

NON-PROLIFERATION EFFORTS – THE IAEA ADDITIONAL PROTOCOL AND HOW TO ADDRESS NUCLEAR FUEL CYCLE.

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Since the very beginning, NPT has had to face many challenges. Every five years, the international community gathers to assess progresses and difficulties.

For five years, we have witnessed a number of positive developments : the strengthening of international tools designed to prevent proliferation, to interdict proliferation trafficking and to deny access by non State actors to nuclear sensitive technologies and know how ; the solution of the Libyan case ; important quantitative steps towards reducing nuclear arsenals globally ; co-operative actions to better organise security and safety of the stocks of fissile material ; and further developments of peaceful uses of nuclear energy, which are more needed than before to sustain long term development and lower CO² emissions. All together, NPT once again has well fulfilled its function and remains the cornerstone on which we intend to build further.

Nevertheless, NPT State parties have also to answer new interrogations, ranging from problems of compliance with the non-proliferation regime, new challenges, political, technical and scientific in the field of peaceful uses and also questions raised what is described often as a problem of mutual trust and confidence.

I shall try here to address the two first ones, as I have been asked to introduce the issue of non-proliferation efforts, IAEA additional Protocol and peaceful uses.

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I – The world has changed : the new non-proliferation challenges

A/ Proliferation in general has re-emerged in the fifteen last years as the major threat to the NPT.

Since the end of the cold war, this is a logical and unavailable conclusion. When you examine facts, they all point out objectively and clearly in this very simple direction. At the beginning of the preamble of the NPT stands a very

solemn formula which I shall quote here because it clearly spells out what the first function of NPT is to avoid : "Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples." When did this danger concretely materialise in the twelve last years ?

- in the DPRK : We don't know exactly what the concrete situation is, but we have all heard threats about nuclear weapons in this area.
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- in another countries where failures to comply with NPT safeguards commitments can create dangerous situations
- in the Indian sub-continent. We all remember about the many countries which took at a certain moment of time preliminary measures to regroup and evacuate their citizens from the respective areas of India and Pakistan which were threatened by the risk of a nuclear war.

So we have seen cases, from outside as well as from inside the NPT framework. The worry of the international community about this kind of problem is not new. The UN Security Council has dealt for the first time with this issue in 1992 when it did adopt an unanimous declaration about the risk of proliferation. We remember also relevant UNSC resolutions on Iraq or on North Korea. And we know also that in the Middle-East region, dangerous dynamics are at work, which makes the more necessary to continue to address specifically this issue in the NPT context.

But the dangers linked to non-proliferation are not limited to activities conducted by States, they could also involve non States actors : since we know now that the question is not if, but when, a new attempt to use weapons of mass-destruction for terrorist purposes will be made... Resolution 1540 represents the first answer by the international community in this regard.

The feeling that, in the present context, and for the time being, the main challenge to the NPT, the main source of danger results from some new manifestations of the temptation of proliferating is shared world-wide. The conclusions of high level panel of experts of the UN, the steady development of PSI as well as the EU common strategy against proliferation constitute important signs of where our main axis of effort should be.

By asserting that the main priority in front of us is to answer to this new challenge, I don't intend to diminish or undermine any of the three pillars whose convergences make the NPT the cornerstone on which to build a better world. I don't intend in particular to dismiss any claim that nuclear disarmament should ideally proceed quicker. But I tend to believe that those who try to make non-proliferation efforts conditional to new progresses in the field of nuclear disarmament are losing the sense of direction. The observation of the fifteen last years shows indeed clearly that there is no immediate direct and mechanical link between these two sides of the NPT trilateral coin. There is obviously a wide political relation as, together with peaceful uses, they are part a of the global bargain which constitutes NPT. But, this well-known truth should not paralyse us and we should progress in each field of the basis of its own merits.

B/ Proliferation has taken new forms and is less easy than before to characterise, than let say five years ago.

1 – Ambiguity about its nuclear capacities and capabilities has emerged as a new form of “deterrence” concept

2 – The uncertainty linked to the development of sensitive dual uses technologies :

- reprocessing, highly enriching uranium and heavy water reactors are particularly sensitive as they constitute the three very barriers to a nuclear bomb. In addition, conversion of uranium for the above mentioned activities cannot be considered a trivial activity. Access to such technologies is not a right as such. Countries which envisage to develop such technology should prove their peaceful intentions, their commitments to the highest standards of non-proliferation and demonstrate a rational economic plan linked to a credible peaceful energy program.
- We are here in a grey area. Mastering these technologies is not indispensable to develop nuclear plants for power generation and therefore enjoy the benefits of peaceful uses. But, some non nuclear weapon States, after having developed a significant number of nuclear plants, have felt the need, for economic purposes, to develop some such activities. At the end of this process, a delicate situation has been created, where some non nuclear weapon States can turn quickly to nuclear weapon States. In this context, a universal CTBT is more needed

than ever, together with an FMCT, as foreseen in decision number two of 1995.

3 – The new forms of illicit trafficking : secondary and tertiary proliferation

- The findings about A. Q. Khan network and other networks have highlighted, the need for PSI and for having countries outside of the NPT regime subscribing to its non-proliferation commitments. Resolution 1540 has been adapted as a consequence.

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II – The world has changed : the new problems linked to the peaceful use of nuclear energy

A/ The lowering thresholds

1/ The scientific and technical threshold

Widespread scientific knowledge is more available than in the past. A serious assessment of the consequences of the end of the cold war, in this regard, remains to be made. As in the biological area, the risks involved here are very diverse : efforts are needed to better mobilise the scientific international community and the private sector against potentially dangerous implications of some researches.

2/ The economical and environmental need to develop the peaceful uses does not necessarily imply developing a nuclear fuel cycle.

- Lowering the CO² emissions and planning for sustainable development require more nuclear energy.
- Nevertheless, nuclear fuel production capacities are in excess compared to all foreseen international requirements. Competition between the companies concerned is high.

B/ Additional Protocol as a key element of any solution

1/ The additional Protocol plus safeguards agreements should be the new verification standard, as foreseen since 2000.

2/ The existence and the full implementation of the additional Protocol should be a positive element /factor to be taken into account by suppliers for developing co-operation in the field of peaceful uses.

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III – A fair balance between non-proliferation obligations and peaceful uses requirements remains to be found

A/ New tracks have been explored but none of them seems to provide alone the right answer

1 – A new function for FMCT : to cover the grey area related to possible fuel cycle proliferation activities ?

But is not FMCT negotiation so difficult to launch, particularly because of the linkages made with Paros, NSA and nuclear disarmament, that adding a new obstacle on the way ahead will just push us into a dead-end ? Therefore, we see with great hesitation some suggestions made in the CD to re-open – even indirectly - the question of the scope of an FMCT.

2 – A new international treaty addressing the fuel cycle ?

As noted in the report of the Pellaud group, it will be difficult to avoid, through the negotiation of such a treaty, to give the impression that the promoters of this idea will, volens, nolens, re-open article IV. The interest , but also a strong reluctance by a number of countries to this idea, which has been raised during the informal consultations about the CD programme of work in the framework of the reflection about “new issues”, suggest that this could come at the end of a process but not as its beginning (criteria for exports as set out in G8 Sea Island plan of action).

3 – Voluntary measures taken in suppliers groups ?

This kind of measures will remain extremely useful, but because of a limit inherent to the limited composition of groups of suppliers, they cannot provide alone the answer. Outreach activities to convince non NSG technology producers to join in this endeavour are criteria.

4 – Complete prohibition

If a complete prohibition of new fuel cycle activities could provide an effective answer, it would also create a new opposition between fuel cycle and non fuel cycle States, which would be extraordinarily difficult to reconcile with NPT text and previous practices.

5 – Moratorium

The proposal of a temporary suspension has been raised, but for the time being, the basis of our future actions remain the G8 Sea-Island plan of action, which in our view can be the starting point on which to build a new multi-faceted framework.

B/ The need for a multi-faceted framework

This framework should not undermine the legitimate right to peaceful uses of nuclear energy, while admitting the equal and legitimate need of restricting the access to the few most sensitive technologies, which are highly likely to be used for military proliferation purposes. With this goal, the framework should combine a co-operative approach and a jointly negotiated assessment about the real economical need of using most sensitive technologies for nationally defined peaceful uses objectives

1/ A co-operative framework :

- to favour the access to non-sensitive or less-sensitive technologies, as the consequence of article IV ;
- to provide, as necessary, nuclear fuel under legal guaranties and at market prices ;
- to suspend co-operation in case of non-compliance concerns.

2/ The need of a joint assessment about the real necessity of developing the most sensitive elements of a nuclear fuel cycle

- good faith and trust are here crucial elements (as President Chirac said : “Countries who prove their peaceful intentions deserve full co-operation”)
- good faith is a necessary element in the implementation of any international treaty. Good faith can be found and be proven through a series of objective criteria, such as :
 - a full record of strict compliance with IAEA regulations
 - a rational business plan for developing a nuclear fuel cycle

In the absence of these two key elements, how not to have serious reasons to believe that peaceful uses are not the real goal of fuel cycle developers, jeopardising therefore article IV ?

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Altogether, the next NPT review conference will provide us with a very special opportunity to discuss further these concepts and others. Let's work so that the result will be an increased and not a diminished security for all.