

# **REVIVING THE DISARMAMENT AND NON-PROLIFERATION AGENDA OF THE NUCLEAR NON- PROLIFERATION TREATY**

## **SOME REFLECTIONS ON GLOBAL AND REGIONAL INITIATIVES**

**By**

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### **Introduction**

The subjects of Non-Proliferation of Weapons of Mass Destruction (WMD) and Nuclear Disarmament are lugubrious to say the least and ridding the world of these awfully offensive materials has taxed the minds of many concerned and sensible citizens of the world for several decades. The process of committing to the Nuclear Non Proliferation Treaty which began in 1968 was a huge leap of faith. It provided a tripod of primary goals, (1) preventing the further spread of nuclear weapons, (2) facilitating international cooperation in the peaceful uses of nuclear energy under International Atomic Energy Agency (IAEA) safeguards, and (3) encouraging negotiations on nuclear arms control. At the last count some 187 nations had ratified it. This illustrates the broad support the Treaty draws from all corners of the world community. Unfortunately there is now a considerable body of contemporary evidence to suggest that the subjects of Non Proliferation and Nuclear Disarmament are becoming ever more difficult to address with any prospect of making the world a safer place, notwithstanding the statesmanlike performance of so many in previous years. The organisers of the 20<sup>th</sup> Asia Pacific Roundtable have posed six challenging and extremely complex questions concerning present-day issues regarding Nuclear Disarmament and Non Proliferation. Unfortunately the subjects themselves are huge and require a much deeper analysis and comment than can be covered in this short paper. Nonetheless, the following paragraphs are a brief discussion of these questions and the final part of this paper draws together some ideas and suggestions that others may wish to pursue with a view to upholding the broad objectives and intentions of the NPT itself.

**Question One** - With so much attention on non-proliferation, is the disarmament agenda of the NPT dead? Have the Nuclear Weapon States (NWS) reneged on their NPT Article IV obligations to work towards complete nuclear disarmament?

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The subject of non proliferation and measures to impose greater control over the spread of the means of producing nuclear weaponry has certainly been high on the agenda of the United Nations and important powers in recent times. Several measures have been constructed in an effort to limit proliferation including the UN Security Council Resolution 1540 which was unanimously adopted by the General Assembly on 28 April 2004. The thrust of this provision is to criminalise the proliferation of WMD and to place much firmer controls on the export and physical security of materials used in their construction and manufacture. A particularly important element of this Resolution is that it applies to all states including those who are not party to the NPT. Therefore India, Pakistan, the DPRK and Israel are bound to uphold it. It is a useful plank on which to focus concern about WMD proliferation.

The Proliferation Security Initiative (PSI) is another control measure initiated by the USA essentially to prevent and to interdict the movement by whatever means, of illegal movement of WMD componentry. This is a practical arrangement and unlike the UNSC Resolution 1540 has not received universal support - indeed there are some criticisms that it is indeed not entirely licit and is aimed principally at the DPRK. The PSI may well have constrained the illegal movement of WMD on the high seas but shipments can also be transferred by air cargo and across routes where PSI signatories have no jurisdiction. Apart from issues of legality the potential to move WMD material by air illustrates a significant weakness in the PSI in physically controlling proliferation.

Although there is now perhaps greater understanding of the PSI and what it is intended to achieve by regional governments at least one trenchant critic, Mark Valencia, has suggested some ideas to make it more potent:

Bringing it into the UN system would rectify many of these shortcomings by loosening US control, enhancing its legitimacy, and engendering near universal support. Whether or not the PSI is formally brought into the UN system, its reach and effectiveness could be improved by eliminating double-standards, e.g., when it comes to India, Pakistan and Israel, and increasing transparency. Needed is a neutral organization to assess intelligence, co-ordinate and fund activities, and make decisions regarding specific or generic interdictions. Such an organization could provide more objective and legitimate definitions of states “of proliferation concern” and “good cause” (for interdiction). It would also help avoid erroneous judgments, resolve disagreements, provide consistency and a concrete structure and budget, and ensure compliance with international law---or be a vehicle for any agreed changes therein.<sup>1</sup>

It is clear from these remarks that Mark Valencia is also targeting wider issues of non-proliferation and disarmament.

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<sup>1</sup> Mark J. Valencia, “The Proliferation Security Initiative in Perspective”, APS Net, <<http://www.nautilus.org/fora/security/0641Valencia.html>><http://www.nautilus.org/fora/security/0641Valencia.html>

Unfortunately both UNSC Resolution 1540 and the PSI were probably generated by concerns about terrorists acquiring WMD rather than as a natural progression emanating from the development of the NPT agenda. Neither of them addresses the thorny matter of nuclear disarmament. A recent offering in Foreign Affairs discusses the Rise of US Nuclear Primacy<sup>2</sup> indicating that rather than working to dispose of its nuclear arsenal, the USA is actively seeking a new array of multi-faceted modern nuclear weapons. This a far cry from the heady days of the early 1990s when President George Bush signed the Soviet Nuclear Threat Reduction Act and the START I & II Treaties. It also undermines the work during the Clinton Presidency to strengthen the provisions of the NPT. To single out the USA as one of the five Nuclear Weapon States not working towards nuclear disarmament is unfair as the US arsenal has indeed been reduced, as indeed has that of Russia. However, France and Britain still possess considerable nuclear capability – a recent article in the Bulletin of the Atomic Scientists suggests that as neither of these countries faces any absolute enemies that threaten their existence, they could take up the opportunity offered under Article 7 of the NPT to bilaterally agree to nuclear disarmament. The point of such a dramatic gesture would be because both countries have extraordinary expertise in this field they could take a significant lead in efforts to secure and monitor fissile materials.<sup>3</sup> Such a lead would also influence Chinese strategists to consider the real prospect and benefits of nuclear disarmament more positively.

Although many will be disheartened by the intransigence of the five Nuclear Weapons States and India, Pakistan, Israel and the DPRK to dismantle their nuclear arsenals a beacon of commonsense regarding WMD Proliferation and Disarmament comes from Australia in an important policy statement regarding Practical Responses to New Challenges.<sup>4</sup> This is a significant initiative upholding the precepts of the NPT and one that merits firm regional support.

**Question Two** - How can we effectively have balanced efforts in striving for the goals of the NPT agenda?

The nature of this question suggests a collective responsibility for security on the one hand and that the benefits of using nuclear energy should not be denied to any party, whether within the NPT or not. Contemporary problems of mistrust and suspicion include:

- (a) The ambitions of the DPRK to acquire a nuclear arsenal;
- (b) For Iran to develop a nuclear energy generation capability and perhaps nuclear weaponry;
- (c) For Israel to have a huge nuclear weapon arsenal;
- (d) The further development of India and Pakistan's nuclear weapons and the means of their delivery;
- (e) The uncontrolled supply of uranium and technology; and
- (f) The unilateral and pre-emptive nature of the USA's security policies.

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<sup>2</sup> Lieber, Keir, & Press, Daryl "The Rise of U.S. Nuclear Primacy", in FOREIGN AFFAIRS, March/April 2006, pp 43-54.

<sup>3</sup> Lorna Arnold and Andrew Brown, "Time for a Nuclear Entente Cordiale" in The Bulletin of the Atomic Scientists, September/October 2005, p 76.

<sup>4</sup> See Weapons of Mass Destruction – Australia's Role in Fighting Proliferation, Commonwealth of Australia, Canberra 2005. ([www.dfat.gov.au/publications/wmd](http://www.dfat.gov.au/publications/wmd))

Each of these topics has the potential to destabilise the collective agenda of the NPT. These deep divisions and lack of resolution of the fundamental issues of disagreement are of profound concern to the world community. In addition there are indications that the use of nuclear energy to offset the effects of high oil prices and climate change caused by the burning of fossil fuels is being re-visited. Mr Blair the Prime Minister of Great Britain announced a few days ago that he now favoured the use of more nuclear power stations, as did President George Bush a little earlier. It is likely that some countries previously uncomfortable with the very notion of nuclear energy are now reconsidering. Balanced efforts in striving for the goals of the NPT agenda therefore become ever more problematic as more and more countries now seek to use nuclear energy for power generation. It is after all their “inalienable right” under the terms of the Treaty. A new *modus operandi* that reassures the world community of the peaceful development and application of nuclear technology is therefore required. The IAEA is the appropriate body entity to draw up such a scheme and to implement appropriate control mechanisms and practical safeguards.

The peaceful use of nuclear energy plus the matter of resolving the security concerns of the DPRK and providing transparency is to a large degree what the Six Party Talks are about. Whether or not this vehicle will produce a satisfactory outcome remains to be seen. However, the so-called “sunshine” policy of the previous President of the RoK appears to have started a long but slow thawing of attitudes across the 48<sup>th</sup> parallel. Supporting the Korean people on both sides of the divide in their quest for a long term strategic reconciliation would appear to be an approach worthy of considerable investment by regional institutions.

The current imbroglio between Washington and Teheran over issues of nuclear transparency requires resolution not by military means but rather through a painstaking and orchestrated methodology of diplomacy to include the United Nations and the offices of the International Atomic Energy Agency (IAEA). However, it appears that the International Institute of Strategic Studies has now formed the opinion that “neither diplomacy nor military action to destroy the nuclear facilities [of Iran] was likely to succeed”.<sup>5</sup> It raises the question of why Iran would want to develop a nuclear weapons capability in the first instance. Professor Abbas Amanat a Professor of History at Yale offers some insight when he records that:

We tend to forget that Iran’s insistence on its sovereign right to develop nuclear power is in effect a national pursuit for empowerment, a pursuit informed by at least two centuries of military aggression, domestic meddling, skullduggery and, not least, technological denial by the West. Every schoolchild in Iran knows about the CIA-sponsored coup in 1953 that toppled Prime Minister Mohammed Mossadegh. Even an Iranian with little interest in his or her past is conscious of how Iran throughout the 19<sup>th</sup> and 20<sup>th</sup> centuries served as a playground for the Great Game.<sup>6</sup>

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<sup>5</sup> The Daily Telegraph, “Iranian Nuclear Weapons Inevitable”, Anton La Guardia, Diplomatic Editor, 25 May 2006, p.16.

<sup>6</sup> Abbas Amanat, Iran’s Quest for Power Deep Roots, in International Herald Tribune, Friday 26 May 2006, p. 6.

The issue of Iran's acquisition of nuclear capability whether of a peaceful or nuclear weapon capacity is therefore linked to many factors that to be addressed as part of a much broader agenda and comprehensive solution. However, both the USA and Iran also need to appreciate the opprobrium their performance at last year's Review Conference produced and that other Parties to the Treaty demand they adhere to the rules. Encouragement to engage in meaningful dialogue rather than megaphone rhetoric by either party is essential. That encouragement can come from several quarters including from the Non Aligned Movement, NGOs such as the Middle Powers Initiative and perhaps a re-vamped New Agenda Coalition (NAC). Douglas Roche of the Middle Powers Initiative records that the NAC appears to have lost some of its initial impetus, notwithstanding a strong statement in March 2005 (before the Review Conference) for a strong call for action. Unfortunately the NAC did not make a joint statement after the Review Conference indicating something amiss in its cohesion. Given the lack of representation from this region perhaps Malaysia might also consider joining a re-invigorated New Agenda Coalition. In May last year the Hon. Syed Hamid Albar, Minister of Foreign Affairs of Malaysia made a statement on behalf of the Group of Non-Aligned States Parties to the Review Conference of the NPT in New York, advocating more effort towards non-proliferation and disarmament.<sup>7</sup> An important point he made was that the Non-Aligned Movement made up a significant majority of the States Parties to the Treaty. There is no reason why Malaysia could not also play a similar role with the other seven countries of the original NAC, namely Brazil, Sweden, Ireland, New Zealand, Egypt, Mexico and South Africa.

**Question Three** - What have we learned from the conclusion of the 2005 NPT Review Conference (Revcon)?

Possibly the most perceptive and authoritative analysis and commentary concerning last year's Review Conference was written by Rebecca Johnson of the Acronym Institute for Disarmament Diplomacy.<sup>8</sup> She suggests that a small number of states wanted to keep their own nuclear options as unfettered as possible and therefore indulged in procedural wrangling to avoid making any new commitments. It was perhaps because of the progress made in the earlier conferences that there may have been some expectation of new initiatives arising from last year's conference. However, since the 2000 Review Conference much has taken place to endanger the NPT agenda. The terrorist attack of 9/11 plus earlier unresolved problems resulting in American unilateral defence policies have cast a very long shadow over the whole question of non-proliferation and disarmament. Against this background it is not surprising that last year's Review Conference did not achieve anything of substance. However, the Treaty is still in force and the agreements and commitments made in previous Review Conferences in 1995 and 2000 remain extant. One of the impediments to progress at the Conference in New York, was not so much that most of the time was taken up by procedural issues but rather that the Preparatory Committee Sessions held in each of the four preceding years had not produced a robust agenda agreed by all States Parties to the Treaty. The huge lesson to be learned from last year's disappointing outcome is that the preparatory committee work has to

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<sup>7</sup> Statement by the Hon. Syed Albar Minister of Foreign Relations of Malaysia, New York, Monday 2<sup>nd</sup> May 2005.

<sup>8</sup> Rebecca Johnson, Politics and Protection: Why The NPT Review Conference Failed, Issue No 80, Autumn 2005.

be meticulous and binding. Choosing a person for the Chair who is seen and known to be scrupulously impartial is an extremely difficult task. Although Rebecca Johnson compliments Ambassador Sergio de Queiroz Duarte of Brazil for preventing a public meltdown of the Conference and therefore jeopardising and compromising the Treaty itself, she does offer some critical observations that are worth recording. She asks if “Duarte’s minimalist approach and unflappable calm have been meant to show the P-5 (and especially the United States) that Brazil was sufficiently conservative and pragmatic to be trusted with a seat on the UN Security Council? Or was Brazil, one of the last states to accede to the NPT, seeking to protect its own anomalous and problematic positions with regard to uranium enrichment, the IAEA Additional Protocol and even the CTBT? Uncomfortable though they might be, such questions need to be asked, though it is unlikely they will be answered.”<sup>9</sup>

**Question Four** - What are we to do about states with nuclear weapons that are outside the NPT framework (DPRK, India, Israel, Pakistan)?

This is indeed a vexed question. Each of these states needs to be handled differently. Reference has already been made concerning the DPRK – curiously it may be the easiest problem to resolve inasmuch that the DPRK was once a member of the NPT and with appropriate safeguards for security and other sweeteners could perhaps once again accede. In any case it is unlikely that the quantum of offensive nuclear material may not be that large.

The history of South Asia since the partition of India after independence presents a very different problem – the Kashmir entanglement appears to be intractable - it is however the focus of the animus between both New Delhi and Islamabad. Perhaps there is room for countries of the British Commonwealth to play a role in finding a durable settlement. Whereas China is a member of the NPT (joined 1992) the Indian and Pakistani Governments apparently cannot see the benefits of accession even though the Treaty does provide more security guarantees than otherwise. A Foreign Policy in Review article records that India does indeed possess a significant stockpile of nuclear weaponry and other material that could be used to make some more. However, their technology is as yet not completely reliable and delivery of such weapons somewhat problematic.<sup>10</sup>

Treating these countries as if they are responsible Nuclear Weapon States (NWS) gives them an undeserved legitimacy and probably in the view of both of them and perhaps their contemporary strategic allies the best of both worlds. This is a false logic and should be rebutted. There is some hope that the US Congress will not permit the agreement made between President Bush and Prime Minister Manmohan Singh in March this year to proceed on the grounds that India has not acceded to the NPT. Indeed some 18 Indian-American congressional lawmakers introduced a motion against the nuclear deal.<sup>11</sup> If India now needs to invest considerable resources in nuclear energy, as it says it does, and with the connivance of the Government of the USA then the price of that transfer of technology, fuel and expertise has to be

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<sup>9</sup> Ibid, p.18.

<sup>10</sup> Hallinan, Conn, “Sleight of Hand - India, Iran and the United States”, in *Foreign Policy in Focus*, 19 October 2005.

<sup>11</sup> Animesh Roul in New Delhi for ISN Security Watch (21/04/06). [Indo-US nuke deal in trouble in Congress.](#)

accession to the NPT and with all its safeguards and transparencies – nothing less is acceptable. A similar circumstance applies to Pakistan but is more problematic given the political turbulence and poor economic performance in that nation. A timetable of for India to achieve accession of the PT would be useful.

The question of a permanent peace in the so-called Holy Land is in the interests of all people who want to live there and those whose religious faith is centred there. The quantum of nuclear weaponry in the Israeli arsenal is not known with any great precision publicly, but is likely to be significant. It is likely that the architects of Israel's security strategy firmly believe that possession of these weapons is of a deterrent nature. However, the utility of these arms in what is a geographically restricted area is problematic and may be akin to shooting oneself in the foot if they are used. A guarantee of security from the acquisition or threatened use of nuclear weapons will not produce what Israel's leaders desire. Israel needs encouragement to join the NPT and in doing so will gain more in security terms from the whole of the world community. Nonetheless as we know, peace in that part of the world is as elusive as ever and it is going to take battalions of Solomons to achieve it.

**Question Five** - How do we dissuade states from leaving the NPT, as in the case of the DPRK? Possibly Iran? Do we need to impose greater costs for doing so?

Some of the Treaty's critics suggest that it is flawed because the UN Security Council has not taken any punitive action against states that contravene its provisions. Indeed there are no penalties in the NPT for withdrawal. To consider "greater costs for doing so", in the form of sanctions or other measures will probably make those countries that have defied world opinion and other norms for decades even more obstinate. This sort of imposition fuels pernicious nationalism and deepens the resolve to resist. The DPRK already suffers from the imposition of economic sanctions by the USA and now relies heavily on aid, some of which indeed come from philanthropic charities in the US – an extraordinary situation that probably costs the US more than the DPRK. It seems therefore that sanctions do not have a benign effect. Other less blunt and more subtle instruments of policy should be considered including large investment in tourism, exchanges of research personnel, academic conferences and the like. Exposure to some, not all, aspects of a globalising world could be far more effective than ostracism. The younger generation of Iran (some 60% of the population is less than 30 years of age) will now want to be part of and share in the modern world's benefits. Excluding these people from global society is not in anyone's interest.

**Question Six** - Does the NPT encourage opaque proliferation? If so, does the NPT need fixing?

The answer to this question is in the affirmative. There are several weaknesses in the Treaty that do need to be addressed. There are at least four items that need attention:

- (a) **Article 2.** The essence of the agreement is that all non-nuclear states will not receive, manufacture or otherwise acquire nuclear weapons. However it appears that there have been some transfers between Pakistan and via the A.Q. Khan network to Iran and possibly others. The rules in this article need to be overhauled, made more precise and with the provision of stricter inspections by the watchdog IAEA.

- (b) **Article 4.** The problem with this part of the Treaty is that every State Party to the Treaty has the “inalienable right” to the peaceful use of nuclear energy. Unfortunately some countries see this as a vehicle by which to develop nuclear knowledge and technology and then to use that expertise to build nuclear weapons having already withdrawn from the Treaty and its obligations regarding proliferation. This is a matter for greater control by the IAEA - more accountability, transparency and tracking of sensitive material is required.
- (c) **Article 6.** This is a collective part of the Treaty exhorting all parties to pursue negotiations and other measures to seek nuclear disarmament in good faith. However, the Nuclear Weapons States have been lamentable in not setting out a timetable or other schedule to even discuss this agreement. The 1995 Review Conference did however mandate that the Treaty would remain in force and without a cut-off date – some critics suggest that it only allowed the NWS to drag their heels even more. One suggestion is that an amendment to the NPT should require all Nuclear Weapons Countries to report biannually to the United Nations General Assembly the status of their disarmament efforts. The General Assembly in turn can offer practical solutions and provide confidence for what could be a somewhat fraught daunting programme of disarmament. Nonetheless there is a necessity to bring the NWS to the table and begin the process.
- (d) **Article 10.** Under this part of the Treaty any State Party can give 90 days notice to withdraw if its “supreme interests” are jeopardised. The weakness of this is in interpreting what those “supreme interests” may be. The article needs to be re-worked, firstly to provide cover for absolute security objectives and secondly to make withdrawal much more difficult.

## **Summary and Recommendations**

The foregoing thumbnail sketch of answers to the six questions posed by the organisers is of necessity brief and elemental. These questions do, however, demand an exhaustive review and arising from that process the formulation of appropriate policy proposals to bring the NPT back on track and to give it more effectiveness and restore confidence in its objectives. It would appear firstly, that several of these questions were in response to the failure of the NPT Review Conference last year to make more progress towards preventing more countries becoming nuclear weapon capable and also the eventual elimination of nuclear weapons. Secondly, the possibility that malevolent non state entities could acquire some sort of nuclear weapon capability is particularly frightening and concentrates the minds of people of good will whose wish it is to improve security rather than diminish it.

## **Regional Initiatives**

Possibly the best regional compendium on the subject of non-proliferation and WMD disarmament is to be found in the Australian Government’s publication, “Weapons of Mass Destruction – Australia’s Role in Fighting Proliferation”. It has been widely distributed and merits close study by those responsible for policy making in the region. It rightly identifies “proliferation of WMD” as the most important security consideration of our time. The booklet’s content is by no means a perfect vehicle or solution to the problems of non proliferation and disarmament but it is a useful

contemporary guide. However, a significant responsibility to give the whole matter some new impetus is in the forum of Track Two – particularly in the Asia-Pacific Roundtable and in CSCAP. It is suggested that a small group of interested participants at this Roundtable draws up a suitable and appropriate Memorandum that records the concern that progress towards nuclear disarmament and measures to prevent proliferation be given greater resources and attention by regional Governments. The proposed Memorandum might also include the idea of a suitably composed team of scholars and officials from throughout the region being tasked to provide an appropriate roadmap of “independent” advice for consideration by the ARF, to APEC and possibly an East Asian Summit on a way forward. (This being in addition to what CSCAP itself may offer).

### **Global Initiatives**

The failure of the seventh Review Conference in New York last year to achieve more progress and to hobble mischievous players is a timely warning that the process of limiting proliferation of WMD, particularly nuclear weaponry, and nuclear disarmament requires a constant fastidious and patient attention. Part of the failure lay in not finding agreements at the Preparatory Committee stages in the years leading up to the Review Conference itself. That must not be allowed to happen for the next one in 2010. The Non-Aligned Movement has a majority of States Party to the Treaty and should be encouraged to take a more active role. Amending the rules to give the Treaty more potency and to enforce accountability and transparency is essential. The so-called “New Agenda Coalition” needs to be re-energised and to include new participants from the Asia-Pacific region. All of those countries who are not Nuclear Weapons States need to frequently state their disdain of those who want to maintain the *status quo* or indeed improve the lethality of their nuclear weapon capability and to encourage them to work towards the objectives of the Treaty. This is a strategic obligation and responsibility under the provisions of the Treaty that the nuclear free countries of the world have for the security of humanity and one that we ignore at our peril.

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