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Reviewing the Non-Proliferation and Disarmament Regimes

by Riccardo Alcaro

ABSTRACT

With the Review Conference of the Nuclear Non-Proliferation Treaty about to end its activities in New York, time is ripe for a reflection on the state of health of the non-proliferation regime. After the troubled phase of the early 2000s, the 2010s have witnessed some important, albeit reversible, improvements. The US-launched Nuclear Security Summits have contributed to mainstreaming key non-proliferation issues, such as securing nuclear material and facilities, into the international agenda. More importantly, the recent breakthrough in the Iran nuclear talks might pave the way for a final agreement whose importance for the non-proliferation regime should not be belittled. Unfortunately, progress on non-proliferation has not been matched by anything comparable on the disarmament front, with the 2010 US-Russian New Strategic Arms Reduction Treaty standing out as an isolated success.

Arms control | Nuclear weapons | Non-proliferation | USA | Russia



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Introduction

The Nuclear Non-Proliferation Treaty (NPT), a pillar of international security since 1970, has not had an easy time in the 21st century. In the early 2000s it seemed to be on the verge of collapsing due to the combined effect of stalemate in the disarmament process and, more critically, apparently fatal flaws in the non-proliferation regime.

If the 1990s had seen a sharp fall in the number of nuclear warheads deployed by the United States and Russia, by the 2000s the trend seemed to have bottomed out. Nuclear-weapon-states (NWS) – the five countries whose possession of nuclear weapons the NPT considers legitimate and which, by coincidence, are also the five United Nations Security Council permanent members – showed little interest in taking further steps towards fulfilment of the pledge, contained in Article VI of the NPT, to reduce stockpiles and eventually disarm. Neither did they make any effort to bring the three nuclear powers outside the NPT – India, Pakistan and Israel – into the fold. India was actually rewarded with a civilian nuclear cooperation deal with the US in 2005. More worrisome, North Korea's 2003 decision to withdraw from the treaty and its subsequent nuclear tests in 2006 and 2009, as well as Iran's concealment of sensitive nuclear activities, made a mockery of the NPT non-proliferation safeguards.

Then some signs of improvement began to show. Evoking the dream of a world free of nuclear weapons, US President Barack Obama renewed American commitment to the NPT regime. At the 2010 NPT Review Conference (RevCon), a final document, adopted by consensus, indicated a number of steps NPT state-parties committed to

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· Paper originally published by the Council on Foreign Relations in the framework of the Council of Councils Fourth Annual Conference, Washington, 10-12 May 2015, <http://www.cfr.org/councilofcouncils/events/p36493>.

taking in the disarmament and non-proliferation fields.¹

Five years on, what does the picture look like? The bright spots are all on the side of non-proliferation. Upon US initiative, like-minded countries have regularly met, at summit level, to discuss ways to secure nuclear material around the world. More importantly, after years of false starts, the negotiation over Iran's nuclear programme between Iran itself and the P5+1, the group formed of China, France, Russia, the United Kingdom and the US plus Germany and the European Union, has accelerated and is expected to deliver a final agreement by June 2015.

The picture is significantly less encouraging as far as disarmament is concerned. The US-Russian New Strategic Arms Reduction Treaty (New START) stands out as an isolated success. Stockpiles remain unchanged, NWS military doctrines continue to emphasise the role of nuclear weapons, nuclear arsenals are being modernised, the promised conference to establish a Nuclear Weapons Free Zone (NWFZ) in the Middle East has not been held and it is uncertain it ever will. All these issues exacerbate tensions with the non-nuclear weapon-states (NNWS) community, which is growing increasingly tired of what it perceives as the NWS's failure to meet their disarmament obligations.

1. Non-proliferation: progress in sight

The ongoing Iran nuclear talks achieved a major breakthrough in Lausanne in early April, when the P5+1 and Iran agreed on the parameters of a Joint Comprehensive Plan of Action (JCPOA), i.e. a final deal. This has contributed to creating a more positive atmosphere at the 2015 NPT RevCon, which is still going on at the time of writing. However, measuring the actual impact of a prospective JCPOA on the non-proliferation regime is an exercise subject to a good deal of arbitrariness.

The Iran nuclear dispute – an NPT member state in violation of its transparency and cooperation obligations with the International Atomic Energy Agency (IAEA) – might not be unique. But the *ad hoc* solution to it certainly is. Thus, there is not much of the JCPOA, provided of course it is eventually agreed, that can be universalised.

The NNWS will in all likelihood not see Iran's agreeing to put its uranium enrichment programme (a process that can serve both peaceful and military purposes) under severe, though temporary, limitations as a precedent valid for others too. The NPT does not formally forbid uranium enrichment and the NNWS will not accept further constraints on their "nuclear rights" in the face of the NWS's failure to follow through on their disarmament pledges.

¹ As well as in nuclear energy, which is however not addressed in this brief.

Similarly unfit for generalisation is the vastly intrusive inspection regime Iran is said to have agreed to. The IAEA will have access to the whole supply chain supporting Iran's nuclear programme, in some cases (uranium mines) for up to twenty-five years. After that, Iran will be permanently subject to the IAEA Additional Protocol, a 1997 text that expands the agency's inspection powers. The NNWS will hardly agree that such an intrusive inspection regime could be elevated to international standard status.

While the JCPOA verification system is unlikely to become the norm, however, it could still be used as a point of reference in potential future proliferation disputes similar to Iran's. The same goes for the mechanisms that Iran and the IAEA will have to set up in order to clarify the potential military dimensions (PMDs) of Iran's nuclear programme. Iran is expected to address the IAEA's concerns about the PMDs in a confidential manner to avoid blame for openly violating the NPT. If the mechanism works, the IAEA could use something similar in the future too.

The establishment of the Nuclear Security Summits (NSS) in 2010 is another recent important development in non-proliferation. This biennial summit has the objective of facilitating consensus and cooperation on preventing nuclear smuggling and, consequently, risks of nuclear terrorism. The focus is on reducing the overall quantity of highly enriched uranium (HEU) and plutonium – the fissile materials needed for a bomb – and improving the security of depots where such materials are stored. Also thanks to the NSS, 15 tons of HEU, which are sufficient for several hundreds of warheads, have been blended down into low enriched uranium (LEU), which is a much lesser proliferation concern. In addition, twelve countries have removed all HEU in their possession and others are in the process of doing so. Some progress has also been recorded on converting proliferation-prone nuclear reactors into more proliferation-resistant facilities.

Personal investment in the NSS by political leaders has ensured that non-proliferation action has been mainstreamed into international security discourse and practices. Noteworthy in this regard is that all NWS, including the three extra-NPT powers, have so far attended all meetings. This positive trend will not continue, however, as Russia has announced its intention not to take part in the 2016 Washington Summit. Russia has also decided to interrupt the twenty-year-old cooperation with the US on securing Soviet-era nuclear materials and facilities under the so-called Cooperative Threat Reduction programme.

Neither development bodes well for the continuation of the NSS, which is not expected to survive in its present form after 2016. The Obama administration would want the NSS participants to find a way to move on the agenda, even in a different format, after the Washington summit. Yet, absent a formal commitment by NSS members and given the uncertainty surrounding the next US president's non-proliferation policy, the initiative risks fading out.

To end on another negative note, North Korea continues its work on nuclear weapons. The Six-Party-Talks on the denuclearisation of the Korean Peninsula (comprising the two Koreas, China, Japan, Russia and the US) remain technically operational but, in practice, they have been dormant since 2008.

2. Disarmament: the great divide lingers on

Good news on the disarmament front have been scant since New START entered into force in February 2011. Such a lack of progress has solidified a fundamental disagreement between nuclear haves and have-nots. The former see the NPT Article VI disarmament commitment as a road map. The latter want to see some tangible signs that disarmament is not just a chimera.

The nuclear have-nots have legitimate reasons to be impatient. The US and Russia have failed to follow up New START with talks over further reductions of nuclear weapons despite a promise to do so. The US, to its credit, has said it is ready to trim down the number of deployed strategic warheads by a further third, but Russia seems uninterested. The other NWS insist that they are not ready to discuss disarmament as long as Russia and the US continue to have arsenals over ten times bigger than theirs (the two account for over 90 percent of the world's nuclear bombs). The only exception is the UK, which has slightly reduced its deployed strategic warheads, albeit more for budgetary reasons than because of a commitment to disarmament. Moreover, none of the extra-NPT nuclear powers, not to speak of North Korea, is willing to engage in arms reduction, which further complicates the matter.

Nuclear weapons continue to feature high in the military doctrines of the NWS. Russia is increasingly relying on tactical nuclear weapons to offset shortages in conventional capabilities, and Pakistan has built more warheads. No better news come from aside-measures that could boost the disarmament cause. The Comprehensive Test Ban Treaty (CTBT) continues to languish in a perennial wait for all NWS (plus other ones) to ratify it. Of the nuclear haves, only France, Russia and the UK have done so. The Fissile Material Cut-off Treaty (FMCT) fares even worse, as the Geneva Conference on Disarmament keeps talking about it without ever getting close to an agreeable text. Again, resistance from nuclear haves – Pakistan in particular – carries the blame.

Finally, the much-debated conference establishing a NWFZ in the Middle East remains as distant as ever in spite of the 2010 pledge to hold it within two years. The Middle East NWFZ is a signature initiative for the Arab countries because they see it as the one way they have to put pressure on Israel to come clean on its nuclear arsenal ((which the Israelis do not acknowledge officially). In the past Egypt – the most vocal supporter of the NWFZ in the Middle East – seized on the issue to chastise the NWS, and especially the US, for applying double standards to Israel. However, Egypt is reportedly more worried about the potential flaws in the Iran nuclear deal than it is with the lack of progress on the Middle East NWFZ, so the

issue is less of a problem this year than many anticipated. Yet, NNWS will for sure continue to see stalemate in the process as a further sign that the deal they signed off on when they acceded the NPT is paying off less and less.

It is because the appeal of NNWS status is diminishing that Russia's invasion of Ukraine is so damaging to the NPT regime. The annexation of Crimea is a blatant violation of Russia's 1994 pledge to respect Ukraine's territorial integrity in exchange for Kyiv to forego its Soviet-era nuclear arsenal. Moscow has thus undermined the credibility of the "negative security assurances," a sort of guarantees NWS give NNWS that accept to disarm or enter NWFZs. To be sure, negative security assurances only concern the potential use of nuclear weapons, as they are not non-aggression pacts. Yet, the 1994 agreement between Ukraine and Russia (along with the UK and the US) had a critical non-proliferation undertone, as its ultimate aim was to link Ukraine's territorial integrity to its nuclear disarmament. Russia's violation of it has diminished the appeal of the NNWS status. For the law of the communicating vessels, the appeal of NWS status has increased, since many have wondered if Russia would have acted as brazenly as it has if Ukraine had still possessed nuclear weapons.

The NPT nuclear haves have set up the so-called "P5 process" to coordinate moves on disarmament issues. Yet, the process has so far been long on meetings but short on results. The most the P5 can offer is an agreement on a standard reporting form to account for changes in their military doctrines, fissile material stocks, disarmament measures, and an agreed glossary on nuclear-related terms. Given that China, in particular, is reluctant to share information about its arsenals, reporting will not be uniform, which reduces the outcome of the P5 process to terminological agreements. While important, it is hardly going to impress any of the nuclear have-nots.

The NNWS community has been quite active in the last years. The latest attempt to bring forward the disarmament agenda has been the shift of focus onto the humanitarian consequences of the use, deliberate or accidental, of nuclear weapons. With human security rather than national security at the centre of the debate – this is their hope – it will be harder for the NWS to procrastinate further their Article VI commitments. The strategy seems to have scored some points, in the sense that more and more states are buying into the idea, with participation in *ad hoc* conferences (three in 2013-2014 only) steadily on the rise – 158 countries took part in the last one, held in Vienna in December 2014.

Nonetheless, whether greater pressure will indeed make the NWS more forthcoming remains very much in doubt. So far, the humanitarian initiative has created more discontent than concrete results, as the NWS see it as an improper measure to put them into the spotlight and indirectly undermine more pressing non-proliferation objectives.

Conclusions

The non-proliferation regime, after a rocky period in the early 2000s, has shown some signs of recovery. The nuclear talks between Iran and the P5+1 are in an advanced phase and are likely – though not certain – to result in a long-term agreement. The prospective JCPOA could reverse key parts of Iran's nuclear programme (although some only temporarily) while also establishing an intrusive inspection system. Given the damage an Iranian withdrawal would inflict on the NPT, the JCPOA could end up being the most important non-proliferation progress in a generation.

The fact that the Nuclear Security Summits have now become a routine practice is another positive development. Mainstreaming nuclear security into the agenda of all countries that, for one reason or another, are relevant to non-proliferation goals should be a guarantee that the issue will not fade away once the main promoter of the NSS, the Obama administration, completes its second term. Yet, the question remains about whether NSS-promoted practices have been mainstreamed enough for the Summit participants to remain committed to the process, even if it were to take place in a different format. Russia's decision not to take part in the 2016 summit is definitely not an encouraging sign.

The NSS have so far focused on ways to secure nuclear materials better, but they can also evolve into a broader framework in which other proliferation and disarmament issues are debated and agreed upon. Steve Pifer from Brookings and James Goodby from the Hoover Institution have suggested that like-minded states with impeccable non-proliferation credentials use the NSS framework to establish a "joint enterprise" towards disarmament.² This initiative could comprise steps such as a freeze on nuclear warheads stocks and more transparency on national holdings of fissile material. More ambitious measures could be agreed at a later stage, including reducing stocks of nuclear warheads (deployed and not deployed), removing weapons from prompt launch status, supporting regional forums enabling arms control and disarmament initiatives.

One of the merits of proposals such as the one by Pifer and Goodby is that they insist that like-minded states take action irrespective of what others do. This is no minor point, as NWS regularly justify inaction on the disarmament front by pointing to other NWS' lack of commitment. Some experts have levelled this charge against the P5 process. By excluding key NNWS as well as the extra-NPT nuclear powers, the P5 process might end up being a way to build intra-NWS solidarity rather than reinforce their commitment to disarming.

² Steve Pifer and James Goodby, "Nuclear Non-Proliferation: We must keep working for a world without nuclear weapons (yes, it's possible)", *Fox News*, 24 April 2015, <http://fxn.ws/1OpDCvK>.

Some asymmetry, even unilateral action by some nuclear powers, is indeed inescapable if the disarmament agenda can move forward. With Russia leaving the NSS framework, the odds of concerted action are low. Yet, the nuclear powers had best take steps to soothe an increasingly restive NNWS community, including by re-affirming the credibility of the negative security assurances jolted by Russia's aggression of Ukraine. Prompt ratification by the US Senate of the protocols to the NWFZs in Africa, the South Pacific and Central Asia would be a start, as such protocols contain assurances that NWS would not use or threaten to use nuclear weapons against the NWFZ member states.

The NWS have grown accustomed to easily getting away with their lacklustre commitment to disarmament. They (rightly) calculate that, in the end, the NPT's grand bargain is not so much between the NWS' promise to disarm and the NNWS' promise not to arm. It is rather an asymmetric agreement to better guarantee that possession of nuclear weapons remains limited to few countries instead of being subject to no controls. Non-proliferation is after all in the interest of both NWS and NNWS, irrespective of whether the nuclear haves disarm or not.

However, the nuclear haves cannot count on the fact that the have-nots will forever be accommodating, particularly if the appeal of NWS status raises and the NNWS one diminishes. Continuing to bet on the fact that no NNWS will dare to break ranks with its NPT fellow partners because they all share an interest in non-proliferation might look shrewd *Realpolitik*. Yet, it is unwise. Instead, strategic sense would have it that the nuclear haves work on enhancing the NNWS status by showing greater commitment to the disarmament cause, if only to reinvigorate consent for the non-proliferation measures they, and especially the US, pursue. This is why even the modest measures mentioned above, while not nearly as important as the Iran nuclear deal, are nonetheless as necessary.

Updated 20 May 2015

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