restrictions on access to peaceful nuclear technology. Indeed, the extended stalemate over procedural issues during the first three weeks of the Conference enabled the sophisticated team of Iranian diplomats on occasion to assume the role of moderate facilitators. Thanks to the bluster and incompetence of other delegations, Iran emerged from the 2005 Conference with no scars and without being tarred as the party responsible for the barren Review Conference outcome.

In contrast to the out-of-the spotlight success achieved by Iran, Egypt's "victories" were pursued on center-stage, unrelentlessly, at times single-handedly, and often abrasively, frustrating efforts by NAM and other parties to reach compromises on issues of both procedure and substance. Although many of the individual stands taken by Egypt can be explained in terms of commitments to principle or tactical considerations, the pattern of behavior over four weeks of negotiations suggests that other factors also may have been at work. Among possible contributing determinants identified by some delegates are: (1) dissatisfaction with the benefits Egypt has derived from NPT membership; (2) Egyptian disenchantment with the lack of implementation of the 1995 NPT resolution on the Middle East; (3) maneuvering for position as its regional grouping's candidate for a seat on an expanded Security Council; (4) wariness in Cairo that Iran has embarked on a dedicated nuclear weapons program, and (5) calculations that a spoiler's role at the Review Conference would play well at home politically, especially in a more democratic political environment. Which combination of these factors account for Egypt's performance at the Review Conference may well determine the future role of the NPT in Egypt's security calculations, as well as its future adherence to the Treaty.



Senior U.S. officials indicated prior to the 2005 NPT Review Conference that they would not judge the success or failure of the Conference in terms of the presence of a final document. They also emphasized that at this particular moment in time nonproliferation was the Treaty pillar most in need of attention. Compliance with the NPT's nonproliferation provisions, they maintained, was *the* standard by which the NPT and the review process must be judged. However, as was evident at the 2004 NPT Prep Com and in the procedural battles at the 2005 Review Conference, the United States was unwilling to advance its pursuit of these objectives if it required an acknowledgment – or even the implication – that it remained bound by political commitments on disarmament undertaken at prior Review Conferences by other administrations. The powers that be in Washington who value unconstrained military flexibility over enhanced nuclear safeguards and export controls if they come with serious disarmament commitments probably are satisfied with the 2005 Review Conference outcome. For them, the inability of the unwieldy body to agree on any nonproliferation measures must reinforce their existing conviction that nonproliferation progress will only be achieved by more stream-lined “coalitions of the willing.” They are unlikely, however, to acknowledge the degree to which their own uncompromising stance on disarmament issues contributed to a self-fulfilling prophecy. Instead, they, along with other members of the P-5, are apt to take satisfaction in the diminished strength of the most ardent advocates of disarmament thanks to the demise of NAC and the disarray in NAM.\*

Many NGO and academic analysts share the concern that the dismal outcome of the Review Conference may reinforce a U.S. predilection and ability to redirect nonproliferation efforts away from the NPT. As such, some have been quick to emphasize that the failure of the Review Conference does not represent a failure or deficiency of the Treaty. Although that may be correct in a narrow sense, it also is the case that the problems evident at the 2005 Review Conference reflect fundamental disagreements among states parties to the NPT about the principal security challenges of the day, their urgency, the relative emphasis and resources that should be given to nuclear disarmament, nonproliferation, and peaceful nuclear use, and the need for the Treaty to adapt to new circumstances. Although the NPT is not responsible for the lack of imagination, flexibility, and political will displayed by states parties, last month in New York, its utility derives from compliance by member states with its provisions and their perception that the Treaty enhances their security interests. In the general debate at the 1995 NPT Review and Extension Conference state after state expressed the view that the Treaty served their national interests and should be extended indefinitely. Today,

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\* This perspective is not confined to the NWS. One NNWS ally of the United States expressed the view that if nothing else, the Review Conference contributed to the weakening of NAM.

although most states parties continue to express that view, their conviction appears less deeply held and more conditional.

On one side of the aisle a growing body of both NWS and NNWS raise legitimate questions about the ease with which parties to the NPT can, with impunity, take advantage of Article IV and Article X to acquire nuclear technology useful for both civilian and military purposes and then announce their withdrawal from the Treaty. These states maintain that the Treaty's provisions related to peaceful use, safeguards, and withdrawal must be strengthened if the Treaty is to meet urgent, contemporary challenges. For most of these states the inability of the Review Conference to make much progress on those matters represented an important missed opportunity, but did not alter their basic faith in the Treaty or the review process. For a smaller number of countries, however, the paralysis of the recent conference may have raised deeper doubts about the feasibility of introducing timely adjustments in a body wedded to consensus decision-making and organized along out-dated and increasingly dysfunctional regional groupings.

Across the aisle a large body of countries, all NWWS, are equally frustrated by the failure of the Review Conference to address satisfactorily their perceived security concerns, which tend to deal less with nonproliferation. From their vantage point, the NPT made sense largely due to its disarmament and peaceful use provisions, aspects which they correctly regard to be of secondary concern to the NWS. Although most of these countries also are not yet inclined to jettison the NPT, they increasingly question the relevance of the Treaty to their most pressing needs. They also find disingenuous arguments that the nonproliferation dimension of the NPT should be strengthened and actions taken to condemn noncompliance in this realm, at a time when they question the commitment of the NWS to honor their nuclear disarmament and peaceful use obligations. A small number of them may not rule out withdrawal from the Treaty for symbolic purposes if their views continue to be disregarded.

The ultimate, potential, negative consequence of a failed NPT Review Conference is that inaction makes more likely a nuclear catastrophe, be it by accident, terrorist design, or state aggression. In his opening address to the Review Conference on May 2, 2005 UN Secretary General Kofi Annan sought to jolt delegates to action by raising precisely this specter. How, he asked, would the leaders of every nation represented at the Conference respond to the question: "How did it come to this? Is my conscience clear? Could I have done more to reduce the risk by strengthening the regime designed to do so?" He then challenged the assembled delegates to rise to the challenge and undertake actions on many fronts, including:

- Strengthening the integrity of the Treaty in the face of violations and withdrawals;
- Making compliance measures more effective including, for example, universalization of the Additional Protocol and its use as the new standard for verifying compliance;
- Reducing the threat of proliferation of non-state, as well as state, actors;
- Coming “to grips with the Janus-like character of nuclear energy.”

These were unusually forceful and focused words from the most senior UN official, but they fell on too many deaf ears.

## V. CONCLUSION

Canadian Ambassador for Disarmament Paul Meyer also used upon a theatrical metaphor in his closing remarks to the Review Conference on May 27. He observed that,

Despite the scenes these rooms have witnessed over this month, the Review Conference must not be reduced to a theatre where we play at nuclear nonproliferation or disarmament. We cannot afford merely “to suspend disbelief” in enacting the NPT review process or the curtain is soon likely to come down.\*

The curtain has not yet fallen on the NPT, despite the dismal performance of its cast last month in New York. Hopefully, their sponsors in national capitals will take careful stock of the production’s poor showing, informed by the many critical reviews of those in attendance. Ideally, new investors and a more experienced cast will be found, along with a director whose vision can fulfill the potential of the script, which also must be reinterpreted if not revised. There is not much time to waste – rehearsals begin in Spring 2007, and audiences around the world will tolerate nothing less than success.

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\* Ambassador Paul Meyer, “Closing Remarks,” 2005 Review Conference on the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, May 27, 2005.

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**Bruno Tertrais**

Fondation pour la Recherche Stratégique, Paris

## **THE EUROPEAN UNION AND NUCLEAR NON-PROLIFERATION: DOES SOFT POWER WORK?**

### **European interests in the fight against nuclear proliferation**

Nuclear proliferation is not an *immediate* threat to the European Union (EU). When it comes to capabilities, no regional actor having a nuclear programme (except Israel) is yet capable, at least as far as known capabilities are concerned, of posing a potential threat to European Union member states.<sup>1</sup> When it comes to intentions, no nuclear-armed country is known to be hostile to Europe as such.

Nevertheless, current and foreseeable moves on the nuclear proliferation front are in many respects a source of concern for Europe. Proliferation can affect different types of interests according to the region concerned. In North Africa, a renewal of nuclear proliferation would naturally affect Europe's efforts, particularly through the Barcelona process, to develop good relations. Many Europeans would consider nuclear-armed regimes such as Algeria or Egypt as potentially hostile – especially if nuclear programs were coupled with the affirmation of an Islamic identity. In the Middle East, other interests could be affected: economic security (proliferation being likely to concern zones that are sources of supply of oil and gas), defence agreements between certain members of the Union and Gulf states, and the European involvement in the Israel/Palestinian conflict. In Asia, the risks for Europe are more indirect. They are essentially to do with what can be termed global stability, with non-proliferation regimes and norms being called into question. But a major conflict in Asia over nuclear issues or involving the risk of nuclear use would have serious indirect political, economic and financial consequences for Europe.

This correlation between interests at stake and the location of threats is approximate. The EU sees itself as a responsible world power and cares about international law and multilateral regimes – wherever the proliferation threat may be. It also intends to become a fully-fledged global actor, and is developing political and economic links to all major regions in the world. It is not impossible that in the next ten to fifteen years the Union will have to conduct major military operations at a considerable distance from its territory: what then if its forces find themselves exposed to a nuclear threat in an area not covered by the Washington Treaty? Also, the increase in the range of missiles developed or obtained by several proliferating countries will bring the territory of the Union within range of a larger number of them.

This takes place against the background of an interest in the ex-Soviet nuclear heritage – not a proliferation threat per se, but nevertheless a nuclear risk and a potential source of materials and expertise. A consequence of enlargement has been to bring the ex-Soviet nuclear problem nearer to Europe: its enlargement to the north and east gives

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<sup>1</sup> Nevertheless, Sicily was within range of Libya's *Scud* missiles, and the improved version of Iran's *Shahab-3* makes it able to reach Greek territory.

the Union a shared border with the country that has the largest nuclear arsenal in the world. Also, in a situation where Iran had nuclear weapons, the integration of Turkey would establish a new “nuclear frontier” for Europe.

## **The EU’s response to nuclear proliferation**

### *The gradual construction of a EU approach*

Initially Europe was mostly concerned with proliferation *within itself*. The EURATOM treaty signed in 1957 was not designed with a non-proliferation goal in mind – rather the opposite: at that time, there were still French-German-Italian discussions on a possible trilateral nuclear force. Later, after France became a nuclear power a major question in transatlantic circle was whether or not other European Community (EC) members could and would become nuclear powers.<sup>2</sup> One of the main goals of the Nuclear Non-Proliferation Treaty (NPT) was to prevent further nuclear proliferation on the continent. Today, implementation of the most stringent non-proliferation controls (the Additional Protocol) is still a prerequisite for joining the Union.<sup>3</sup>

Still, until the early 1980s nuclear proliferation outside Europe was not an important concern, to the point that in the 1970s, several European countries were still exporting sensitive nuclear technologies with little regard for their potential military applications. In this domain, Europe came of age later than the United States.

This explains why, for a long time, proliferation was near the bottom on the European Community’s list of concerns. The real efforts began in the aftermath of the Cold war, with the conjunction of France’s signature of the NPT, the first Gulf war, and the development of a Common Foreign and Security Policy (CFSP).

A EU non-proliferation policy began to take shape in the mid-1990s with the use of the CFSP toolbox (Presidential Declarations, Common Positions, Common Strategies, and Action Plans) for non-proliferation purposes: the adoption of the 1995 Joint Actions on the Union’s participation in Korean Energy Development Organization (KEDO) and on the NPT Review Conference, the 1997 Joint Action on transparency on export controls in the nuclear field. Common positions were then adopted on nuclear and ballistic non-proliferation in South Asia (1998), on the Comprehensive Test Ban Treaty (CTBT, 1999), and on the next NPT Review Conference (2000).

A new phase was opened in 2003 in the aftermath of the Iraq war and amidst revelation of the extent of Iran’s nuclear programme. Simultaneously new EU actions were taken on assistance to the ex-Soviet Union and on the entry into force of the CTBT. Most importantly, the EU adopted a comprehensive strategy to fight against

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<sup>2</sup> For a history of the early non-proliferation debate in the EC see Tom Sauer, *How “common” is European nuclear non-proliferation policy?*, Paper presented at the Joint Sessions of Workshops of the European Consortium for Political Research, Edinburgh, 28 March – 2 April 2003.

<sup>3</sup> As of May 28, 2005, the Additional Protocol was not yet into force in Estonia and Slovakia.

proliferation. Today the EU non-nuclear proliferation policy is a combination of comprehensive overall efforts and targeted regional efforts.

### *Overall efforts*

The EU strategy against proliferation is largely an offspring of September 11 and of its aftermath. In April 2002, the Council envisioned the principle of an overall strategy against proliferation in the context of the fight against terrorism. The adoption by the United States of a new National Security Strategy (September 2002) and of a Strategy to Combat Weapons of Mass Destruction (December 2002) gave a boost to European efforts. Finally, the many in the EU sought to reconcile with the United States after the Iraq war and wanted Europe to be considered as a responsible non-proliferation actor. In February 2003, at the initiative of Sweden, the General Affairs and External Relations Council (GAERC) formally agreed to review the EU non-proliferation policy. In June, the Thessalonica European Council paved the way for a new era in the EU non-proliferation strategy.<sup>4</sup> This was followed by the formal adoption of the “EU Strategy against Proliferation of Weapons of Mass Destruction” in December 2003.<sup>5</sup> While including no major political or conceptual breakthroughs, taken together these texts constituted a first systematic and comprehensive EU approach of the problem of proliferation. Also, among their noteworthy provisions were mentions of the possibility to use force (especially since no mention was made of the need for an *explicit authorization* of the United Nations Security Council to that effect).<sup>6</sup> Finally, the Strategy has had the effect of putting the EU action into high gear, with a flurry of new activities since 2003.

EU efforts in the field of multilateral instruments have essentially focused on implementing existing agreements rather than on devising new ones. Its main stated goals are: “*strengthening the international system of non-proliferation, pursuing universalisation of multilateral agreements, and reinforcing strict implementation and compliance with these agreements*”.<sup>7</sup> It has adopted in 2004 a Common position on the universalisation and reinforcement of multilateral agreements in the field of WMD.

The NPT has been the crux of EU multilateral efforts in the nuclear area. In the 2000 Final document, the emphasis on “irreversibility” and “transparency” owed a lot to the EU.<sup>8</sup> In 2005, the Union was able to agree upon a common position despite initial difficulties due disagreements over the references to the disarmament commitments contained in the 2000 Final Document. The text was longer than in 2000 and included

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<sup>4</sup> Three texts were adopted at the Thessaloniki Summit: a “Declaration on the Proliferation of Weapons of Mass Destruction”, the “Basic Principles for an EU Strategy against Proliferation of Weapons of Mass Destruction” and an “Action Plan for the Implementation of the Basic Principles for an EU Strategy against Proliferation of Weapons of Mass Destruction”.

<sup>5</sup> *EU Strategy against proliferation of weapons of mass destruction (European Council, 12 and 13/12/2003)*, <<http://ue.eu.int/uedocs/cmsUpload/st15708.en03.pdf>>.

<sup>6</sup> Clara Portela, *The Role of the EU in the Non-Proliferation of Nuclear Weapons. The Way to Thessaloniki and Beyond*, PRIF Reports n° 65 (Frankfurt: Peace Research Institute Frankfurt, undated), p. 27.

<sup>7</sup> Council of the European Union website <[http://ue.eu.int/cms3\\_fo/showPage.asp?id=392&lang=EN](http://ue.eu.int/cms3_fo/showPage.asp?id=392&lang=EN)>, accessed May 28, 2005.

<sup>8</sup> Portela, *The Role of the EU in the Non-Proliferation of Nuclear Weapons*, op. cit., p. 7.



the *acquis* of the EU Strategy.<sup>9</sup> During the Conference, the EU made substantial contributions to the Review Process, in particular through the submission of “common approach” working papers on cooperative threat reduction and on withdrawal from the Treaty.

The EU has also attempted to contribute to the entry into force of the CTBT. It adopted a Common position in 1999 on the early entry into force of the CTBT, renewed in 2003 and accompanied by an Action plan. So far, these efforts have not been very successful. As of 28 May 2005, out of 175 States that have signed the Treaty, only 121 of them have ratified it, including 33 Annex Two countries. There have been only five ratifications since the 2000 NPT Review Conference. 54 countries have not ratified, including 11 “Annex Two countries” out of 44 (whose signatures are needed for entry into force). Those who have not ratified include three countries that could be called the “easy cases” (Colombia, Indonesia, Viet-Nam), and eight other which constitute a category of “hard cases” (China, North Korea, Egypt, India, Iran, Israel, Pakistan, United States).

Finally, the EU has adopted a Joint action for support to the IAEA, including a financial contribution of 10 million € for three years (3,3 million € for 2004) to its Nuclear Security Program (2004).<sup>10</sup>

### ***Regional efforts***

The reduction of nuclear risks on the territory of the ex-Soviet Union – be they civilian or military – have thus been a major area of efforts by the Union, for which an essential vehicle has been the Technical Assistance to the Commonwealth of Independent States (TACIS). Aid to countries of the former Soviet Union was also the subject of several EU Joint Actions. EU efforts have focused on safety and security, plutonium disposition, and the employment of nuclear scientists and engineers.

Under the umbrella of the Global Partnership, the EU has pledged a total of one billion € for the years 2002-2012. However, about half of this sum will be devoted to nuclear safety in general. According to data provided by the non-governmental *Strengthening the Global Partnership* (SGP) project, nuclear non-proliferation related programs under the current EU budget cycle (through 2006) include 125 million € for the International Science & Technology Center (ISTC) and the Science and Technology Center in Ukraine (STCU), 78 million € for exports controls assistance, 50 million € for nuclear submarines dismantlement, 23 million € for fissile materials safeguards, 6

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<sup>9</sup> Council Common Position of 13 April 2000 relating to the 2000 Review Conference of the Parties to the Treaty on the Non-proliferation of Nuclear Weapons (2000/297/CFSP), in *Official Journal of the European Communities*, 19 April 2000, L 97/1; and Council Common Position 2005/329/PESC of 25 April 2005 relating to the 2005 Review Conference of the Parties to the Treaty on the Non-proliferation of Nuclear Weapons, in *Official Journal of the European Communities*, 27 April 2005, L 106/32.

<sup>10</sup> Council of the European Union, *Implementation of the WMD Strategy – Annex B: List of priorities for a coherent implementation*, 3 December 2004, p. 39.

million € for plutonium disposition, and 5 million € for a 2004 Joint action on the physical protection of nuclear installations.<sup>11</sup> This amounts to a total of 287 million €.

As per annual spending, numbers are contradictory. Experts from the *Stockholm International Peace Research Institute* (SIPRI) suggest a total of 40 million € a year.<sup>12</sup> European Commission representatives have provided the same number.<sup>13</sup> But SIPRI experts have also provided figures suggesting a total of 57.9 million € for 2004 (50 million € for TACIS programs and 7.9 million € for nuclear security in Russia).<sup>14</sup>

There are other inconsistencies. For instance, concerning the Joint action for nuclear security in Russia, the SGP project mentions 5 million € for 2004, while SIPRI experts have mentioned 7.9 million € for 2004; however, the EU December 2004 progress report plans for 7.73 million € in three years.<sup>15</sup> Also, the Joint action on IAEA support (for which 3.3 million € were allocated for 2004) does not seem to be taken into account, even though it will be largely devoted to nuclear security in the ex-Soviet Republics of the Caucasus and Central Asia.

One reason why these evaluations are imperfect and contradictory is that the level of EU financial effort directly related with nuclear non-proliferation is particularly difficult to assess: it is scattered among different budget lines, it is not easily broken down into nuclear and non-nuclear activities, and it often involves both civilian and military dimension.

Nevertheless, based on these evaluations one can say that the EU spends more or less 50 million € per year on nuclear non-proliferation related activities in Russia and the ex-Soviet Union, most of it being financed by the European Commission.<sup>16</sup> The bottom line is that the EU contribution is still fairly modest.

North Korea has been another focus of EU efforts. Europe is concerned by the North Korean nuclear crisis for many reasons: the importance of the North Korean case for the non-proliferation regime; the danger of the transfer of nuclear expertise and technology to countries geographically close to Europe that have in the past shown an interest in nuclear matters; the involvement of some member states in maintaining security in the peninsula, through the Military Armistice Commission, the Committee supervising the Commission, and the 1953 declaration that guarantees South Korea's security; the risk, in the event of a serious crisis in the peninsula, that North Korea

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<sup>11</sup> *Strengthening the Global Partnership: EU Donor Factsheet*, <<http://www.sgpproject.org/Donor%20Factsheets/EU.html>>, accessed May 28, 2005.

<sup>12</sup> Ian Anthony, *The Role of the European Union in International Non-Proliferation and Disarmament Assistance*, paper presented at a workshop on "The Future of Disarmament and Expanded Cooperative Threat Reduction Programs", Centro Volta – Landau Network, Geneva, 28 September 2004, p. 11.

<sup>13</sup> *Examination of Witnesses*, in House of Lords, European Union Committee, 13<sup>th</sup> Report of Session 2004-2005, *Preventing Proliferation of Weapons of Mass Destruction: The EU Contribution*, Report with Evidence (London: The Stationery Office Limited, 5 April 2005), p. 47.

<sup>14</sup> *Supplementary memorandum by the Stockholm International Peace Research Institute*, in House of Lords, op. cit., p. 82.

<sup>15</sup> Council of the European Union, *Implementation of the WMD Strategy – Annex B: List of priorities for a coherent implementation*, 3 December 2004, p. 39.

<sup>16</sup> According to EU officials, non-proliferation activities in 2004 in the context of CFSP amounted to 15 million € out of a total CFSP budget of 62,6 million €. *Examination of Witnesses*, in House of Lords, op. cit., p. 41.

could be tempted to blackmail the United States's European allies;<sup>17</sup> finally, the dramatic effects that another Korean war would have on the world's economy, and therefore that of Europe.

For these reasons, one of the EU's first concrete nuclear non-proliferation actions was its involvement in KEDO, for which 115 million € were spent until the suspension of operations. (The vehicle for EU participation was EURATOM.) Later on, the Union struck up a dialogue with Pyongyang, at Sweden's initiative, in May 2001, at a time when the Bush administration had closed its channels of communication with North Korea.

European interests in the Iranian nuclear crisis are also numerous. Although the Union's territory is not yet – with the possible exception of Greece – within the range of existing Iranian missiles, Turkey, a key NATO ally and a candidate for EU membership, already is. This is also true of several countries of the region vis-à-vis which some EU members (France and the United Kingdom) have security commitments, such as the United Arab Emirates. The credibility of the European Defense and Security Policy (ESDP) and of the “effective multilateralism” that the EU claims to promote is also at stake. What the Europeans are trying to demonstrate is “the power of soft power”: this is about resolving a proliferation crisis by using the political and economic might of the Union. The prospect of additional nuclear powers in the Middle East, a volatile region that is also Europe's immediate neighborhood, is scary enough. But the Europeans also attach great importance to the survival of the NPT, which could very well be at stake here. Finally, European countries and companies have some significant industrial interests involved. As one of the Middle East's main producers of oil and gas, Iran cannot be neglected.

Before 2003, nuclear issues had been discussed only superficially between the EU and Iran. The negotiation of a Trade and Cooperation Agreement (TCA) was largely separated from these discussions. Things changed in mid-2003 due to two reasons: a negative report issued by the IAEA about Iran, and the desire of the France and Germany to play a stronger role on the non-proliferation scene; these two countries wanted to reconcile with the United States, and show that proliferation could be dealt with through diplomatic means. The United Kingdom, for its part, was keen to demonstrate its ability to play along its key European partners on a significant security problem. The European Union as such was included later as a full partner. While no specific proposals seem to have come from Brussels, the advantage of having the EU “in” was to give additional political weight to the European delegation and to ensure that the Iranians would understand that they would not be able to “de-link” their bilateral relationship with the Union from the *ad hoc* negotiating process.

After the failed start of the October 2003 Tehran agreement, negotiations began in earnest after the November 2004 Paris agreement. It was clearly meant by both sides as the opening of a new phase, with a formal negotiating process including three

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<sup>17</sup> It is noteworthy that if North Korea continues to increase the range of its missiles, European territory will in theory be vulnerable to such a threat before that of America.

“baskets” (political, economic, nuclear). At the time of this writing (late May 2005), the negotiations have failed to produce any tangible result, and Iran has made it clear at several occasions that it intended to resume their nuclear activities, and that it would not renounce its alleged right to the whole fuel cycle. Still, Europe – including the EU – has achieved two significant results: it has demonstrated its ability to be a credible actor in a complex nuclear crisis, and has been able to delay the continuation of Iran’s enrichment program.<sup>18</sup> But a successful outcome would require either a shift in Tehran’s position, or a change in Europe’s desired outcome, or a change in the mix of carrots and sticks that the Europeans have been willing to offer.

The situation in South Asia has been the focus of EU efforts at rare occasions. One was the aftermath of the 1998 tests, when the Union temporarily deferred the conclusion of trade agreements. The second was the 2001-2002 military face-off between the two nuclear-armed neighbours, at the occasion of which High Representative Solana travelled to the region to express Europe’s concern. The EU plans to do more. A program for nuclear material accountancy and export control assistance is envisioned for up to 10 million €, equally shared between a EU-India program and a EU-Pakistan program, for a duration of three to five years.<sup>19</sup>

## Net assessment and policy recommendations

### *Net assessment*

Having thoroughly examined the EU’s record, Clara Portela’s harsh judgement is that “*the EU is still ineffective as a non-proliferation actor*”.<sup>20</sup> This is perhaps a bit severe. The EU nuclear non-proliferation efforts face five inter-related hurdles. A first obstacle is the complexity of EU policies, in a field that had to involve both the Commission and the Council. A second one is the cumbersome budgetary practice of the Union, which precludes it from being appropriately responsive to new international developments, all the more since many members are reluctant to increase the EU budget. A third obstacle is the “competition” that the EU faces from national efforts: individual member States also contribute, diplomatically and financially, to non-proliferation. (The EU’s two nuclear powers, France and the United Kingdom, also contribute through their deterrence and disarmament policies.) A fourth but by no means less important hurdle is the diversity of “nuclear cultures” within the Union, ranging from countries which are members of the “New Agenda Coalition” (Sweden, Ireland), to the two European nuclear powers (France, the United Kingdom), with a mix of neutral countries, non-aligned ones, NATO members, and NATO nuclear host countries in-between; and from countries which plan to give up nuclear power to countries such as France and Lithuania which rely heavily on it. The fifth hurdle is the fact that the EU as an institution has had to overcome national preferences in a domain very closely associated with sovereignty and independence, in both the military and civilian dimensions.

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<sup>18</sup> This assumes, of course, that there are no hidden enrichment facilities in Iran.

<sup>19</sup> Council of the European Union, *Implementation of the WMD Strategy – Annex B: List of priorities for a coherent implementation*, 3 December 2004, pp. 42-43.

<sup>20</sup> Portela, *The Role of the EU in the Non-Proliferation of Nuclear Weapons*, op. cit., p. 21.

Given these difficulties, the EU has not fared too badly and its nuclear non-proliferation can be called a “moderately successful story”. Progress in the past decade has been very significant. Awareness of nuclear proliferation issues has increased dramatically in EU circles. Coordination and visibility of EU actions have been improved. Non-proliferation activities represent a large part (some 25%) of the total CFSP budget.<sup>21</sup> The nomination in October 2003 of a Personal representative on non-proliferation of weapons of mass destruction has helped a lot. Most importantly perhaps, there is no major nuclear proliferation issue today where the EU is not involved one way or the other.

The EU has three major assets in the fight against nuclear proliferation: its financial resources, its attractiveness as a trade and investment partner, and its preference for “engagement”. However, it also lacks three significant non-proliferation instruments. One is the ability to extend a security guarantee to a country that feels threatened, in order to persuade it not to embark in a nuclear program. Another is the ability to dissuade, through missile defense, a country from investing in a ballistic program – the inevitable companion of a nuclear program. A third one is the ability to credibly threaten the neutralisation or destruction of a large nuclear programme by conventional means (more by lack of know-how, adequate planning and training than by lack of military assets). In fact, it could be argued that the only *comparative* advantage that the EU has is that it is not the United States. The positive reputation of Europe is a political asset that helped concluding the Iran-Europe agreements of 2003 and 2004.

It remains to be seen that the EU as a collective entity can make a real difference in the management of a nuclear proliferation problem. The EU’s soft power works; whether the EU’s soft power is enough is a different matter. The Union as such has been considered a junior partner in the management of nuclear affairs, be it with Russia, or in negotiations with Iran and North Korea. With the exception of the NPT Review Conferences, the EU is largely reactive and not often proactive. Its policies are hardly imaginative and are not *that* different from those pursued by Washington.<sup>22</sup> (There are two exceptions: an absence of opposition in the EU for reprocessing and fast-breeding technologies; and a linkage between disarmament and environment issues in assistance to the ex-Soviet Union). Clearly – and this has been the case since 1957 – most Europeans look to Washington first when it comes to nuclear non-proliferation, either to follow the US lead or to distance themselves from US policies. This all the more true since non-proliferation policies are often instrumentalized to the benefit of the broader transatlantic relationship.<sup>23</sup>

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<sup>21</sup> See above, note 16.

<sup>22</sup> Some have gone as far as saying that the EU Nuclear Non-Proliferation has been “Americanized” (Tom Sauer, “The ‘Americanization’ of EU Nuclear Non-Proliferation Policy”, *Defense & Security Analysis* Vol. 20, n° 2, June 2004, pp. 113-131).

<sup>23</sup> In this regard, Clara Portela argues that “*there is a risk (...) that the WMD issue is approached primarily as a transatlantic issue rather than for its own sake*” (Clara Portela, “The EU and the NPT: Testing the New European Nonproliferation Strategy”, *Disarmament Diplomacy*, Issue n° 78, July/August 2004 <<http://acronym.org.uk/dd/dd78/78cp.htm>>, accessed 6 December 2004).

At the same time, however, the presence of the United States in the background of any EU non-proliferation effort will probably remain for a necessary component of any effective and comprehensive European nuclear non-proliferation strategy. Europeans often rightly complain of being asked to finance US-devised policies without a real say in the making of such policies; but it is far from certain, for instance, that calling the EU to “*stretch its foreign policy wings over Korea*” and build a separate approach from the one pursued in the context of the Six-Party talks, as proposed by the European Parliament, would be productive.<sup>24</sup>

### *Policy recommendations*<sup>25</sup>

Europe must be realistic. Lecturing India and Pakistan on the urgent need to join the NPT is probably not the best way to play a useful role in dealing with nuclear risks in Asia, and could even be counter-productive as per the credibility of Europe as a security partner in the region; it is conceivable that the EU, as a matter of principle, would make such a request, but that should be merely a reminder. Likewise, the idea of a nuclear weapons-free zone in the Middle East has no chance of succeeding in the short and medium term: the problem of defining such a zone seems impossible at present; and it is difficult to admit the argument that Israel’s nuclear capability presents an obstacle to lasting peace in the region when it is put forward by countries that have not even acknowledged Israel’s right to exist. In fact, such a zone will be a realistic prospect only *after* a just and durable peace is established in the region.

The use of the principle of conditionality vis-à-vis non-proliferation has become a routine practice. But the EU does it in a rather “soft” way. Full compliance has never been a prerequisite for access to European markets and investments (except perhaps in the case of Ukraine: the implementation of the cooperation agreement with this country, which only happened after Kyiv had become a signatory of the NPT). The “non-proliferation clause” included in bilateral agreements is fairly weak: it does not *require compliance* with non-proliferation treaties. In the future, it should be strengthened and include specific commitments such as CTBT ratification where applicable and, most importantly, ratification of the IAEA’s Additional protocol.<sup>26</sup> “Hard” conditionality should ideally become a *sine qua non* of access to European aid and markets.

Full support for the current moratorium and the importance of signatories to finance the CTBT Organization and its monitoring system should continue to be clearly stated by the EU. The Union should use conditionality in its dealings with the three “easy

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<sup>24</sup> See Soyong Kwon and Glyn Ford, “The EU Stretches its Foreign Policy Wings Over Korea”, *The Nautilus Institute*, undated document <[http://www.nautilus.org/fora/security/0531AKwon\\_Ford.htm](http://www.nautilus.org/fora/security/0531AKwon_Ford.htm)>, accessed 21 April 2005.

<sup>25</sup> For a lengthier discussion of recommendations for the EU see Bruno Tertrais, “Europe and nuclear proliferation” in Gustav Lindstrom & Burkard Schmitt (ed.), *Fighting proliferation – European perspectives*, Chaillot Papers n° 66 (Paris: EU Institute for Security Studies, December 2003), pp. 37-58; and *ibid.*, “Nuclear disarmament: how to make progress” in Burkard Schmitt (ed.), *Effective Non-proliferation. The European Union and the 2005 NPT Review Conference*, Chaillot Paper n° 77 (Paris: EU Institute for Security Studies, April 2005), pp 27-42.

<sup>26</sup> As of May 28, 2005, the Strengthened Safeguards System had entered into force in only 67 States (out of 102 who have signed up to it). Among the countries where the Additional Protocol is not yet into force are Iran and Libya.

cases” mentioned above, as well as on “hard cases” such as Egypt and Iran. It should also, of course, continue to promote the CTBT in its contacts with the US Senate.

If EU members believe that an FMCT *could* be verified (which the United States does not believe), then they would need to demonstrate it. To this end, the EU could commission a study that would make use of its considerable nuclear expertise, at the national level and at the level of EURATOM, to make a convincing case on verification.

European contributions to the dismantlement of ex-Soviet nuclear arsenals are still disparate. It would therefore be useful to coordinate all national initiatives better, under the aegis of the Union, and as from 2006 have a significant increase in joint aid. Further, the Union could take advantage of the fact that so-called “theatre weapons” (which are of particular concern to the new member States) are not covered by binding bilateral disarmament agreements. Russia claims the destruction of these weapons has been delayed because of the priority given to strategic weapons (which has been financed partially through American programmes). Europe could take Russia at its word and finance an increase in Russia’s dismantlement facilities. Actions taken must not be limited to Russia: Europe can play its part in securing the materials contained in tens of research reactors in the world. It could also, where appropriate, contribute its own unique experience of intraregional control gained through EURATOM.

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Draft by

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## A NEW NON-PROLIFERATION STRATEGY

Some argue that with the end of superpower conflict, the world confronts a fundamentally different proliferation problem. Although the nonproliferation regime may have worked in the past, they doubt the holdouts can be convinced to adopt the same norms as those held by the regime founders. Key officials in the George W. Bush administration believe that the entire process of negotiating and implementing nonproliferation treaties is both unnecessary and harmful to U.S. national security interests. They argue that some of the treaties—such as the Comprehensive Nuclear Test Ban Treaty, the Anti-Ballistic Missile Treaty, and the Landmine Treaty—restrict necessary armaments, thus weakening the principal nation that safeguards global peace and security. Other treaties, such as the CWC and the BWC, promote a false sense of security as some nations sign, then cheat on the agreements.

The Bush administration therefore has implemented a radically new nonproliferation approach. Previous U.S. presidents treated the weapons themselves as the problem and sought their elimination through treaties. President Bill Clinton, for example, warned in November 1998 of the threat “posed by *the proliferation of nuclear, biological, and chemical weapons and the means of delivering such weapons*” (italics added). President Bush framed the issue differently in his 2003 State of the Union address: “The gravest danger facing America and the world is *outlaw regimes that seek and possess nuclear, chemical, and biological weapons*” (italics added). The Bush administration thus changed the focus from “what” to “who.” This corresponds to a strategy that seeks the elimination of regimes rather than weapons.

This action-oriented approach has been detailed in two key documents—*The National Security Strategy of the United States of America* (September 2002) and *National Strategy to Combat Weapons of Mass Destruction* (December 2002)—in which the administration stated its view that the threat from weapons of mass destruction emanates from a small number of outlaw states and from the nexus of these states, nuclear weapons and materials, and terrorists.<sup>1</sup>

The first direct application of this theory was the war with Iraq. There had been previous applications of military force to deal with proliferation threats, but this was the world’s first nonproliferation war, a battle fought primarily over the perceived need to prevent the acquisition or transfer of nuclear, biological, and chemical weapons.

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<sup>1</sup> National Security Council, *The National Security Strategy of the United States of America* (Washington, D.C.: White House, 2002); available at <http://www.whitehouse.gov/nsc/nss.pdf>. National Security Council, *National Strategy to Combat Weapons of Mass Destruction* (Washington, D.C.: White House, 2002), p. 1; available at <http://www.whitehouse.gov/news/releases/2002/12/WMDStrategy.pdf>.

The new strategy, however, has not yet proved superior to the one it replaced. Since 2000, proliferation problems have grown worse, not better. Libya has been an unqualified success, as that nation has abandoned decades of work on nuclear and chemical weapons and missile programs. But Iran has accelerated its program—whether peaceful or not—in the past few years. So has North Korea. That country ended the freeze on its plutonium program, claimed to have reprocessed the plutonium into weapons, withdrew from the Non-Proliferation Treaty (NPT), and declared itself a nuclear weapon state. Globally, the threat from nuclear terrorism has grown as U.S. intelligence officials have concluded that the Iraq War made the terrorism problem worse and supplies of weapons and weapons materials remain dangerously insecure.<sup>2</sup> Though U.S. attention focused on the three “axis of evil” states, the nuclear black market of Pakistan’s A. Q. Khan spread nuclear weapons technology and know-how around the world. It is not clear if this network has shut down or merely gone further underground.

Meanwhile, the United States and Russia have ended the process of negotiating reductions in their nuclear arsenals, and the reductions themselves are proceeding at a slower pace than previous administrations planned. Finally, there is growing concern that the entire nonproliferation regime is in danger of a catastrophic collapse. The NPT Review Conference of May 2005 ended acrimoniously, failing to act upon the consensus of the vast majority of states for stronger nonproliferation and disarmament efforts or to adopt any of the dozens of creative suggestions proposed by many of the nations present.

Some believe that the Bush strategy, or some modified variation, could still prove its worth. Many countries are cooperating in the Proliferation Security Initiative to interdict illegal trade in weapon components. There is a much greater willingness internationally to enforce nonproliferation commitments. The right combination of force and diplomacy could yet result in negotiated solutions to the North Korean and Iranian programs. And prospects for peacefully resolving regional conflicts may have increased through the growing movement for democracy in the Middle East and Central Asia.

### **Elements of a New Nonproliferation Policy**

A combination of approaches may offer the best chance of success. There is the need for a new strategy that combines the best elements of the US-centric, force-based approach with the traditional multilateral, treaty-based approach. For example, the European Union has crafted a joint nonproliferation strategy that includes tying all E.U. trade agreements to the observance of nonproliferation treaties and norms. This “soft power” approach could meld with the “hard power” of the United States to replicate the success of the United States and United Kingdom with Libya. The Libyan model could emerge from and prevail over the Iraq model: Change a regime’s behavior rather than change the regime.

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<sup>2</sup> See testimony of Central Intelligence director Porter Goss and Defense Intelligence Agency director Admiral Lowell Jacoby before the Senate Intelligence Committee, February 16, 2005.

The theory and practical applications of a new approach have been detailed in a 2005 Carnegie Endowment report, *Universal Compliance: A Strategy for Nuclear Security*.<sup>3</sup> This report analyzes how to end the threat of nuclear terrorism by implementing comprehensive efforts to secure and eliminate nuclear materials worldwide and to stop the illegal transfer of nuclear technology. The strategy would prevent new nuclear weapon states by increasing penalties for withdrawal from the NPT, enforcing compliance with strengthened treaties, and radically reforming the nuclear fuel cycle to prevent states from acquiring dual-use technologies for uranium enrichment or plutonium reprocessing. The threat from existing arsenals would be reduced by shrinking global stockpiles, curtailing research on new nuclear weapons, and taking the weapons off hairtrigger-alert status. Finally, greater efforts would be devoted to resolving the regional conflicts that fuel proliferation imperatives and to bringing the three nuclear weapon states outside the NPT into conformance with an expanded set of global non-proliferation norms.

The Carnegie approach recognizes the contributions of the Bush administration initiatives that, for example, correctly draw international attention to the need for serious enforcement. For many years, too much attention had been paid to obtaining signatures on treaties and not enough to achieving compliance with them. The absence of a collective political will to stop bad actors—by force if necessary—undermined deterrence. The United States itself had routinely made proliferation concerns secondary to other strategic and economic issues in relations with key states such as Pakistan, Israel and Iraq.

However, if stopping the spread of nuclear weapons requires more international resolve than previous administrations could muster, it also demands more genuine international teamwork than the Bush administration recognizes. Nuclear weapons and fissile materials are problems wherever they are, not just in a handful of “evil” states. The threat cannot be eliminated by removing whichever foreign governments the United States finds most threatening at any given time. History has repeatedly shown that today’s ally can become tomorrow’s problem state. Moreover, terrorists will seek nuclear weapons and materials wherever they can be found, irrespective of a state’s geopolitical orientation.

The United States cannot defeat the nuclear threat alone, or even with small coalitions of the willing. It needs sustained cooperation from dozens of diverse nations—including the leading states that have forsworn nuclear weapons, such as Argentina, Brazil, Germany, Japan, South Africa, and Sweden—in order to broaden, toughen, and stringently enforce nonproliferation rules. To obtain that cooperation, the nuclear weapon states must show that tougher nonproliferation rules not only benefit the powerful, but constrain them as well.

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<sup>3</sup> George Perkovich, Jessica Mathews, Joseph Cirincione, Rose Gottemoeller and Jon Wolfsthal, *Universal Compliance: A Strategy for Nuclear Security* (Carnegie Endowment for International Peace, Washington, DC March 2005), available at: [www.ProliferationNews.org](http://www.ProliferationNews.org)

Success will depend on the United States' ability to marshal legitimate authority that motivates others to follow. As Francis Fukuyama notes, "Other people will follow the American lead if they believe it is legitimate; if they do not, they will resist, complain, obstruct, or actively oppose what we do".<sup>4</sup>

Recent events, most dramatically the war in Iraq, have undermined America's legitimacy. With societies bristling at U.S. government rhetoric and action, elected leaders in key countries continue to distance themselves from U.S. initiatives.

Even when others share U.S. views of the nuclear threat, they may balk at following U.S. policies because they do not see Washington acting on *their* priorities, for example, the Comprehensive Test Ban Treaty, the International Criminal Court, actions to minimize climate change, or other measures affecting global security.

In Robert Kagan's words, "The United States can neither appear to be acting only in its self-interest, nor can it, in fact, act as if its own national interest were all that mattered".<sup>5</sup> This theme is echoed by Prime Minister Tony Blair's comment in January, "If America wants the rest of the world to be part of the agenda it has set, it must be part of their agenda too".

Before setting that agenda, however, it is necessary to understand the actual threats countries face. A new, concrete analysis of these threats should be the prerequisite to any policy framework.

## **A Global Nuclear Threat Assessment**

Nuclear threats lie along four axes, though developments along one axis often influence the others. The four categories of threat are nuclear terrorism, new nuclear weapon states and regional conflict, existing nuclear arsenals and regime collapse.

### ***I. Nuclear Terrorism: The Most Serious***

While *states* can be deterred from using nuclear weapons by fear of retaliation, *terrorists*, who have neither land, people, nor national futures to protect, may be more difficult to deter. Terrorist acquisition of nuclear weapons therefore poses the greatest single nuclear threat. The gravest danger arises from terrorists' access to state stockpiles of nuclear weapons and fissile materials, because acquiring a supply of fissile material (as opposed to making the weapon itself) remains the most difficult challenge for a terrorist group. In fact, so-called outlaw states are not the most likely source since their stockpiles, if any, are small and exceedingly precious, and hence well guarded (nor are these states likely to

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<sup>4</sup> Francis Fukuyama, "The Neoconservative Moment," *The National Interest*, June 1, 2004.

<sup>5</sup> Robert Kagan, *Of Paradise and Power: America and Europe in the New World Order* (New York: Alfred A. Knopf, 2003), afterword, p. 154.

give away what they see as the crown jewels in their security crowns). Rather, the most likely sources of nuclear weapons and materials for terrorists are storage areas in the former states of the Soviet Union and in Pakistan, and fissile material kept at dozens of civilian sites around the world.

Russia and other former Soviet states possess thousands of nuclear weapons and hundreds of tons of inadequately secured nuclear material. Terrorist organizations and radical fundamentalist groups operate within Pakistan's borders. National instability or a radical change in government could lead to the collapse of state control over nuclear weapons and materials and to the migration of nuclear scientists to the service of other nations or groups.

There is also a substantial risk of terrorist theft from the nuclear stockpiles in more than forty countries around the world. Many of these caches of materials consist of highly enriched uranium that could be directly used in nuclear weapons, or further enriched to weapons grade. There are also significant stockpiles of plutonium that can be used in a weapon, though with more difficulty.

## ***II. New Nuclear Nations and Regional Conflicts***

The danger posed by the acquisition of nuclear weapons by Iran or North Korea is *not* that either country would be liable to use these weapons to attack the United States, the nations of Europe, or other countries. Iran, for example, would likely decide to build nuclear weapons only as a means to defend itself from the aggression of other nations. Iranian leaders, like the leaders of other states, would be deterred from using nuclear weapons in a first strike by the certainty of swift and massive retaliation.

But what Iran sees as a defensive move would trigger dangerous reactions from other states in the region. A nuclear reaction chain could ripple through a region and across the globe, triggering weapon decisions in several, perhaps many, other states. Such developments could weaken Iran's security, not increase it. With these rapid developments and the collapse of existing norms could come increased regional tensions, possibly leading to regional wars and to nuclear catastrophe.<sup>6</sup>

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<sup>6</sup> This is the danger President Kennedy warned of in 1963. "I ask you to stop and think for a moment what it would mean to have nuclear weapons in so many hands, in the hands of countries large and small, stable and unstable, responsible and irresponsible, scattered throughout the world," he said. "There would be no rest for anyone then, no stability, no real security, and no chance of effective disarmament. There would only be the increased chance of accidental war, and an increased necessity for the great powers to involve themselves in what otherwise would be local conflicts." John F. Kennedy, "Radio and Television Address to the American People on the Nuclear Test Ban Treaty," July 26, 1963, available at [http://www.jfklibrary.org/jfk\\_test\\_ban\\_speech.html](http://www.jfklibrary.org/jfk_test_ban_speech.html) (accessed December 10, 2004).

Existing regional nuclear tensions already pose serious risks. The decades-long conflict between India and Pakistan has made South Asia the region most likely to witness the first use of nuclear weapons since World War II. An active missile race is under way between the two nations, even as India and China continue their rivalry. In Northeast Asia, North Korea's nuclear capabilities remain shrouded in uncertainty but presumably continue to advance. Miscalculation or misunderstanding could bring nuclear war to the Korean peninsula.

In the Middle East, Iran's declared peaceful nuclear energy program, together with Israel's nuclear arsenal and the chemical weapons of other Middle Eastern states, adds grave volatility to an already conflict-prone region. If Iran were to decide at some later date to build nuclear weapons, Egypt, Saudi Arabia, or others might initiate or revive nuclear weapon programs. It is possible that the Middle East could go from a region with one nuclear weapon state, to one with two, three, or five such states within a decade—compounded by the existing political and territorial disputes still unresolved.<sup>7</sup>

### *III. The Risk from Existing Arsenals*

There are grave dangers inherent in countries such as the United States and Russia maintaining thousands of nuclear weapons and others like China, France, the United Kingdom, Israel, India, and Pakistan holding hundreds of weapons. While these states regard their personal nuclear weapons as safe, secure, and essential to its security, each views others' arsenals with suspicion.

Though the Cold War has been over for more than a dozen years, Washington and Moscow maintain thousands of warheads on hair-trigger alert, ready to launch within fifteen minutes. This greatly increases the risk of an unauthorized launch. Because there is no time buffer built into each state's decision-making process, this extreme level of readiness also enhances the possibility that either side's president could prematurely order a nuclear strike based on flawed intelligence.<sup>8</sup> We came close to such a disaster in January 1995, when Russian forces mistook a Norwegian weather rocket for a US submarine-launched ballistic missile. Russian President Boris Yelstin had the "nuclear suitcase" open in front of him for the first time in the nuclear age before concluding that this must be a

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<sup>7</sup> Several countries in the Middle East are capable of pursuing nuclear weapon programs or otherwise acquiring nuclear weapons, including Saudi Arabia, Egypt, and Turkey. Saudi Arabia might seek to purchase nuclear weapons from Pakistan, or invite Pakistan to station nuclear weapons on its territory. Other countries have at least the basic facilities and capabilities to mount a nuclear weapon program, albeit not without significant political and economic consequences. Egypt and Turkey could probably acquire enough nuclear material to produce a nuclear weapon within a decade of launching such an effort.

<sup>8</sup> Former U.S. Senator Sam Nunn argues, "The more time the United States and Russia build into our process for ordering a nuclear strike the more time is available to gather data, to exchange information, to gain perspective, to discover an error, to avoid an accidental or unauthorized launch." Speech to the Carnegie International Non-Proliferation Conference, June 21, 2004, available at [www.ProliferationNews.org](http://www.ProliferationNews.org)

this must be a mistake. As Russian capabilities continue to deteriorate, the chances of accidents only increase.

Recent advocacy by some in the United States of new battlefield uses for nuclear weapons could lead to fresh nuclear tests. The five nuclear weapon states recognized by the Non-Proliferation Treaty have not tested since the signing of the Comprehensive Test Ban Treaty in 1996, and no state has tested since India and Pakistan did in May 1998. New U.S. tests would trigger tests by other nations and thus leading to the collapse of the CTBT, which is widely regarded as a pillar of the nonproliferation regime.

To the extent that the leaders of a given state are contemplating acceding to U.S. or international nonproliferation demands, these leaders may feel a strong need for equity so that they can show their publics that giving up nuclear aspirations is fair and in their interest. It is difficult, if not impossible, to demonstrate either when immensely powerful nuclear weapon states reassert the importance of nuclear weapons to their own security.

#### *IV. The Risk of Regime Collapse*

If U.S. and Russian nuclear arsenals remain at Cold War levels, many nations will conclude that the weapon states' promise to reduce and eventually eliminate these arsenals has been broken. Non-nuclear states may therefore feel released from their pledge not to acquire nuclear arms.

The Non-Proliferation Treaty is already severely threatened by the development in several states of facilities for the enrichment of uranium and the reprocessing of plutonium. Although each state asserts that these are for civilian use only, supplies of these materials potentially puts each of these countries "a screwdriver's turn" away from weapons capability. This greatly erodes the confidence that states can have in a neighbor's non-nuclear pledge. While the political commitments of Japan not to develop nuclear weapons, for example, are accepted now, tensions in the region could change how its neighbors view the "virtual arsenal" Japan's stocks of plutonium provide.

Additionally, there appears to be growing acceptance of the nuclear status of Pakistan and India, with each country accruing prestige and increased attention from leading nuclear weapon states, including the United States. Some now argue that a nuclear Iran or North Korea could also be absorbed into the international system without serious consequence.

If the number of states with nuclear weapons increases, the original nuclear weapon states fail to comply with their disarmament obligations, and states such as India gain status for having nuclear weapons, it is possible that Japan, Brazil, and other major non-nuclear nations will reconsider their nuclear choices. Most nations would continue to eschew nuclear weapons, if only for technological and economic reasons, but others



would decide that nuclear weapons were necessary to improving their security or status. There is a real possibility, under these conditions, of a system-wide collapse of the nuclear nonproliferation regime.

### **Building a New Bargain**

Global nuclear security requires *universal compliance* with the norms and rules of a *toughened* nuclear nonproliferation regime. *Compliance* means more than signatures on treaties, or declarations of good intent— it means actual performance. *Universal* means that nonproliferation norms and rules must be extended not only to states that have joined the treaties, but to all states, and to non-state actors as well.

The March 2005 Carnegie study, from which this paper draws, conceptualizes the needed changes as six obligations. Below is a summary of these obligations and twenty of the key policy recommendations that flow from them. (In all, there are over one hundred specific policy recommendations in the Carnegie report.)

#### **OBLIGATION ONE: Make Nonproliferation Irreversible.**

**We must revise the rules managing the production of nuclear weapon-usable materials, and clarify and tighten the terms by which states can withdraw from the NPT.**

Specifically, this means we should:

1. Preclude the acquisition of uranium enrichment and plutonium reprocessing plants by any additional state.
2. Provide states internationally guaranteed, economically attractive supplies of the fuel and services necessary to meet nuclear energy demands.
3. End the production of highly enriched uranium and adopt a temporary “pause” in the separation of plutonium.
4. Pass a new UN Security Council resolution making a state that withdraws from the NPT responsible for violations committed while it was still a party to the treaty.
5. Bar states that withdraw from the treaty from legally using nuclear assets acquired internationally before their withdrawal;
6. Suspend nuclear cooperation with countries that the IAEA cannot certify are in full compliance with their nuclear nonproliferation obligations.

**OBLIGATION TWO: Devalue the Political and Military Currency of Nuclear Weapons.**

**All states must diminish the role of nuclear weapons in security policies and international politics. The nuclear weapon states must do more to make their nonproliferation commitments irreversible, especially through the steady verified dismantlement of nuclear arsenals.**

Specifically, this means we should:

7. Disavow the development of new types of nuclear weapons, reaffirm the current moratorium on nuclear weapon testing, and ratify the Comprehensive Test Ban Treaty.
8. Lengthen the time decision-makers would have before deciding to launch nuclear weapons; and
9. Make nuclear weapon reductions, such as those required under the 2002 Treaty of Moscow, irreversible and verifiable.

**OBLIGATION THREE: Secure All Nuclear Materials.**

**All states must maintain robust standards for securing, monitoring, and accounting or all fissile materials in any form.**

Acquiring nuclear materials— whether by making, buying, or stealing them—is the single most difficult step for terrorists, as it is for states seeking nuclear weapons. Therefore, the security of nuclear stockpiles— wherever they are —is as vital an element of defense as any weapons system. Specifically, we recommend:

10. The formation of a high-level “Contact Group to Prevent Nuclear Terrorism” to establish a new global standard for protecting weapons, materials, and facilities.
11. The United States, Russia, and their partners should vigorously identify, secure, and remove nuclear materials from all vulnerable sites within four years— an accelerated “Global Cleanout.”

**OBLIGATION FOUR: Stop Illegal Transfers.**

**States must establish enforceable prohibitions against efforts by individuals, corporations, and states to assist others in secretly acquiring the technology, material, and know-how needed to develop nuclear weapons.**

Nonproliferation norms and rules must be universal—applying equally to non-state actors and to all states. The Security Council took a vital step in this direction by passing Resolution 1540 in April 2004. To develop this promising beginning:

12. All states should now establish and enforce national legislation to secure nuclear materials, strengthen export controls, and criminalize illicit trade, as this resolution requires.
13. The IAEA's Additional Protocol should be mandatory for all states, and the members of the Nuclear Suppliers Group should make it a condition of supply to all their transfers.
14. Members of the Nuclear Suppliers Group should expand their voluntary data sharing with the IAEA and make it obligatory for transfer of all controlled items.
15. Corporations should back up these policies with voluntary actions to block trade, loan, and investment activity with those illegally seeking nuclear capabilities.
16. The Proliferation Security Initiative should be grounded in international law and widened to cover international waterways and airspace.

#### **OBLIGATION FIVE: Commit to Conflict Resolution.**

**States that possess nuclear weapons must use their leadership to resolve regional conflicts that compel or excuse some states' pursuit of security by means of nuclear, biological, or chemical weapons.**

17. The major powers must concentrate their diplomatic influence on diffusing the conflicts that underlie these and possibly other nations' determination to possess nuclear weapons.

#### **OBLIGATION SIX: Solve the Three-State Problem.**

**The unrealistic demand that India, Israel and Pakistan give up their weapons and join the NPT as non-nuclear states should be replaced by a policy that persuades these three states to accept the same nonproliferation obligations accepted by the weapon state signatories.**

18. Drop the demand that India, Israel and Pakistan give up their nuclear weapons absent durable peace in their respective regions and progress toward global disarmament.
19. Persuade the three states to accept all of the nonproliferation obligations accepted by the five original nuclear weapon states, which they are not now committed to do.

20. The three states should not be rewarded with trade in nuclear power reactors, but should receive cooperation to strengthen nuclear material security and reactor safety.

### **Conclusion**

The new proliferation challenges make it clear beyond denial that the present nonproliferation regime needs fixing. This is a time that demands systemic change: a new strategy to defeat old and new threats before they become catastrophes. Only by forging this balance of obligations involving all states and all actors can we erect a defense in depth to the new and old dangers from the spread of nuclear weapons.

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International Conference on

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AND  
NUCLEAR PROLIFERATION**

**ROME, 10-11 JUNE 2005**

Draft by

**Riccardo Redaelli**  
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**The Iranian Nuclear Program and  
the West: from Reactive to Effective  
Policies  
(DRAFT VERSION)**

***Maurizio Martellini – Riccardo  
Redaelli***

***Landau Network – Centro Volta  
(LNCV)***



# Summary

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- ✦ To really solve the Iranian nuclear puzzle, the West should not focus only on the 'technicalities' of the Iranian nuclear program;
- ✦ Simply 'negative' answers, such as regime change, pre-emptive strikes, unconditioned halting of the enrichment program do not represent a durable solution;
- ✦ Instead, it should address Iranian points of concerns, national interests and aspiration;
- ✦ That will be an impossible task without a new regional security order which positively consider all the elements of concerns and fears of the actors involved.

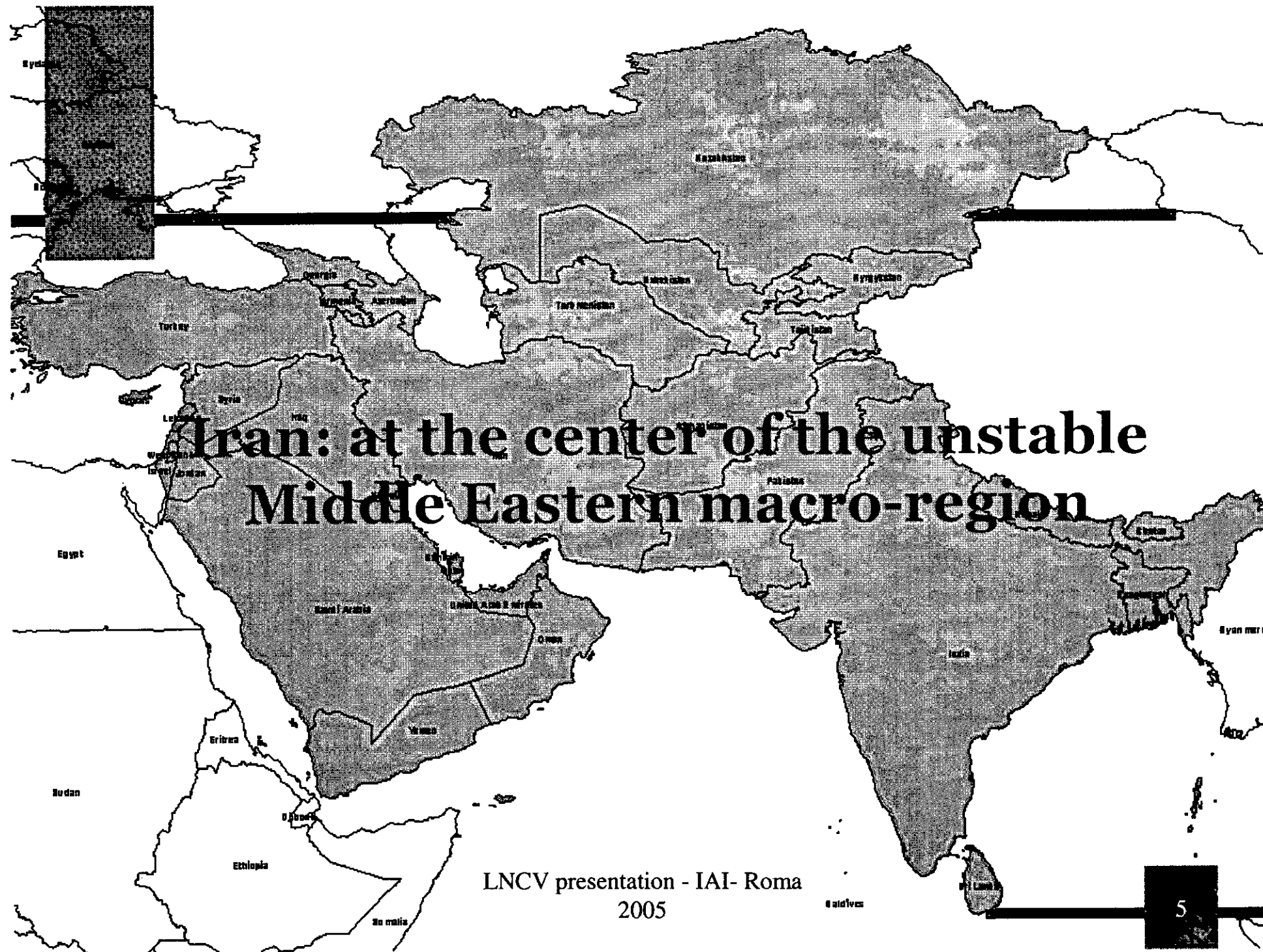


# The Iranian Nuclear Program

- ✦ *The Formal Legal Frame:* Iran is an NPT member state, signed the Additional Protocol, no 'definitive smoking gun' found by IAEA inspectors, legal rights of NPT members.
- ✦ *The Real Perceived Frame:* Iran during the last 20 years has developed and tested all the elements necessary for an effective nuclear program. In other words, it has left the 'door open' for crossing the nuclear threshold (nuclear status as political status and defensive needs)

# The Debate on the Iranian Nuclear Program

- ✦ In 2002, revelations about a 'covert program' with omitted information to IAEA for the last 18 years;
- ✦ Since then, IAEA 'special file' with inspections. More evidences after Iran signed the 'Additional Protocol' in late 2003;
- ✦ However, no 'smoking gun' for the UN SC;
- ✦ Great emphasis to enrichment independence (dual use technology);
- ✦ Russia has slowed down her activities in Bushehr, which is to be fitted with uranium bar in Dec 2005;
- ✦ Enrichment-related activities has been suspended. Iran wants to distinguish between 'real enrichment' and 'research activities' at Natanz.



# Iran: at the center of the unstable Middle Eastern macro-region

LNCV presentation - IAI- Roma  
2005

# Iranian Points of Concerns and Security Challenges

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- US 'true' goals towards Iran, and Tehran's fears about 'regime change' policies;
- Iran weak Armed Forces;
- The pariah state syndrome which exasperate Iran positions;
- Pre-emptive strikes by Israel and/or US against its nuclear facilities;
- Willingness to deal by the great part of the political factions, but fears to be domestically de-legitimated.

# The Wide Arc of Instability surrounding Iran

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- Afghanistan: again a failing state?;
- Pakistan and its underground “talibanization”;
- The Iraqi quagmire;
- The Road Map and the Iranian ideological stance against Israel?;
- US hegemony in the Gulf;
- US military presence all around Iran;
- The dispute over the Caspian Sea legal status;
- Perception of isolation and unfair treatment.

# A Matrix of Constants in Iran's Foreign Policy

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- *There are four constants in Iran's foreign policy:*
  - Iranian geopolitics;
  - Iran's large energy resources;
  - Deep attachment to political independence and national sovereignty;
  - Iranians' cultural attention for Western science, technology, and culture.

# How to deal with the Iranian Nuclear Program

- ✦ Simply 'negative' answers do not represent a long term effective answers;
- ✦ Granting some form of 'existential' security to the regime;
- ✦ Recognizing Iranian regional role without rhetoric and prejudice, i.e.: favour an informal arrangement for regional security;
- ✦ Coordinate policies with EU/Arab/regional states for building security measures and increasing bilateral/multilateral economic, political, etc. integration policies.

# The negotiation Format

- 3-UE/UE formula:  
launched on Fall 2003  
failed in 2004;
- New negotiations in 2004-5, stronger frame and better results;
- ‘May crisis’: a controlled crisis for gain time (NPT conference, Iranian elections, and so on);
- Weak points:
  - too narrowly focused on the enrichment dispute;
  - Problems in assembly credible ‘rewards’ package for the deal;
  - They recognized in principle the Iranian right to enrich. Now they want ‘irreversibility’.
  - US is watching from outside. Problems of involving formally Russia (Iranian nuclear supplier).



# The proposed G-8 Format

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- ✦ G-8 formula includes also Italy, Russia and Japan, countries with strong economic, energetic and political links with Tehran;
- ✦ In particular, tough unofficial participation of Russia in the EU3 negotiations already exists, it is important its formal and explicit participation;
- ✦ US in a G-8 formula will be 'inside' the negotiations, tough not directly;
- ✦ Arrangement of a complete External Nuclear Fuel Cycle for Bushehr (now only at Russia – Iran bilateral level);
- ✦ It is not antagonistic to the UE deal, but a follow up for reaching a real regional stabilization.

# Multinationalization of Nuclear Fuel Cycles without Irreversibility

- # A project for meeting both the security and independence needs of the Iranian energy program as well as giving guarantees for the front and back ends of a nuclear fuel cycles;
- # The extension of external enrichment services to Iran with additional provisions in energy security guarantees;

# Multinationalization of Nuclear Fuel Cycles - II

- ✦ “*Bringing EUODIF to Natanz*”. Iran already has a roughly 10% share in EUODIF. A possible proposal might, therefore, be *to partner* the Natanz asset with the EUODIF complex facilities, by establishing an EU-Iran joint venture for Natanz itself, as well as by endorsing common security and safety practices therein under the IAEA Safeguards;
- ✦ Clearly EUODIF should have all the legal rights and sufficient stakeholders to balance the Iranian share in this new EU-Iran uranium enrichment Consortium at Natanz.

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Draft by

**Darryl Howlett**  
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## North Korea: a non-proliferation test case “The dogs bark, but the caravan moves on”<sup>1</sup>

In January 2003, North Korea withdrew from the NPT, removed the monitoring devices installed by the International Atomic Energy Agency (IAEA) on the Yongbyon nuclear complex and ejected the IAEA's safeguards inspectors.<sup>2</sup> On 27 September 2004 North Korea claimed to have weaponized. This claim was repeated on 10 February 2005 at the time North Korea announced it was suspending for an indefinite period its participation in the six party talks involving China, Japan, Russia, North Korea, South Korea and the United States. More recently, reports have indicated that North Korea is preparing for an underground nuclear test.

If weaponization continues, this will represent a serious challenge to regional security in Northeast Asia and to the Treaty on the Non-proliferation of Nuclear Weapons (NPT). A pessimistic outlook, if the de facto nuclear proliferation by North Korea continues, could see further 'proliferation chains' in the region and beyond, the possibility of conflict on the Korea Peninsula, and spell further erosion or even collapse of the NPT.<sup>3</sup> An alternative conclusion, based on a resolution of the current crisis leading to the dismantlement of North Korea's nuclear programme, would serve not only to re-invigorate the denuclearization process for the Korean Peninsula that began fifteen years ago but also global efforts to stem proliferation. It is the latter of these two scenarios that forms the guiding beacon for this analysis, although it is the former that casts a foreboding shadow if a favourable outcome is not achieved.

International law is based on the expectation that any state entering an international legal treaty will fulfil its obligations. North Korea has disclosed its intent to abrogate the NPT and pursue a nuclear weapons capability as a result of its 2003 notification of withdrawal: this must be the interpretation to be drawn from North Korea's statements and activities. This is in violation of both the spirit and the letter of the obligations North Korea has assumed. The possibility that some states might use international agreements as a cover for clandestine activities to pursue weapons procurement and development was highlighted in the 2004 UN 'Report of the High-Level Panel on Threats, Challenges and Change'.<sup>4</sup> If ways are not found to respond to such situations, then the credibility of global non-proliferation and disarmament efforts would be severely compromised and other states might decide that this is an appropriate course of action.

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<sup>1</sup> This is a quote taken from *Gone with the Wind* by Kang Sok Ju, Chief North Korean negotiator to the Agreed Framework talks on his insistence 'that rejoining the NPT was impossible, stubbornly reiterating Pyongyang's willingness to brave all consequences, even economic sanctions', quoted in Joel S. Wit, Daniel B. Poneman, and Robert L. Gallucci, *Going Critical. The First North Korean Nuclear Crisis*, Washington D.C: The Brookings Institution, 2004, p. 56.

<sup>2</sup> Braun and Chyba, 'Proliferation Rings. New Challenges to the Nuclear Nonproliferation regime, *International Security*, vol. 29, No. 2, (Fall 2004), p. 10 quoting 'Fact Sheet on DPRK Nuclear Safeguards', Vienna: IAEA, May 2003

<sup>3</sup> The notion of 'proliferation chains' comes from Lewis A. Dunn and William H. Overholt, 'The Next Phase in Nuclear Proliferation Research', research note, *Orbis*, Summer 1976, pp. 497-523.

<sup>4</sup> 'Report of the UN High-Level Panel on Threats, Challenges and Change', (New York: United Nations, 2004)

Related to the issue of North Korea's withdrawal from the NPT is what the objective(s) of non-compliance procedures should be in this case: to ensure a return to the *status quo ante* without any apparent reward for non-compliance; to achieve the same objective but at the cost of undermining global non-proliferation efforts by offering positive benefits for a return to compliance; or to punish the non-compliance in order to deter others by acts such as the forced dismantlement of all nuclear facilities. Finally, what should be the objective when a return to the *status quo ante* appears impossible, with or without rewards?<sup>5</sup>

North Korea's activities over the past decade and a half also highlight shortcomings in the global treaty-based approach to dealing with proliferation. In response to this, additional measures have been introduced through the G8, the Proliferation Security Initiative and Cooperative Threat Reduction efforts. More will be required if the current dynamics of nuclear proliferation are to be addressed. As one policy paper has concluded, there is a need to develop a spectrum of incentives to dissuade those attempting to develop a nuclear weapons capability and establish more robust responses should dissuasion fail.<sup>6</sup> Thus, in the case of North Korea, it will also be necessary to prepare, 'for the possibility that North Korea is unwilling to abandon its nuclear capabilities by reinforcing the diplomatic and military capabilities in the region with a view to enhancing deterrence and stability on the Korean peninsula and reducing incentives for other countries to follow North Korea's nuclear lead'.<sup>7</sup>

### North Korea's withdrawal from the NPT

Article X.1 requires that for a state to withdraw legally it must: give notice of withdrawal to all parties to the NPT; give notice of withdrawal to the United Nations Security Council; provide a statement of the extraordinary events which it considers to have jeopardized its supreme interests; and, provide 90 days notice of withdrawal. This Article became the focus of attention when North Korea first announced in 1993 it was withdrawing from the NPT but later rescinded its action, and in 2003 when it withdrew again. Is this a unique situation or a precedent that other states will follow?

North Korea withdrew from the NPT while non-compliant with its safeguards obligations. North Korea 'suspended' its earlier withdrawal and claimed it was in a 'special status' under the Treaty. When, on 10 January 2003, North Korea again issued notice of withdrawal it fulfilled the 90-day notice required to enact this obligation but did not offer an explanation of what extraordinary event(s) had led it to take this action. The question of what happens in situations where a state withdraws from the NPT without any proven non-compliance by other parties was not considered at the

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<sup>5</sup> For a discussion of compliance issues see: Serge Sur, ed., *Disarmament and Arms Limitation Obligations: Problems of Compliance and Enforcement*, (Geneva: UNIDIR/Dartmouth Publishers, 1994); Brad Roberts, 'Revisiting Fred Ikle's 1961 Question, "After detection—What?"', *The Nonproliferation Review*, Spring 2001

<sup>6</sup> *The New Partnership: Building Russia-West Cooperation on Strategic Challenges*, Frances G. Burwell, rapporteur, Policy Paper, April 2005, Atlantic Council of the United States, p. 11.

<sup>7</sup> George Perkovich, Jessica T. Mathews, Joseph Cirincione, Rose Gottemoeller and Jon B. Wolfsthal, *Universal Compliance. A Strategy for Nuclear Security*, Carnegie Endowment for International Peace, 2005, p. 188. See also, Gary Samore, 'The Korean Nuclear Crisis', *Survival*, vol. 45, no. 1, Spring 2003, pp. 7-8.

time of the drafting of the Treaty but has become central since North Korea's recent actions.<sup>8</sup>

At the 2005 NPT Review Conference, Luxembourg, on behalf of the European Union, tabled a Working Paper designed to clarify the consequences of withdrawal.<sup>9</sup> The EU paper was divided into four parts. Part I dealt with the wording of Article X and stated that although it was a states' sovereign right to withdraw from the Treaty, there was a need for the Conference to consider what the consequences of this were. Part II called for the Conference to 'reiterate' the legal obligations of Article X. These included that a "notice of withdrawal" (to be provided three months in advanced of intended withdrawal and containing details of the extraordinary events that have prompted it), must be given in writing to all parties to the Treaty and to the President of the UN Security Council. Additionally, the start date for such a withdrawal would be the 'date of transmission' to all relevant parties.

In Part III, further measures were suggested. These included that: on receipt of a notice of withdrawal, the Depositary States should initiate 'a consultation process of interested parties to explore ways and means to address the issues raised by the notification of intent, **taking also into account the state of compliance of the notifying party with its safeguards undertakings by IAEA**'; the UN Security Council was the final arbiter in cases of withdrawal and for that body to assess the causes of withdrawal, which under Article X have to be "related to the subject matter of the Treaty"; and, the deliberations of the Security Council should involve the possibility of requesting a 'special inspection of the notifying party'.

Finally, Part IV dealt with measures associated with the 'effects of withdrawal'. This section called on the Review Conference, among other things, to: reiterate 'the principle whereby a State will remain internationally liable for violations of the Treaty committed prior to withdrawal'; affirm 'that a withdrawal from the Treaty could in a given case constitute a threat to international peace and security'; and that 'any nuclear materials, facilities, equipment and technologies acquired from third countries' should be frozen, dismantled, not transferred and remain subject to IAEA safeguards.

Other papers and statements also referred to the issue of withdrawal from the Treaty. The statement by the United States referred to the central role of the UN Security Council in cases of withdrawal. It also called for the Council to examine the "extraordinary events" that prompted the action and for that body to consider: 'the possibility of alternative measures short of withdrawal to address and resolve the circumstances cited by the party'; and, 'the full range of options provided by the

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<sup>8</sup> Darryl Howlett & John Simpson, Harald Muller and Bruno Tertrais, edited by Burkard Schmitt, *Effective non-proliferation. The European Union and the 2005 NPT Review Conference, Chaillot Paper, No. 77*, Institute for Security Studies, Paris, April 2005.

<sup>9</sup> 'Withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons', European Union common approach, Working Paper submitted by Luxembourg on behalf of the European Union. *NPT/CONF.2005/WP.32*, 10 May 2005



Charter and warranted by the circumstances of the case'.<sup>10</sup> The statement included proposals for the IAEA to continue its safeguarding role in the withdrawing state, the suspension of technical assistance, and 'prompt reporting' of 'any outstanding safeguards or other compliance concerns'.

The Working Paper submitted by Australia and New Zealand on Article X contained direct reference to action by the UN Security Council in the event of withdrawal.<sup>11</sup> This Paper proposed that the Council should have an automatic and immediate right to consider the circumstances surrounding withdrawal and for that body to deal with it appropriately.

Discussion of Article X at the Review Conference occurred in a Subsidiary Body to Main Committee III. The Statement by Japan referred to withdrawal as 'extremely serious', with the most serious case being 'a State's withdrawal from the Treaty after having developed nuclear weapon capabilities under false pretenses'.<sup>12</sup> In reference to the papers tabled by the EU, and by Australia and New Zealand, Japan expressed reservations in the proposals contained in them and called for measures that would serve both as a deterrent to withdrawal and for a rapid response in the case of such an event. Japan considered that measures requiring amendment to the Treaty would, 'not be realistic'. Instead, effort should be directed towards 'raising the cost of withdrawal rather than elaborating procedural steps before the withdrawal'.

The Statement by the Republic of South Africa on withdrawal made reference to the EU working paper submitted on the issue.<sup>13</sup> South Africa was concerned that parts of the working paper would require amendment to the NPT:

South Africa views the first Parts I and II of this Working Paper as dealing with procedural aspects of withdrawal and in our view does not constitute an amendment of the NPT. However, Parts III and IV are more substantive, and if endorsed could be regarded as constituting an amendment to the Treaty.

Additionally, South Africa considered that it was not the intention of the drafters of the Treaty to discourage withdrawal and penalise such an action if this occurred. Rather, the Treaty expressly allows a state to withdraw as an 'exercise of its sovereign authority in certain defined circumstances'. Thus, to seek additional measures penalising withdrawal would require an amendment as allowed under the procedures in Article VIII of the Treaty.

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<sup>10</sup> Statement by Sally Horn, The Delegation of the United States of America to the 2005 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons, Main Committee III, Article X, New York, May 2005,

<sup>11</sup> Working paper on article X (NPT withdrawal) submitted by Australia and New Zealand, *NPT/CONF.2005/WP.16*, New York, May 2005.

<sup>12</sup> Statement by Mr. Takashi Nakane, Deputy Director-General, Non-Proliferation and Science Department, Ministry of Foreign Affairs, Representative of Japan to the NPT Review Conference in 2005 At the Subsidiary Body of Main Committee III, 20 May 2005.

<sup>13</sup> Statement by The Republic of South Africa on The Issue of Withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons in the Subsidiary Body Established in Main Committee III, New York, 20 May 2005.

Other parties expressed concerns about the impact that focusing discussion solely on Article X, and those states considering withdrawal, would have on Article IX relating to the commitment to attain universality of the Treaty. Thus, the issue of withdrawal also gave vent to the tensions in the NPT community between maintaining the integrity and cohesion within the Treaty and attempts to ensure its universality by encouraging India, Israel and Pakistan to become a party.

Because there was no final document at the 2005 Review Conference and little time was spent at the Conference discussing the initiatives proposed to clarify withdrawal, uncertainty remains on this issue. The EU has developed a common position, although the EU proposals for withdrawal have been subject to different interpretations. Other working papers and statements also referred to the serious nature of withdrawal, so the question of how to respond to notification in such instances and what might be done to deter it remains a vital issue for international peace and security.

### **Understanding North Korea's strategic culture and security concerns**

What has also been suggested in the context of North Korea is for efforts to determine 'whether and under what conditions North Korea is willing to relinquish its nuclear capabilities'.<sup>14</sup> Gaining an understanding of North Korea's strategic culture may be a guide to its negotiating behaviour and nuclear intentions, but due to the nature of the country it is not an easy task. The question it also raises is whether there is any real prospect for a change to North Korea's position on NPT withdrawal and nuclear weapons development?

Perceived threats to North Korea's existence are regarded as a key element of its strategic consciousness and as a rationale for the nuclear programme. These threats may emanate from military, cultural or economic sources. North Korea's sense of international isolation and uncertain security relationship with Russia and China, compared to the Cold War period, are linked to this. Leadership continuity and regime survival have equally been viewed as a principal motive force guiding strategic policy in North Korea.<sup>15</sup>

Finally, at the heart of North Korea's outlook is the *juche* philosophy, which seeks self-reliance from all outside influence. This philosophy also has implications for the nuclear programme. During the 1993-1994 crisis, for example the issue of 'self-reliance versus dependence on the outside world' was at the heart of a debate within North Korea between "conservatives" and "realists".<sup>16</sup> Consequently, it has been suggested that the principal driving force stemming from this is the determination

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<sup>14</sup> Perkovich, Mathews, Cirincione, Gottemoeller and Wolfstal, p. 187)

<sup>15</sup> refs here

<sup>16</sup> Wit, Poneman and Gallucci, *op.cit.*, pp. 75-6

of the North Korean leadership to obtain a security assurance from the United States that it 'will not launch a preemptive or preventive military attack' against it.<sup>17</sup>

Another factor could be the relationship between North Korea's conventional forces and the nuclear programme. North Korea is considered to have more than a million personnel under arms and additional numbers in reserve forces. This is thought to have a sizable impact on the state's economy, with estimates of the cost ranging from 20-30 per cent of the GNP. Reports have suggested that the conventional forces may be subject to cuts. Thus, one factor to consider is that the nuclear weapons programmes is to compensate for reductions in conventional forces.<sup>18</sup>

In what ways does this strategic culture influence North Korea's negotiating behaviour? It has been suggested that North Korea has a 'distorted worldview and warped expectations about how other countries will respond to its actions'.<sup>19</sup> During the negotiations of the 1994 Agreed Framework the US delegation developed the following template for understanding North Korea's negotiating behaviour:

First, "impossible demands" frequently became possible to meet after the North Koreans suddenly took, in their words, a "bold step" to resolve problems they themselves may have created. Sometimes they simply stopped raising an issue; silence often meant consent. Second, positive suggestions early on or accepting language from Pyongyang's proposals kept the North Koreans focused on solutions, short-circuiting their inclination to engage in endless arguments. They rarely raised the ante when the Americans pursued this approach. Third, as in most negotiations, the real work was done in small informal meetings where possible solutions could be explored without the awkwardness of onlookers. Finally, Kang had a variety of ways to signal he was in negotiating mode, by emphasizing common points, presenting differences in a neutral fashion and speaking "frankly", and often ending meetings on an upbeat note.<sup>20</sup>

Subsequent observations of North Korea's negotiating behaviour indicate a possible tactic of using false alarms to garner concessions. In 1998 there was concern that North Korea had embarked on a clandestine nuclear programme at Kumch'angri in violation of the Agreed Framework. The United States was granted access to the site in May 1999 and May 2000 in return for food aid and an easing of economic sanctions.<sup>21</sup> Consequently, because 'no evidence was found of the suspected

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<sup>17</sup> Michael Horowitz, 'Who's Behind That Curtain? Unveiling Potential Leverage over Pyongyang', *The Washington Quarterly*, vol. 28, No. 1, p. 25.

<sup>18</sup> David Sanger, 'North Korea Says It Seeks to Develop Nuclear Arms', *New York Times*, June 10, 2003, p. A9, quoted in Michael O'Hanlon and Mike Mochizuki, 'Toward a Grand Bargain with North Korea', *The Washington Quarterly*, vol. 26, no. 4, 2003, p. 14 and endnote 18

<sup>19</sup> Daniel A. Pinkston and Phillip C. Saunders, 'Seeing North Korea Clearly', *Survival*, vol. 45, no. 3, Autumn 2003, p. 80.

<sup>20</sup> Wit, Poneman and Gallucci, *op.cit.*, p. 61

<sup>21</sup> Jung-Hoon Lee and Chun-In Moon, "The North Korean Nuclear Crisis Revisited: The Case for a Negotiated Settlement", *Security Dialogue*, vol.34, no 2, p. 142.

constructions...North Korea may have played up the Kumch'angri scare to exact concessions from the United States'.<sup>22</sup>

The 1993-4 crisis was resolved by diplomacy but a military solution was considered seriously by the United States. The plan was to destroy the Yongbyon facility and end the plutonium programme; but the dilemma confronting military leaders was that if the fissile material had been moved to unknown locations, possibly underground, the problem would not be resolved - although the option would buy time.<sup>23</sup>

### **The role of the Six Party talks**

Solving evolving nuclear situations by developing regional initiatives was also a feature of papers at the 2005 NPT Review Conference. Attention is therefore likely to focus on the possibilities for restarting these talks. Additionally, it has been proposed that this medium for potentially ending the North Korean nuclear crisis could serve as a vehicle for long-term stability in the region.<sup>24</sup> At the same time, it has been observed that the six parties have not always shared the same objectives or the means to attain them. Others consider that the three rounds of talks held so far in August 2003, February 2004 and June 2004 have yielded little real benefit and may have encouraged North Korea towards greater use of brinkmanship and intransigence on its nuclear programme.

What the talks may have accomplished is an understanding of the points of agreement and disagreement between the parties.<sup>25</sup> The key aspect is whether there is sufficient agreement between China, Japan, Russia, South Korea and the United States on the means to achieve the complete, verifiable, and irreversible dismantlement of the North Korean nuclear programme.<sup>26</sup>

Coordination between the United States, Japan and South Korea has been viewed as a central element of a trilateral approach to the talks. It is reported they have agreed that in addition to eliminating North Korea's nuclear programme humanitarian aid to assist the people of that country is an important aspect of overall policy. Where the three parties have expressed differences is over whether the issue of North Korea's nuclear programme should be taken before the Security Council if it does not return to the talks and also engages in nuclear dismantlement. South Korea is said to oppose such a move while Japan and the United States are in favour.<sup>27</sup>

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<sup>22</sup> Lee and Moon, p. 143.

<sup>23</sup> Wit, Poneman and Gallucci, pp. 102-107.

<sup>24</sup> The suggestion is that this forum could eventually become 'a permanent five power organization that would meet regularly to discuss various security issues in the region...', Francis Fukuyama, 'Re-Envisioning Asia', *Foreign Affairs*, January/February 2005, p. 75.

<sup>25</sup> ref here

<sup>26</sup> ref

<sup>27</sup> *The Japan Times*, 8 May 2005. See also, Working Paper of Japan, *NPT/Conf.2005/WP.22*, para. 69, 4 May 2005

At the talks, the United States has offered provisional multilateral security assurances, non-nuclear energy programmes, heavy fuel oil, progressive removal of economic sanctions, economic, humanitarian and technical assistance, and ultimately, the normalization of relations.<sup>28</sup> These would be concomitant on a clear commitment by North Korea to the verified dismantlement of its' nuclear programme. Former negotiator at the talks, Mitchell Reiss, has commented that:

North Korea has been chasing two irreconcilable goals. One appears to be some modest economic revitalization and acceptance by the international community. The other is nuclear weapons and missile delivery systems. It must recognize...that it cannot have both.<sup>29</sup>

South Korea's approach to the six party talks emphasizes a process of reciprocal moves beginning with a six month freeze on North Korea's nuclear programme.<sup>30</sup> During the initial six-month period, the country would 'declare all of its nuclear programs, cease operation of these programs, seal nuclear materials and facilities and put them under international verification'. The dismantlement would begin 'within the six months of the freeze'. 'At the beginning of the freeze, the other parties would give North Korea security assurances, affirming that they "have no intention to attack, invade or seek regime change," and that they would provide "more enduring" assurances once the dismantlement is complete.

China is both the host of the six-party talks and regarded as a key player in determining the outcome of the North Korean nuclear situation.<sup>31</sup> One analysis of China's more recent position is that it has departed from traditional policy by stressing to North Korea that the nuclear weapons programme must be terminated. The key to this change is considered to be concerns about regional instability and by the country's 'desire to cement economic and strategic linkages with its regional neighbours'.<sup>32</sup>

### **Forging broader global responses**

At the 2005 NPT Review Conference, the EU and other states tabled working papers and statements addressing withdrawal under Article X. The issue was not resolved in New York but the initiatives contained in these documents deserve further attention. The working paper by Australia and New Zealand stated that the intention was to 'support better use of existing provisions and structures' related to the process of withdrawal. The EU proposed a broad-based approach to deal with both the

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<sup>28</sup> 'U.S. Will Accept "Nothing Less" than Total Nuclear Dismantlement in North Korea, Kelly Says', US Department of State, *Washington File*, July 15, 2004.

<sup>29</sup> Mitchell Reiss, 'North Korea's Legacy of Missed Opportunities' Remarks to The Heritage Foundation, Washington D.C. March 12, 2004.

<sup>30</sup> The following is derived from the outline provided in *Ending the North Korean Nuclear Crisis. A Proposal by the Task Force on U.S. Korea Policy*, Cosponsored by The Center for International Policy and The Center for East Asian Studies, University of Chicago.

<sup>31</sup> Anne Wu, 'What China Whispers to North Korea', *The Washington Quarterly*, vol. 28, No. 2

<sup>32</sup> Wu, p. 36.

procedures for withdrawal and the consequences for the state in question if withdrawal went ahead.

Among the proposals at the 2005 Review Conference for clarifying withdrawal was that the role of the UN Security Council should be enhanced in dealing with such cases and in non-proliferation generally. Additionally, while IAEA safeguards have performed well in the case of North Korea by alerting the international community to violations of obligations, the potential for further development remains. This might be accomplished through the creation of an IAEA Special Committee on Safeguards and Verification and by making the existing Comprehensive Safeguards Agreements (INFCIRC 153) plus the Additional Protocol (INFCIRC 540) recognized as the new safeguards standard for all NPT parties.

Another challenge is the potential for 'second-tier nuclear proliferation' as a result of trading in nuclear and other strategic items among developing states and transnational networks.<sup>33</sup> This will require efforts to strengthen existing export control arrangements and for responses to new and emerging suppliers.<sup>34</sup>

Thus, the challenges raised by North Korea's nuclear activities require that a multi-pronged approach to addressing nuclear proliferation be developed. As noted at the 2005 NPT Review Conference in the papers related to withdrawal, there is a continuing need to address the factors that lead states to acquire nuclear weapons and improve regional security. Much has been accomplished, but the task for the 21<sup>st</sup> century is to consider the requirements for global nuclear governance across the spectrum of technologies and actors. This might involve both treaty-based and non-treaty-based approaches, including both supply-side and demand-side responses. It will also be important to maintain international norms of behaviour related to compliance and non-compliance, and to forge 'an international consensus through the UN Security Council that North Korea's actions are a threat to international peace and security' .<sup>35</sup>

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<sup>33</sup> Braun and Chyba, "Proliferation Rings. New Challenges to the Nuclear Nonproliferation Regime", pp. 5-6.

<sup>34</sup> Braun and Chyba, pp. 32-3

<sup>35</sup> *Universal Compliance*, p. 188

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International Conference on

**TRANSATLANTIC SECURITY  
AND  
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**ROME, 10-11 JUNE 2005**

Draft by

**Gerrard Quille**

International Security Information Service Europe, Brussels



# PROSPECTS FOR A COMMON TRANSATLANTIC STRATEGY TO DEAL WITH THE NEW TRENDS IN NUCLEAR PROLIFERATION

## Origins of an EU Strategy

Members of the European Union, shaken by their failure to unite on pre-war strategy toward Iraq, decided in late 2003 that they needed a new approach for dealing with future security challenges and in particular from the threats posed by nuclear, chemical, or biological weapons and materials. The EU-25 adopted the European Security Strategy and to reflect their priority to move forward on WMD non-proliferation they adopted a far more detailed statement including action points in the landmark "Strategy Against Proliferation of Weapons of Mass Destruction"<sup>1</sup> More immediately, three European nations-- France, Germany, and the United Kingdom plunged into negotiations with Iran to prevent a nuclear crisis with Iran from creating a fresh diplomatic debacle. Although on 26 June 2004 the EU-US agreed a joint declaration on the non-proliferation of weapons of mass destruction which underpinned a developing agenda on non-proliferation, the US remained skeptical about the EU approach to Iran.<sup>2</sup>

Post 9/11, Iraq and Madrid there is a recognition in Europe that the threat is evolving and we can indeed see convergence on a transatlantic threat assessment. This includes an understanding for the need to address WMD proliferation and potential threats from terrorism, fragile states, proliferation of materials and technology, cold war cleanup of fissile materials and facilities, and in the context of regional security ongoing concerns of accidental or even deliberate use of nuclear weapons especially in Asia and the Middle East.

However the clear tensions shown over the lead up to the War in Iraq have not disappeared completely. In fact this tension is not just between Europeans and the US it is manifest at the heart of the EU's own historical breakthrough to deal with the non-proliferation of Weapons and Materials of Mass Destruction. In particular the key to strengthening a common transatlantic strategy on non-proliferation will be the ability for EU Member States to continue to support their WMD Strategy adopted at the December European Council in 2003. This will require political will to find a balance between non-proliferation priorities and concrete disarmament initiatives. It will also require sustained political commitment to the WMD Strategy and support for the EU Personal Representative for WMD as well as a continued commitment of resources to implement the list of priorities drawn up by the Office of the PR (OPR).

We can already see a strong European commitment in the 2003 European Security Strategy and in particular the WMD Strategy to support a transatlantic approach to addressing the threat from nuclear proliferation. The EU strategy shows a willingness

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<sup>1</sup> EU Strategy Against Proliferation of Weapons of Mass Destruction (WMD), Brussels, December 12, 2003. See <http://ue.eu.int/uedocs/cmsUpload/st15708.en03.pdf>.

<sup>2</sup> [http://europa.eu.int/comm/external\\_relations/us/sum06\\_04/decl\\_wmd.pdf](http://europa.eu.int/comm/external_relations/us/sum06_04/decl_wmd.pdf)

by Europeans to be innovative and willing to reach out to the US in supporting new initiatives such as PSI, UNSC 1540 and G8 Global Partnership and even contribute to the debate on the use of force. The EU has made good progress, despite the disappointment at the NPT Review Conference, as set out in the Progress Report of the OPR and in the additional list of priorities. This has been supported by recent European Parliament resolutions and an emerging report from its new sub-Committee on Security and Defence (SEDE). However the tension in the original deal within the Union on striking a balance between disarmament and non-proliferation priorities also reflects an ongoing tension in the EU-US transatlantic relationship that has yet to be fully played out and which surfaces at moments such as the NPT Review Conference and indeed in the present US-EU-3 approach to Iran.

These tensions remain and in addressing a common threat assessment they have the potential to frustrate or weaken the emerging common transatlantic strategy.

This presentation will outline where those tensions exist by looking at the NPT Review Conference and highlighting that the recent US change to support the EU-3 initiative with Iran will prove an important testing ground for the European approach and for convincing Washington of the merits of balancing its non-proliferation priorities with the need to build bridges with those favouring more multilateral processes. The presentation will then conclude that a common transatlantic deal for tackling non-proliferation is emerging but at the price of neglecting disarmament obligations (under article VI of the NPT) which may ultimately undermine the sustainability and success of the common approach.

### **The EU at the NPT Review Conference**

Tensions inherent in the transatlantic approach to non-proliferation are indeed at the heart of the EU WMD Strategy and can be highlighted by looking at the EU's development of a common position for the recent and disappointing NPT Review Conference. The EU played a crucial role in securing the indefinite extension of the NPT in 1995 and it helped to achieve the Final Document at the 2000 Review Conference, which contained new and specific commitments by the nuclear-weapon states toward disarmament i.e. the so-called 13 steps.

However, it was unable to act to save the 2005 Review Conference. Although the role of the US, Iran and Egypt have been singled out in particular for this outcome all States Parties including those of the EU have to accept responsibility for this outcome. In fact the EU WMD Strategy clearly makes it a priority to "pursue the universalisation of the NPT, the IAEA Safeguard agreements and protocols additional to them."<sup>3</sup> A new Common Position, which reflected a consensus position and guideline for EU action before and during the conference, was approved by the European Council meeting on April 25-26 2005. It committed the EU and its member states "to strengthen the international nuclear non-proliferation regime by promoting

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<sup>3</sup> EU WMD Strategy, chap. 2, para. 16.

the successful outcome” of the 2005 NPT Review Conference.<sup>4</sup> The Common Position included 43 distinct measures to achieve this goal and mandated the EU Presidency to undertake demarches in order to convince both NPT and non-NPT member states of the EU approach.

### *Non-proliferation*

The EU’s non-proliferation policy emphasizes improving the verifiability of multilateral treaties and “strengthening the enforcement of obligations” in multilateral treaty regimes.<sup>5</sup> Generally speaking, the EU has moved closer to the United States on many compliance issues, including the possible use of force to enforce compliance, but Europeans continue to favor approaches that take place within multilateral frameworks such as the Security Council.

Like the United States, the EU supports the idea of making the 1997 Model Additional Protocol the new safeguards standard under Article III of the NPT<sup>6</sup> and wants the IAEA Board of Governors to adopt such a new verification norm.<sup>7</sup> The EU also will be “working to ensure that the Nuclear Suppliers Group makes the export of controlled nuclear and nuclear-related items and technology conditional on ratifying and implementing the Additional Protocol.”<sup>8</sup> What this means in practice, however, is still being debated.

The EU has also agreed to some U.S. proposals for IAEA reform. The EU now agrees that “countries under investigation for non-technical violations of their nuclear non-proliferation and safeguards obligations should elect not to participate in decisions by the IAEA Board of Governors or the Special Committee regarding their own cases.”<sup>9</sup> This idea had originally been proposed by Bush in February 2004 and was endorsed at the Group of Eight (G-8) summit in June 2004.

EU officials have focused on the inclusion of all new EU member states in the export control regimes, and its bureaucracy will compile a prioritized list of third countries that could benefit from EU assistance vis-à-vis export controls.

A “non-proliferation clause” to be included in agreements with third countries was drawn up and has been included in agreements with Syria, Tajikistan, and Albania as well as between the EU and the African, Caribbean, and Pacific countries—the revised Cotonou Agreement. There are also ongoing discussions to include the clause

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<sup>4</sup> Council Common Position relating to the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. Council of the European Union, Brussels [April 25, 2005]

<sup>5</sup> See EU WMD strategy. See also “Council Common Position 2003/805/CFSP of November 17, 2003 on the Universalization and Reinforcement of Multilateral Agreements in the Field of Non-Proliferation of Weapons of Mass Destruction and Means of Delivery,” art. 2.

<sup>6</sup> “EU-U.S. Declaration on the Non-Proliferation of Weapons of Mass Destruction,” 10761/1/04 REV 1 (Presse 206), June 26, 2004 (hereinafter WMD declaration press release).

<sup>7</sup> NPT Common Position, op. cit. para 17.

<sup>8</sup> EU WMD Strategy, chap. 3, para. 29, A4.

<sup>9</sup> WMD declaration press release.

agreements with the Gulf Cooperation Council and Mercosur countries.<sup>10</sup> As in the negotiations with Iran, this marks one of the few instances where Europe is directly using its economic might to achieve security objectives.

On April 28, 2004, EU member states on the Security Council co-sponsored Resolution 1540 on WMD non-proliferation and contributed actively to its adoption by consensus. Unlike many other states, the commission submitted the Common EU report to the 1540 Committee by the October 28, 2004, deadline.

The EU WMD strategy also embraces the Bush administration's Proliferation Security Initiative (PSI), a political arrangement that calls for the interception of WMD and related goods.<sup>11</sup>

On other issues, including discussions on reforming Article IV rules governing control of the nuclear fuel cycle, the EU has simply decided to put off a clear policy decision until after the conference. Two models are on the table: Washington has proposed the creation of a cartel of states possessing nuclear fuel-cycle technologies by denying all states that do not yet possess operational enrichment or recycling facilities technology the capacity to build such facilities. European states, however, have thus far only agreed to a one-year moratorium on delivery of enrichment and reprocessing equipment to other states.<sup>12</sup> This compromise was reaffirmed at the U.S.-EU summits in June 2004 and February 2005.

IAEA Director-General Mohamed ElBaradei, on the other hand, proposes multinational control of new enrichment and reprocessing facilities.<sup>13</sup> Europeans possess real experience in multinational management of enrichment plants because the only two examples of such facilities—Eurodif, a French-run enrichment facility in which Belgium, Italy, and Spain participate; and Urenco, a multilateral enrichment company jointly operated by Belgium, Germany, and the United Kingdom—are located in the EU. Nevertheless, the EU has not yet taken clear sides on this issue. The EU has highlighted that any decision on this question “should not create new dividing lines among NPT states-parties and should be balanced, maintaining the fundamental bargain underlying the NPT.”<sup>14</sup> The EU's Common Position for the NPT Review Conference recognizes that states “may” have to resort to peaceful uses of nuclear energy, urges “the formulation of guarantees to nuclear fuel services, or to fuel itself, subject to appropriate decision”, and calls for a swift start of deliberations within the

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<sup>10</sup> “‘Non-Proliferation Clause’ to Be Included in Agreements With Third Countries: Countering Proliferation of Weapons of Mass Destruction,” available at <http://ue.eu.int/uedocs/cmsUpload/st14997.en03.pdf>

<sup>11</sup> See “Non-Proliferation Support of the Proliferation Security Initiative,” 10052/04 (Presse 189), June 1, 2004, available at <http://ue.eu.int/uedocs/cmsUpload/st10052.en04.pdf>.

<sup>12</sup> Office of the Press Secretary, The White House, “Remarks by the President on Weapons of Mass Destruction Proliferation,” Washington, DC, February 11, 2004.

<sup>13</sup> Mohamed ElBaradei, “Toward a Safer World,” *The Economist*, October 18, 2003, p. 43.

<sup>14</sup> De Visser statement, para. 34.

IAEA on a report by an international IAEA expert group that was delivered to ElBaradei on February 22, 2005.<sup>15</sup>

One major distinction between the EU strategy and that of the United States is the emphasis it places on the regional security concerns that motivate states to obtain nuclear weapons. Such motives could include enhancing regional standing or countering the capabilities of potential regional foes. The Europeans maintain that regional political solutions will offer the best prospect for states to renounce nuclear weapons and join the NPT. Such an approach is seen as useful in the context of the Iran negotiations to support “compliance,” but it is also recognized as a complementary strategy to support processes for universal membership in WMD regimes.

The EU strategy states that member states must “actively foster the establishment of regional security arrangements and regional arms control and disarmament processes. Our dialogue with the countries concerned should take account of the fact that in many cases they have real and legitimate security concerns, with the clear understanding that there can never be any justification for the illegal development of WMD.”<sup>16</sup>

Yet, deeds have yet fully to match words. Apart from European engagement to resolve the crisis around Iran’s nuclear program, EU engagement on regional proliferation issues has only included modest attention to North Korea. Until the political process associated with the Korean Peninsula Energy Development Organization (KEDO), the international cooperation to supply North Korea with proliferation-resistant light-water reactors, broke down in 2003, the EU supported attempts to resolve the crisis around the North Korean nuclear program. It provided 115 million euros for KEDO and undertook diplomatic missions to Pyongyang, including the visit of the EU-3 in May 2001. For the moment, it seems that the EU has realized that it cannot often be expected to perform the kind of mediating role it has attempted to play vis-à-vis Tehran.

### *Divisions over Disarmament*

Still, the EU policy on non-proliferation has been far more coherent than on issues affecting disarmament obligations under Article VI of the NPT. The establishment of a progressive common policy approach has been blocked by the differences between the two EU states with nuclear weapons—France and the United Kingdom—and other members, including such pro-disarmament countries as Sweden and Ireland. Internal divisions within the EU on disarmament issues have increased. In fact, one could argue that at the NPT the EU’s did not live up to expectation, such as raised by its common position, to be a constructive force at the NPT and it appeared more a microcosm of global divisions on non-proliferation and disarmament between nuclear-

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<sup>15</sup> NPT Common Position, op. cit. paras 27,-29; „Multilateral Approaches to the Fuel Cycle“, Expert Group Report submitted to the Director General of the International Atomic Energy Agency, Vienna, INFCIRC/640, 22 February 2005.

<sup>16</sup> EU WMD strategy, para. 21.

weapon states and non-nuclear-weapon states. Its common position stated that it would “help build a consensus on the basis of the framework established by the NPT by supporting the Decision and the Resolution adopted at the 1995 Review Conference, and the final document of the 2000 NPT Review Conference, and shall bear in mind the current situation ...”.<sup>17</sup> This statement did not even clearly endorse the 13 disarmament steps but we will have to await fuller analysis of the EU’s role at the NPT.

There are also divisions within the EU on some specific issues discussed at the NPT, mostly triggered by the U.S. rejection of some of the 13 steps. On July 29, 2004, the United States announced a change of policy toward the negotiation of a fissile material cutoff treaty (FMCT), a binding agreement to end production of fissile materials for nuclear weapons. U.S. officials argued that it no longer believes that such a treaty could be effectively verified and that it now favors negotiations on a treaty that does not contain provisions on verification.

This change in policy by the United States has shattered the EU consensus to commence FMCT negotiations on the basis of 1995 Shannon mandate, which called for including effective verification measures. But which has been in deadlock for eight-years at the UN’s Conference on Disarmament (CD) along with other arms control treaties. Others such as Sweden insist that the CD negotiate a verifiable FMCT.<sup>18</sup> The EU Common Position has it both ways. It endorses the early start of negotiations in the CD on a “non-discriminatory, universally applicable” FMCT “without precondition” but also mentions the Shannon mandate.<sup>19</sup>

The withdrawal of tactical U.S. nuclear weapons deployed under NATO nuclear sharing arrangements remains a taboo for the EU.<sup>20</sup> Improved transparency and better control of Russian tactical nuclear weapons has been highlighted by several EU member states during NPT preparatory meetings and the Common Position calls “on all States with non-strategic nuclear weapons to include them in their general arms control and disarmament processes, with a view to their reduction and elimination.”<sup>21</sup> But so far the EU is unwilling talk about such weapons deployed on its own territory. NATO enlargement and the withdrawal of U.S. nuclear weapons deployed in Greece have increased the potential for political movement on this difficult issue, but no consensus on a non-nuclear NATO has emerged yet among European NATO members.

Agreement within the EU on some other disarmament issues may be easier to generate. All EU member states have ratified the Comprehensive Test Ban Treaty (CTBT) and are supportive of early entry into force of the treaty. The EU has focused

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<sup>17</sup> NPT Common Position, op.cit., Article 2 (b).

<sup>18</sup> Laila Freivalds, statement to the Conference on Disarmament, Geneva, March 15, 2005.

<sup>19</sup> NPT Common Position, op.cit., para 36.

<sup>20</sup> See Hans M. Kristensen, “U.S. Nuclear Weapons in Europe. A Review of Post-Cold War Policy, Force Levels, and War Planning,” February 2005. See also H. Beach, “Tactical Nuclear Weapons: Europe’s Redundant WMD,” *ISIS*, April 2004.

<sup>21</sup> NPT Common Position, op.cit., para 31.

on encouraging signature and ratification by non-CTBT member states, in particular those of the 44 states whose ratification is necessary for the treaty's entry into force but have yet to do so.<sup>22</sup> However progress on this issue at the NPT suffered the same fate as the others. Given the EU's long-standing engagement in favor of the test ban treaty, its position on this issue will be one important test for Europe's will to articulate an independent position on an important disarmament issue.

In touting its disarmament credentials, the EU can point to its support for the G-8 Global Partnership and similar efforts to secure or destroy former Soviet stockpiles of nuclear, chemical, and biological weapons and related delivery systems. Under the Global Partnership, the United States has pledged \$10 billion over 10 years, and EU G-8 member states (France, Germany, Italy, and the United Kingdom) have pledged a total of 4 billion euros for cooperative threat reduction activities.

The EU through the European Commission has committed a further 1 billion euros, but most analysts project that, if spending continues at current levels, the EU will only meet half of its pledge. Recently, the European Commission has proposed to stabilize European Community spending on non-proliferation during 2007-2013 with the inclusion of a WMD budget line.

## **Iran**

The first major test for the EU's WMD Strategy came in August 2002 with the revelation that Iran possessed clandestine uranium-enrichment and heavy-water production facilities. This led to an International Atomic Energy Agency (IAEA) investigation and concerns, particularly on the part of the United States, that Iran might be developing nuclear weapons. The resulting IAEA investigation revealed other serious breaches of Iran's safeguards obligations.

Talks between the foreign ministers of France, Germany, and the United Kingdom (the EU-3) and Tehran began in October 2003 as a crisis management exercise. They have subsequently deepened under the Paris agreement struck in November 2004 to replace the botched Tehran agreement and lessons have been learnt from its predecessor's failure. Its terms and scope, for example, were more detailed. In the new agreement, the EU demanded "objective guarantees" that Iran will not misuse its nuclear program for military purposes. By this, the EU means that Tehran should abandon enrichment and reprocessing activities. In return, the EU offered more specific political and economic inducements, including on the resumption of talks on a Trade and Cooperation Agreement. In addition, the duration of suspension was more clearly defined: "while negotiations proceed on a mutually acceptable agreement on long-term arrangements." During the NPT Review Conference in May the EU-3 managed to maintain Iran's commitment to suspension whilst we await a final position of the

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<sup>22</sup> See "Council Decision 2003/567/CFSP of July 21, 2003 Implementing Common Position 1999/533/CFSP Relating to the European Union's Contribution to the Promotion of the Early Entry Into Force of the Comprehensive Nuclear Test-Ban Treaty."

Europeans after Iranian elections. Still, no breakthrough has been achieved on the central question of whether Iran will give up its capacity for enrichment and reprocessing completely.

A key element of the EU strategy is the use of economic incentives to achieve the political objective of non-proliferation. The process is coordinated and reviewed by a joint steering committee that meets occasionally at the level of political directors. More regularly, three working groups come together to discuss nuclear, technological, and economic cooperation as well as security issues.

To date, the Paris agreement can already be seen as something of a success for European non-proliferation policies. Iran has so far stuck to its part of the deal and suspended enrichment and reprocessing and related activities. Consequently, the agreement has already bought valuable time to seek a sustainable solution. Whether the talks will result in such a long-term solution of the dispute remains to be seen.

As the talks move forward, the Europeans find themselves facing two problems that might limit their broader ambitions to establish an independent and coherent non-proliferation policy. First, unlike the United States, the EU has few incentives to offer. Iran's wish list is likely to include the lifting of U.S. sanctions, the delivery of nuclear fuel and nuclear technology, and security assurances, all of which the United States is better positioned to address than the EU. It can thus be seen as a success for Europeans that, following his visit to Europe at the end of February 2005, President George W. Bush initiated a review of the White House's position toward the European talks. As a result, the United States now supports the idea of offering incentives to Iran. Washington has agreed to license civilian aircraft parts for sale to Iran on a case-by-case basis and not to object to Iranian membership in the World Trade Organization. If Washington were to stick to its word, this instance would be one of the few when Europeans have successfully drawn Washington closer to its negotiating position. Ironically, perhaps the greatest "carrot" Europe may have to offer Iran is bringing the United States to the bargaining table.

Second, the EU's insistence that Iran give up its plans to construct a closed nuclear fuel cycle goes beyond its traditional preference for solving non-proliferation problems within the framework of multilateral treaties. The NPT provides no legal basis for the European's demand that Iran abandon enrichment and reprocessing activities. After all, Article IV of the treaty provides for the "inalienable right" of non-nuclear-weapon states to research, develop, and use nuclear energy for non-weapons purposes.

### **Conclusion: Towards a common Transatlantic Strategy on non-proliferation**

A rich agenda is developing whereby one can see a convergence of EU and US approach to tackling nuclear proliferation. This has been one positive outcome of an otherwise destructive approach by the Bush administration to dealing with the new threats. The Bush administrations approach has forced Europeans to re-examine the failings of multilateral approaches embedded in the non-proliferation treaties and set a



positive common strategy for dealing with the threats. The burden of proof has shifted from statements of support to the multilateral non-proliferation regime to setting out concrete actions for achieving multilateral non-proliferation. In fact this reflects a similar process undertaken at the UN under the High Level Panel on Threats, Challenges and Change and captured in UN Secretary General Kofi Annan's response entitled 'In larger freedom: towards development, security and human rights for all'. Where in the latter he underlines the importance of multilateral agreements in safeguarding international peace and security in the field of nuclear, biological and chemical weapons as well as recent efforts to supplement shortfalls such as in Security Council Resolution 1540 (2004). The EU arrived at this position with its WMD Strategy in December 2003.

However, article VI disarmament objectives are generally viewed as being neglected even more so after the outcome of the NPT Review Conference. In this respect the transatlantic approach could be strengthened by providing clear leadership on disarmament matters and taking important early steps to ratify the CTBT, begin negotiations on the FMCT including the so-called 'shannon mandate', renewing negative security assurances (removing the ambiguity creeping into nuclear postures in response to Chemical and Biological Weapons), withdrawal of all (US and Russian) tactical nuclear weapons from Europe....

The nuclear non-proliferation agenda is developing well in particular on UNSC 1540, PSI, G8 Global Partnership. However, even this agenda could do with a little critical reflection in order to strengthen it. At present there appears to be an 'either non-proliferation or disarmament' debate going on with extreme views defending either end of the spectrum. The transatlantic approach could be strengthened by examining the non-proliferation agenda in order to strengthen it. This could involve examining:

- the G8 Global Partnership, with the development of analysis on progress in implementation and lessons learnt in the current largely bi-lateral approaches to dealing with Russia. This might help resolve US problems with indemnifying personnel and it would be useful if Russia was more transparent on the extent of the cold war stockpiles, including bio-weapons materials and facilities, to be addressed.
- UNSC 1540 has been widely welcomed but its current 2 year mandate is almost half way through and its is limited to monitoring received reports. It would be worth examining its limited mandate with that of the Counter Terrorism Committee which has also been provided with the resources to send teams to countries to verify the accuracy and validity of their reports.
- in the European context whether the WMD Strategy is adequately resourced in order to achieve the priorities set out in the list of the Progress Report from the OPR.

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