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## IS NON-PROLIFERATION A LOST CAUSE?

— Gilles Andreani

The non-proliferation regime is a cornerstone of international security. It is a complex regime that includes not only the Nuclear Non-Proliferation Treaty (NPT), but international instruments meant to guarantee the peaceful use of nuclear material and technologies as well as high-profile institutions such as the International Atomic Energy Agency (IAEA). It was recently complemented by provisions aimed at curbing the illegal transfer of nuclear weapons (or components of such weapons) such as United Nations Security Council Resolution (UNSCR) 1540, nuclear threat reduction, cooperative initiatives, and the Proliferation Security Initiative, which seeks to facilitate the intercept of illegal transfers at sea.

Nuclear disarmament is also part of that picture. On the one hand, an effective and worldwide elimination of nuclear weapons would, in theory, bring a final answer to the proliferation problem. Short of such an ideal outcome, on the other hand, visible progress in nuclear disarmament could contribute to the effectiveness and legitimacy of the non-proliferation regime more generally.

Specific disarmament agreements, however, either those in existence like the ban on nuclear testing—the Comprehensive Nuclear Test Ban Treaty—or those that are planned—like the Fissile Material Cut-off Treaty—directly serve non-proliferation objectives by complicating the development of nuclear weapons by aspirant countries.

Besides such universal arms control agreements, non-proliferation is also served by regional treaties, such as those establishing nuclear weapons free zones. Five currently exist: the Tlatelolco, Rarotonga, Bangkok, and Semipalatinsk treaties.

### From good times to bad times

The non-proliferation regime and its various components have experienced an evolution marked by two deeply contrasting cycles over the last 20 years: a cycle of successes from the end of the Cold War to the indefinite extension of the NPT in 1995 and a cycle of crises opened up by the 1998 Indian and Pakistani nuclear tests. The crises continue to confront us, with the Iranian standoff currently posing the most serious challenge to the non-proliferation regime of our time.

The successes of the 1985-1995 period are well known: the renunciation by Argentina and Brazil of their nuclear military ambitions; the progress of U.S.-Soviet nuclear disarmament with the Intermediate-Range Nuclear Forces (INF) agreement and the Strategic Arms Reduction Treaty (START); the consolidation of the nuclear succession of the Soviet Union to the benefit of Russia alone; the dismantling of the South African nuclear military program and stockpile; and the successful completion of the Comprehensive Nuclear Test Ban Treaty.

Proliferation crises such as Iraq and North Korea were overcome: the Iraqi program was effectively dismantled after the 1991 Gulf War by IAEA inspectors under UN supervision. Following that, Agency safeguards were strengthened under the 93+2 program, and additional protocols became the norm. The 1994 framework agreement seemed to solve the North Korean case. That virtuous decade culminated with the indefinite extension of the NPT, a diplomatic miracle that the nuclear-weapons states had not dared to expect.

Ever since, almost everything seems to have gone the wrong way. The 1998 Indian and Pakistani tests were a direct challenge to the non-proliferation regime. The established nuclear powers seemed to go from one extreme to the other in trying to find a solution from condemnation and the threat of sanctions under UN Security Council Resolution 1172 in the first instance, to the 2006 U.S.-Indian Nuclear Cooperation Agreement, which seemed to put India's nuclear activities under only minimal safeguards.

The defeat of the Comprehensive Test Ban Treaty ratification before the U.S. Senate in 1999 compromised a key element of the disarmament program that had made the 1995 extension of the NPT possible in the first place.

North Korea announced in 2003 its withdrawal from the non-proliferation treaty—a move whose validity remains contested—and went on to test a nuclear weapon in 2006. In addition, it has been the main provider of missile technology to aspirant nuclear countries.

Starting at the beginning of the 2000s, A.Q. Khan, the Pakistani scientist, and his network were progressively exposed as having disseminated nuclear equipment and design, including weapons blueprints (and not only the relatively crude ones his country had obtained from China, but those much more elaborate that it had further developed on that basis) to Libya, North Korea, and Iran.

In 2003, Iran was discovered to have been conducting enrichment activities in violation of its safeguards agreement with the IAEA, and further disclosures of its activities ever since have left no doubt that the country is embarked on a military nuclear program. Its ultimate content and purpose remains unknown, though, and possibly has not yet been fully decided upon by the Iranian regime.

Nuclear options, which had by and large retreated into the background following the end of the Cold War, have been more present in the pronouncements and security doctrines of some countries. An obvious case in point has been Russia, but also India, where the nuclear debate has been animated by a certain national fever following the 1998 testing, and China, which is still in the growing phase of its military nuclear capacities. In the United States, the 2002 nuclear posture review has been criticized for outlining new nuclear options, while the Bush administration sought to free itself from the arms control legacy of the Cold War, especially the Anti-Ballistic Missile (ABM) treaty, which it decided to withdraw from in late 2001.

In the Middle East, the collapse of the peace process, and specifically the end of the arms control and regional security talks, started in 1992 within its framework and only made the Israeli nuclear exception politically more salient. The 2003 Iraq War—allegedly started by the United States to put an end to Iraq's nuclear, biological, and chemical activities that in the end proved non-existent—reinforced the apprehensions of many in the region who see non-proliferation as a biased instrument that favors Israel and the United States rather than a universal rule that must be adhered to by everyone. Such cynicism has played to Iran's benefit.

Libya's agreement to renounce its military nuclear program and Cuba's adherence to the NPT—now the most universally adhered to global treaty apart from the UN Charter itself—provided only meager compensation for the negative trends that have manifested themselves since the late 1990s.

### **Non-proliferation: A weakened regime**

Altogether, they have significantly weakened the effectiveness and the legitimacy of the non-proliferation regime.

It rested on a number of assumptions: non-possession of nuclear weapons would remain the norm; those who would try to violate it would be deterred from doing so, or at least would not benefit from it; the nuclear-powers' stockpiles would be subject to arms control and would be reduced; and undeclared nuclear countries would continue to show restraint, and would in any case be subject to external constraints such as the Comprehensive Test Ban Treaty and the Fissile Material Cut-off Treaty.

In fact, the nuclear blackmail of North Korea seems to have paid off. India and Pakistan have mostly improved their international stature as a result of the 1998 tests and their nuclear capabilities remain unchecked; the international community has not convincingly curbed Iran's ambitions; the great power status of Russia remains closely linked to its nuclear military capacities; and the United States seemed more concerned, until Barack Obama's presidential inauguration, with keeping all its military options open in the context of the war on terror than with reinforcing the global consensus to support non-proliferation.

Due to these negative trends, many have come to the conclusion that the non-proliferation regime is mired in the kind of systemic crisis that calls for drastic changes. Such changes are all the more necessary, such commentators would argue,

given that diversification of energy sources in the context of climate change will force the world to resort to developing more nuclear energy facilities. The risks of the accidental or deliberate spreading of nuclear materials and technologies for military or terrorist purposes can only increase as a result.

### **Three possible routes for non-proliferation**

Non-proliferation policy can now go in three directions, which are not necessarily mutually exclusive: one is the strengthening of controls and international measures against proliferating activities; another is the internationalization of the nuclear fuel cycle; a third is a proactive disarmament strategy with the ultimate aim of eliminating nuclear weapons altogether, an option put forward last April by President Obama.

The first option was effectively pursued after the first Gulf War and the UN Security Council's recognition of nuclear proliferation as a threat to peace and security in 1992. This had some important, positive consequences. States are now bound to make proliferating activities a crime under their domestic legal systems. A number of them cooperate under the Proliferation Security Initiative to intercept illicit transfers. The exercise of the right of withdrawal from the non-proliferation treaty has been qualified and is likely to elicit Security Council sanctions if exercised in the future.

These achievements, however, suffer from two limitations. With respect to the proliferation activities made possible by the North Korean and Pakistani networks, they amount to closing the stable door after the horse has bolted. Furthermore, there is no such thing as automatic sanctions in the international sphere; the West was divided during the 1990s on the scope of Iraqi activities and on how to answer them. India and Pakistan have been transformed in the eyes of the Americans. Having once been seen as subversive elements in the international nuclear order of things, they have become key partners in the war on terror. Crucial as it may be to deter future proliferation; decisions on punitive action are always subject to prevailing political necessities.

As an answer to proliferation, the internationalization of the fuel cycle is as old as nuclear weapons themselves. Numerous proposals are currently on the table to provide international alternatives to the national enrichment, stockpiling, or reprocessing of nuclear fuel. They have so far met with stiff resistance from emerging countries that fear they would curtail

the development of their nuclear industry, while making them dependent on foreign goodwill for the provision of fuel. Only if these objections are met will such proposals stand a chance of success. The Bush administration had proposed in 2004 that, except for those countries that already conducted enrichment activities, all countries would be required to turn to an international fuel bank to meet their needs.

The immediate rejection of the proposal—not only by emerging countries from the global South, but also from important developed countries that did not have national enrichment capacities—has shown that only a non-discriminatory, internationalization of the fuel cycle would have a chance of being accepted. In the current state of the non-proliferation regime, non-nuclear-weapons states are simply not prepared to accept additional constraints from which nuclear-weapons states would themselves be immune.

A third answer was put forward by Obama in his Prague speech on April 5: the elimination of nuclear weapons altogether. The prospect of eliminating nuclear weapons is distant at best. It would require taking into account other categories of weapons and addressing those global and regional strategic imbalances and instabilities that prompted countries to judge that nuclear weapons were necessary for their security in the first place. The road to the abolition of nuclear weapons is really only conceivable with a fundamental reconfiguration of the international environment such that peaceable relationships become part of its permanent structure.

The example of the European Union suggests that this is not entirely fanciful, though one would have to be highly optimistic to believe that this could happen globally. Does rescuing the non-proliferation regime really require that its defenders rally around the goal of a nuclear weapons-free world? Would that not raise expectations that are bound to be dashed? Would it not confer more legitimacy on the egalitarian rhetoric that currently serves both the proliferators and the de facto nuclear countries, and which they use to excuse their ambitions?

One can argue that behind the elimination approach lies too pessimistic an assessment of the current state of the non-proliferation regime. There is, after all, currently no sign of a global rejection of non-proliferation. The inherent inequality of the regime is irksome for most, but nearly all states agree that their security is better served by a bargain whereby they renounce nuclear weapons

while being assured that their neighbors and potential rivals do the same.

Many ask that the regime be less openly unequal, hence the importance of nuclear disarmament and of continued access to civilian nuclear technology. They ask that it be efficient in its ability to prevent the emergence of new nuclear powers and in working to reduce the capabilities of those that already exist.

### **Non-proliferation is not a lost cause**

Efficiency and legitimacy are close to being two sides of the same coin as far as non-proliferation is concerned. The main issue is not a global questioning of the regime, which would call for answers of a universal character. For the regime to retain its legitimacy, it seems more important to solve, or at least contain, the three main problems currently at hand, namely India-Pakistan, North Korea, and Iran.

A non-proliferation “new-deal” of any of the three types being most frequently discussed will not do much to restore the legitimacy of the regime if existing proliferation crises continue to worsen; nor could any such new deal contribute (other than indirectly) to their resolution.

Intractable as the problems sometimes appear to be, they can lend themselves to solutions. The North Korean proliferation potential can be contained, if not reversed. Iran has a choice

between continuing to openly challenge the non-proliferation norm, or choosing options that preserve its national dignity and independence while abandoning the collision course it has embarked upon. In turn, that should allow for a comprehensive consideration of the proliferation challenges in the Middle East. The nuclear potential of India and Pakistan cannot be formally recognized under the NPT, but it should not be ignored. It can be progressively brought under non-proliferation instruments that will limit its destabilizing character for the wider non-proliferation regime.

Non-proliferation is not a lost cause. But it is an increasingly difficult one to sustain, and it is now necessary to reverse the corrosive dynamics of the last ten years. That is less likely to be brought about by great leaps forward than by small but concrete steps on a number of fronts. What this means is a commitment to continued improvements in controls and safeguards, a demonstrable implementation of the 1995 disarmament agenda, and a patient but determined effort to solve proliferation crises, of which Iran is clearly the most pressing and the most dangerous.

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