

Atlanta Consultation II on the Future of the NPT

How to Close the Gaps of the NPT; Practical Consideration

By

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Thank you, Dr. Ron McCoy. First, allow me to thank the Middle Powers Initiative and the Carter Center for organizing this timely opportunity to consult on one of the most urgent questions of today, i.e. the future of the NPT, and for giving me this opportunity to share my thoughts with you over the lunch.

I think we all know that the NPT is facing a crisis. Some say it is on the verge of collapse. Some others say it is increasingly losing its relevance. Mohamed ElBaradei, the Director General of the IAEA, said the NPT is facing a "major challenge". The Secretary-General's High-level Panel on Threats, Challenges and Change has in its recent report warned that we are "approaching a point at which the erosion of the nonproliferation regime could become irreversible and result in a cascade of proliferation." Expressions may vary but it is an undeniable fact that unless the NPT succeeds in regaining its relevance at the coming Review Conference in May, its foundation may be further eroded.

The Nuclear Nonproliferation Treaty, as its name shows, aims at preventing the proliferation of nuclear weapons. As a corollary, it also has the objective of promoting nuclear disarmament. If the treaty fails to achieve these objectives, one may come to question the value of maintaining the treaty. As the Chinese saying goes, a cat has to catch a mouse.

As I see it, there are now seven major gaps in the global nuclear non-proliferation regime that threaten to undermine the treaty's basic objective. They are, first, the gap created by non-participation of countries to the NPT. India, Israel and Pakistan are not parties to the NPT and they are either declared or undeclared possessors of nuclear weapons.

The second gap is a new and quite disturbing phenomenon. It is withdrawal from the treaty. Those who crafted the treaty's withdrawal provisions must have thought they would never have to see them actually used. But it happened. The DPRK announced its withdrawal in January 2003. There is still the unsettled argument whether the withdrawal was legally consistent with the treaty's

obligations but for practical purposes, it is out of the treaty. Now, this withdrawal threatens to ignite cascading effects.

Third, there is the verification gap. The IAEA "Additional Protocol" was devised to close the verification gap after the revelation of the Iraqi clandestine nuclear weapons program. But the protocol still remains optional or voluntary. The voices are mounting to make the Additional Protocol mandatory under the NPT/IAEA regime.

The fourth gap may be called the nuclear fuel cycle gap. Compared to the time when the NPT was crafted, technology and material have become far easier to obtain today as we have witnessed in Dr. Khan's black market. Countries can go very close to having nuclear weapon production capability without breaking the existing nonproliferation rules.

The fifth is the rising concern about the terrorist nexus with WMD. The September 11 attack raised the fear of what will happen if next time around terrorists used WMD, or what is called radioactive dispersal bombs.

The sixth gap is what I may call the enforcement gap. After all the efforts in safeguards, verification-, and persuasion, if a country that is determined to do so violates its treaty obligations and proceeds with a nuclear weapons program, what do you do?

And, last but not the least, there is the disarmament gap. Can we work solely on non-proliferation while setting aside the question of nuclear disarmament by the five recognized nuclear weapon states? The Secretary-General's High-level Panel has argued that this gap must be closed in order "to further diminish the perceived value of nuclear weapons and secure robust international cooperation to staunch proliferation."

These seven gaps are well-known to the experts who have gathered here for the Atlanta Consultation. So, I do not think I need to dwell long on the description of the gaps. The question before us is how we can work together to close these gaps. There are many ideas and proposals offered by experts and experienced diplomats. But progress seems to be very slow in coming. There is a serious concern that even when the diplomats and negotiators assemble for the NPT Review Conference coming May in New York, not much progress may be achieved. The States Parties have not yet even agreed on an agenda for the Conference.

On the first gap of non-participating states of the NPT, there have been numerous calls made by NPT Review Conferences, U.N. General Assembly resolutions and IAEA General Conference resolutions. On India and Pakistan, Security Council resolution 1172 adopted in 1998 clearly urged both countries to become parties to the NPT as non-nuclear weapon states. But, nothing has happened so far.

In relation to Israel, there has long been the proposal for Middle East Zone Free of Nuclear Weapons or Weapons of Mass Destruction. Resolutions have been adopted in the U.N. General Assembly and the IAEA General Conference very often with consensus but little-progress has been made so far to move the proposal forward. Recipes are there but there has been no move. I think there is a need to mobilize political will and wisdom to come up with concrete and practical ways to move these ideas forward. I know some argue that a Weapons Free Zone cannot be achieved until peace in the region is achieved. But I do not think we can wait for a peace to be achieved. I do not want to see a situation where the next time there is a serious regional confrontation people in the region see the real threat of use of WMD. We have to put a brake on WMD now.

People tend to focus on the recommendation to enlarge the Security Council alone, but the Report of the Secretary-General's High-Level Panel released last month contains many more important recommendations, including those concerning disarmament and nonproliferation. The report recommended "that peace efforts in the Middle East and South Asia launch nuclear disarmament talks

that could lead to the establishment of nuclear-weapon-free zones in those regions similar to those established for Latin America and the Caribbean, Africa, the South Pacific and South-East Asia.”

The second gap of withdrawal from the NPT is an urgent question before us. On this the NPT Review Conference not only needs to come up with a strong position against such withdrawal but also needs to work urgently on the question of the DPRK. Almost everybody agrees that the question should be solved peacefully and is counting on the success of the six-party talks. But, how can we do so? Can the six-party talks work a magic? One underlying dilemma here is whether you should reward with political and economic incentives a country that had violated its obligations under the NPT and the IAEA safeguards and withdrew from them. Should we or should we not? Perhaps, the answer is not that black and white. Someone has to work out a formula for solving the question and has to do so rather quickly because the clock is ticking.

As to the third gap of verification, the answer is there already. Countries must sign up to the Additional Protocol to the IAEA Safeguards agreements. The Secretary-General’s High Level panel recommended that “the IAEA Board of Governors should recognize the Model Additional Protocol as today’s’ standard for IAEA safeguards.” It is sad to see even this much of progress is slow to be achieved either in the context of the IAEA Governing Board or the NPT Review Conference. I can well see the political and emotional resistance against moving fast on this because of the frustration on slow progress on the disarmament side. While this is understandable, it is certainly no justification to delay the action on the nonproliferation side. I wish to see concrete progress on this front.

The fourth gap of the nuclear fuel cycle is an old and new issue. So tell me the veterans of nuclear nonproliferation works. I think this is an old issue with renewed urgency. The coming NPT Review Conference has to identify ways to put a brake on countries coming so close to possessing weapons fissile material production capability. Otherwise, countries may start calling the treaty not only useless but

even harmful because it provides legitimate cover for countries with hidden intention to acquire almost all capability necessary for weapons manufacturing. Mohamed ElBaradei said "we just cannot continue business as usual that every country can build its own factories for separating plutonium or enriching uranium." He said he would propose a moratorium on countries developing the nuclear fuel cycle in return for guarantees of delivery of nuclear fuel for peaceful production of electricity. This is one practical way of putting a restraint on the nuclear fuel cycle.

Another possibility is to come up with a definition to draw the boundaries to what constitutes the legitimate "peaceful use" of nuclear energy. Other ideas include internationalization of the nuclear fuel cycle which has many variations. I very much wish to see concrete and workable proposals on this idea. Again, the High-level Panel has urged that negotiations commence urgently for such an arrangement that would enable the IAEA to act as a guarantor for the supply of fissile material at market rates.

Again, while we consider actions with regard to the nuclear fuel cycle, we need to address the question of Iran's nuclear programme as an urgent issue. There is no doubt that there were serious non-compliances with the IAEA reporting requirements that generated substantial suspicion about the existence of a weapons program in that country. Indeed, everybody prefers a peaceful solution and many are counting on results of the negotiations between Iran the EU3. But as I see the situation the question is not an easy one and the stakes are high.

The fifth gap of the terrorist nexus with WMD has been recently addressed in the Security Council. Resolution 1540 of the Council created a new global norm against assistance to terrorist groups in acquiring WMD and mandated "all States (to) take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery." I am currently working with Chairman of the Committee established for the implementation of the resolution to secure full implementation of the resolution. Adopting a resolution is one thing. Implementing it is another. If this resolution is

implemented to its full extent, the resolution can achieve a great deal in slowing the proliferation of WMD to terrorists and other non-state actors. However, even then, this resolution alone cannot stop terrorists getting their hands on WMD. There have to be many additional efforts to be made by willing states individually and collectively.

The sixth gap is that of enforcement. The NPT only has a limited reference to the Security Council concerning withdrawal of a party to the Treaty. Recent history has shown that no matter how the IAEA or another entity tries to enforce inspections for verification, if a country that is determined to do so defies and violates its treaty obligation's to proceed with a nuclear weapons program, the verification body is powerless unless there is an ultimate entity for enforcement. The Security Council in 1992 had declared that the proliferation of all weapons of mass destruction constitutes a threat to international peace and security. The Secretary-General's High Level Panel recommended that "the Council should be prepared to act in cases of serious concern over non-compliance with nonproliferation and safeguards standards." The Secretary-General's Advisory Board on Disarmament Matters also recommended that "for cases referred to the Security Council, timely and efficient decision-making should be ensured." This was coupled with a number of specific recommendations to strengthen the means of the Council to examine the cases referred to it. I earnestly look forward to a serious consideration by the Council of these recommendations.

Last, there is the disarmament gap. There are a whole series of proposals to move the nuclear disarmament agenda forward including a number of recommendations made by the Secretary-General's High Level Panel.

I have mentioned a series of proposals and suggestions to fill the seven gaps. Given the urgency of the situation I hope the relevant entities such as the NPT Review Conference, IAEA Board of Governors, the Security Council and the Conference on Disarmament take urgent action on them. We need what I may call *an urgent action plan* to stop the erosion of the NPT, arrest nuclear proliferation and promote

disarmament. The Secretary-General's High-level Panel and his Advisory Board on Disarmament Matters have offered a blueprint for such a plan, and I encourage you all to consider its recommendations seriously. I know many participants of those forums are aware of the urgency but it seems the rigid rules of procedure that require consensus agreement on almost everything prevent them from achieving the desired results. I would urge them to try even harder testing the limits of their consensus rules. In anticipation of the high-level summit at the United Nations this September, and during this 35th anniversary year for the NPT, the Secretary-General for his part plans to challenge the international community to think and act more boldly to reinvigorate the nuclear non-proliferation and disarmament regime.

Otherwise, if we fail to act in a meaningful way, there may be an increasing tendency that like-minded countries come to work together to take actions to supplement or to build on the existing nuclear nonproliferation regime centered around the NPT, and that may be ultimately the way we may have to look to, *an NPT Plus*.

As we mark this year the sixtieth anniversary of Hiroshima and Nagasaki and the sixtieth anniversary of the creation of the United Nations, I sincerely hope this consultation will shed light on the specific ways and means to achieve a world free from the fear of weapons of mass destruction.

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