

Non-Proliferation and the Challenge of Compliance

Address By

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Introduction

Almost three years have passed since the Carnegie Endowment for International Peace and the PIR Center organized their first joint International Non-Proliferation Conference in Moscow. The imminent threat of nuclear proliferation and the heightened concern about the use of “weapons of mass destruction” (WMD) by non-state actors surely justify a fresh look at the global non-proliferation regimes as an urgent matter. At the base of these regimes are indeed such treaties as the Biological Weapons Convention (BWC), the Chemical Weapons Convention (CWC), and the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). Concerns also include the delivery means of those weapons, such as ballistic and cruise missiles. The global WMD regime continues to enjoy strong support throughout the world community, but given the inherent dangers of WMD, violations by even a few States can have profound effects on international peace and security – hence the focus on compliance and enforcement of global WMD norms is indeed justified.

The BWC and CWC ban biological and chemical weapons and aim to prevent the proliferation of such weapons and certain precursors to non-adherents. The NPT couples a strong non-proliferation obligation with an obligation to pursue negotiations on nuclear disarmament in good faith. For all these reasons, the world must work hard both on disarmament and non-proliferation of weapons of mass destruction. This complicates the situation when nuclear weapons come into focus, as some countries persistently complain that emphasis is unfairly placed on nuclear non-proliferation while nuclear disarmament is progressing at a snail’s pace. This is a legitimate argument but it should not be an excuse to renege on non-proliferation obligations. In fact, we cannot afford to sit idle as the current environment threatens to unravel the NPT regime. This is a regime that seeks not merely to discourage the possession and use of nuclear weapons, but also to devalue such weapons and set a course for their elimination. The treaties do not suggest that non-proliferation alone -- however diligently implemented -- will suffice to guarantee against the use of such weapons.

The Tools for Non-Proliferation

What then are our tools for non-proliferation and what can be done to stop the proliferation and prevent the use of WMD by state or non-state actors?

First, we have to look at the basic tools that currently exist to strengthen the non-proliferation and disarmament norms regarding WMDs. Attaining universal adherence to the existing treaties will greatly help strengthen the norms. As one example of such progress, although long overdue, Cuba recently acceded to the NPT. This leaves only India, Israel and Pakistan outside the NPT. When it comes to chemical weapons, there are still many countries yet to accede to the CWC, particularly in the Middle East.

Steady progress in nuclear disarmament and in the elimination of the deadly legacies of the former CBW programmes would also help strengthen these norms regarding WMD and respond to the complaints about lack of progress in nuclear disarmament. In this respect, the United States and the Russian Federation bear special responsibility as the world’s two “Superpowers”. They have made significant progress by signing the Moscow Treaty to

drastically reduce deployed strategic nuclear weapons. But we want more (smile). The Cooperative Threat Reduction programme and the G8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction are other examples of efforts being carried out. These efforts deserve the respect in the international community and need to be strengthened.

Upon the strengthened norms, a firm monitoring and verification procedure has to be built. This is the area where progress is most urgently needed.

In the field of nuclear non-proliferation, IAEA safeguards provide a monitoring and verification role regarding nuclear materials. The IAEA and the active diplomacy of concerned countries have succeeded in preventing ten to twenty countries that were originally suspected of going nuclear from acquiring nuclear weapons. By the way, it is noteworthy that many countries -- including Japan and Germany -- that were at the threshold of achieving the technical capabilities to produce nuclear weapons when the NPT entered into force, chose not to acquire such weapons and are now successful industrialized countries enjoying stable democracy and a high degree of prosperity. For many years, however, the IAEA's limited safeguards authorities under the NPT hindered the Agency's ability to search for undeclared nuclear materials, as readily became apparent in the case of the DPRK and Iraq. It was for this reason that the IAEA Model Additional Protocol was developed. The Additional Protocol will greatly enhance the IAEA's capability to uncover determined clandestine efforts to acquire nuclear weapons. This is why Mr. ElBaradei is urging the IAEA members to conclude Additional Protocol. It is therefore extremely important that as many countries as possible, urge those countries which are hesitating to conclude the Additional Protocol, particularly those with significant nuclear activities, to do so as soon as possible. Iran and the Democratic People's Republic of Korea (DPRK) are cases in point. There is an urgent need for Iran to accept the recent IAEA Governing Board resolution, and conclude and implement an Additional Protocol -- and for the DPRK to return to the NPT. But unfortunately we are not certain that this will happen. The actions of these states, and the responses of the world community, will have a decisive impact upon the future of safeguards, the peaceful use of nuclear energy, disarmament, nuclear non-proliferation, and the fight against nuclear terrorism.

In the field of chemical weapons, the Organization for the Prohibition of Chemical Weapons is in the process of establishing itself as a viable monitoring and verification mechanism. However, it is well-known that in the field of biological weapons, an attempt to adopt a verification protocol has failed. There are many arguments about why this happened, but perhaps one basic reason may have been the difficulty of verifying biological weapons in comparison to the other categories of WMD due to the high degree of dual-use characteristics and the low traceability of bio-organism. This leads to the argument for new and innovative means to prevent the proliferation of biological weapons.

One important supplementary tool that is gaining importance with the rising threat of non-state actors is physical protection for WMD and the material for their production. The threat of "dirty bombs" has expanded the scope of nuclear material to be protected. The legal tools and guidelines of the IAEA, the material cooperation carried out under the CTR, and G8 and other initiatives are notable efforts in this area. But there is still a lot more to be done.

Next come export controls. Export controls represent another traditional non-proliferation measure that can also help progress in disarmament. It seems highly unlikely, for example, that the world will ever achieve great progress in eliminating nuclear weapons if the technology, equipment, materials, and special services needed to manufacture such weapons are freely available on the market with little monitoring or effective control. The recent concern about terrorism and clandestine efforts to acquire WMD seem to have reinforced awareness of many countries about the need to tighten export controls.

Fortunately, efforts are underway to strengthen these export controls in many countries. The European Union, for example, has taken many steps toward strengthening the implementation of export controls -- it adopted this year a set of general principles and an “action plan” that would make the EU a leader in strengthening export control regimes. The EU is also exploring common policies relating to the criminalization of illegal exports relating to WMD.

Export controls are in effect like a cat and mouse game against unscrupulous arms traders: when straightforward nuclear material or chemical precursors were controlled, they moved to dual-use items or their production facilities. Now they are moving to smuggling of invisibles, i.e., designs, know-how, scientists and engineers. In this context too, the CTR Initiative or the efforts as seen in the International Science and Technology Center are effective means to supplement export control efforts.

Another supplementary yet still important tool is education to build in the minds of people, especially scientists and engineers, a strong norm of prohibition. In August of last year, Secretary-General Kofi Annan sent to the UN General Assembly a “United Nations Study on Disarmament and Non-Proliferation Education,”¹ prepared with the assistance of a distinguished group of governmental experts and contributions from civil society. The study addressed many relevant educational initiatives at the primary, secondary, but especially the university and postgraduate levels, as well. In his Foreword to this report, the Secretary-General voiced his hope that “disarmament and non-proliferation education becomes an integral -- and natural -- part of the education of the next generation.” The DDA – the U.N. – is proceeding with its program on disarmament education.

Beyond these traditional tools of non-proliferation, there are a number of additional tools being proposed to strengthen non-proliferation efforts. The proposal now being considered in the EU and elsewhere to explore the international criminalization of acts involving WMD is another interesting idea worthy of close attention. This may be worth pursuing not only to deter individuals who may be engaged in state-run WMD projects, but also to deter and punish any non-state actors who may engage in such activities.

In the case of biological weapons, efforts to build up a world-wide epidemic emergency action mechanism may be useful, given that a sudden outbreak of an epidemic can provide evidence of the use of biological weapons or a BW-related accident. This may also help encourage countries with insufficient public health facilities to join a network of biological weapons vigilance.

¹ A/57/124, 30 August 2002; the full text is available at the following web site: disarmament.un.org/education.

The Growing Challenge of Enforcing Compliance

Last of all, we are now in a situation to confront the question of determined or suspected violation of non-proliferation norms. On 31 January 1992, the Security Council met at the level of Heads of State and Government and issued a Presidential statement declaring that “the proliferation of all weapons of mass destruction constitutes a threat to international peace and security.”

Nevertheless, many voices in recent years have questioned either the ability or the willingness of the members of the Security Council to perform its responsibilities concerning a wide range of challenges relating to WMD. To support such claims, many critics cite the difficulties faced by the Security Council in coping with years of Iraq’s non-compliance with its obligations under the NPT and relevant Security Council resolutions. Critics also note the Council’s reluctance to act in the face of many proliferation challenges posed by the Democratic People’s Republic of Korea throughout the last decade. The Council did adopt a unanimous resolution in 1998 condemning the nuclear tests by India and Pakistan, but has not followed up on the resolution.

This crisis of multilateral enforcement mechanisms has led some commentators to label the multilateral treaty regimes as ineffective and unreliable. It has given rise to calls for unilateral enforcement action, either by single states or by coalitions of the willing. It has helped to inspire calls for pre-emptive military action in the face of perceived threats. It has also given rise to calls for counter-proliferation actions and build-up for them.

In response to this crisis, many observers have offered a wide array of measures to strengthen international enforcement of global non-proliferation norms. Some -- including Canada and Germany in the NPT context -- have called for greater transparency in the implementation of the multilateral treaty regimes through, for example, more detailed national reporting requirements for use in the treaty review conferences. Others -- most recently France and the Russian Federation -- have called for a new summit meeting of the Security Council focused on WMD non-proliferation issues. Still others believe that only major reforms of the Security Council itself -- including new limits on the use of veto and a more representative membership -- will enable the Council to become more actively involved in addressing both non-proliferation and disarmament.

In his recent publications, Richard Butler -- the former executive chairman of UNSCOM -- has proposed the establishment of a new “Council on Weapons of Mass Destruction” that would consist of a broader international membership and not be hampered by veto. Earlier this year, others were suggesting that the Security Council should establish a “counter-proliferation committee,” building on the precedent established by the work of the “Counter-Terrorism Committee” established after the tragedy of 9/11.

Not all of these reforms, however, have focused on the authority of the Security Council. The “Proliferation Security Initiative,” for example, represents an effort by a coalition of some states that share a common willingness to undertake various enforcement actions -- possibly even

on the high seas or in international airspace -- to advance non-proliferation goals. Many of the participants in this initiative stress the importance of the role of the UN Security Council in this area, especially with respect to the legitimate use of force. Arguably, the stronger a fully multilateral enforcement system at the global level, the weaker would be the arguments for such ad hoc initiatives. Another argument points to the weakness in multilateral enforcement of non-proliferation norms in the fact that of the three WMD treaty regimes, only the CWC has the benefit of a permanent secretariat -- recognizing, of course, the vital institutional role of the IAEA in implementing safeguards under the NPT. Suggestions are being made to preserve the expertise of the UN Monitoring, Verification and Inspection Commission (UNMOVIC) in one way or another. The French proposal to establish an "international verification corps" may be a variation of such thinking.

These are but a few of the many proposals that one is encountering today among those who are aware of the current crisis of enforcement. I hope participants at this conference will give their close consideration of these and other such proposals, as well as explore additional possibilities for progress through new initiatives that have not yet seen light of day.

My concern grows from the fear that unless this crisis is resolved, the solemn global norms for both non-proliferation and disarmament will suffer, and the world will move ever-closer to a security system based exclusively on considerations of self-help and military means. If the world community fails to enforce its global norms, it will face another danger -- the danger that the lack of political will to defend global norms will produce new wrongs. In all likelihood, the solution to this crisis will come through a combination of approaches, selecting various aspects from the more sensible and practical among them. The response will likely involve actions at the national, regional, and global levels.

Conclusion

The sooner the world community resolves the crisis it is facing the sooner the world will achieve genuine progress in realizing all the hope and promise that inspired the negotiation of fundamental, universal goals of the UN Charter. We must take a "results-based" approach to these norms, one that is focused on concrete actions rather than rhetoric, ritual, and empty routines. If the results fall short, we could well witness a collapse of the WMD non-proliferation/ disarmament regimes that the world has worked so hard to create and preserve. Let us work together to avoid such a catastrophe.

Thank you.

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