

## IS THE NPT STILL A USEFUL INSTRUMENT?

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Mr. Chairman,  
Distinguished Members,  
Ladies and Gentlemen,

There are many good reasons to criticize the NPT.

If I was a prosecutor, I would argue that the Treaty is *outdated*. It is a creation of the Cold war. It was the product of the fear that proliferation could accidentally lead to general nuclear war. It was also the product of the fear by Washington and Moscow that new nuclear powers would lead to independent policies and a weakening of deterrence. Today the dynamics of proliferation are different. The risks come primarily from States which have a propensity to cheat or bend the established rules of the international game, not from Western countries.

If I was a prosecutor I would argue that the Treaty is *flawed*. It establishes a distinction between civilian and military applications of nuclear technology which is dubious from the technical point of view. It recognizes that some States have the right to have nuclear weapons, or to develop them after withdrawing from the Treaty, but at the same time it suggests that nuclear weapons are dangerous and should be abolished. And the absence of a clear definition of notions such as “*peaceful nuclear technology*”, “*cessation of the arms race*” and “*nuclear disarmament*” often precludes clear judgements of the respect of the Treaty’s provisions.

Finally, I would argue that the Treaty is exceedingly *permissive*, because it authorizes the development of what can only be called a nuclear breakout capability. Parties have the right to demand the “*fullest possible exchange*” of nuclear technology without having to bear intrusive inspections. They can legally acquire the means to develop quickly an operational nuclear device, and then withdraw under the terms of Article X. There is a fundamental tension in the NPT between sharing nuclear technology and controlling its diversion to military purposes.

Does it mean that we should throw the baby out with the bathwater, and the NPT is not worth saving? Certainly not. The NPT *is* a success story. It has helped preventing the bleak future that was envisioned in the early 1960s, of a world

with 20 or 30 nuclear nations. The NPT is one of the most universally-agreed international legal instruments: only three countries remain outside. It is the only global norm against the further horizontal spread of nuclear weapons. If it did not exist, the international community would be unable today to agree upon another legally-binding instrument of the same kind.

To be sure, the NPT contains a built-in difference in status, sometimes called a form of “apartheid”. But what the Treaty did was to freeze the nuclear situation in 1968 as a way to compromise between *realities* – taking into account the existence of nuclear-capable States – and *ambitions* – reducing the dangers of proliferation. Other treaties discriminate between groups of countries.

Efforts to preserve the Treaty are worthwhile, because we live in a world where the dangers of proliferation are again growing. The North Korean withdrawal has created a precedent. A *second* withdrawal might lead to an unravelling of the whole regime. In sum, Mr. Chairman, there are excellent reasons to criticize the Treaty, but the international community would be certainly worse off if it was to disappear.

However, to ensure the continued existence and credibility of the NPT, two steps should be taken.

The first step is to “plug the hole” which allows a country to acquire the wherewithal to make nuclear weapons and then withdraw with only three months’ notice. One of the Treaty’s flaws is that the diffusion of nuclear technology enshrined in Article IV creates the conditions for States to come very close to violating Article II. There is a need to limit the transfer of enrichment and reprocessing capabilities, which are needed to get weapon-grade material. We need to make it clear that despite what Iran and other countries claim, the NPT never created a “right to enrichment”, and even less a right to the whole nuclear fuel cycle. As suggested by several countries and by the IAEA, international mechanisms should be devised to provide safeguarded but guaranteed access to reactor-grade fuel for members in good standing of their obligations. The Additional Protocol should become the norm, the new “gold standard”. As per the withdrawal conditions set under Article X – they should be complemented by an agreement that States that have violated their NPT commitments should be held accountable even after their withdrawal.

The second step is to recognize that the NPT is first and foremost a “non-proliferation” treaty, not a “non-proliferation and disarmament” treaty. The absence of progress in nuclear disarmament should not be an excuse for not doing everything to fight against proliferation.

The NPT should *not* be understood as simply a trade-off between non-proliferation and disarmament. Membership of the NPT includes a series of compensations given to those who agree to give up nuclear weapons, the promise of disarmament being only one of them. These compensations include the guarantee that adherence to the Treaty would not be an obstacle to economic and scientific development in the nuclear field, and that access to nuclear energy would be helped; as well as the guarantee that the Treaty did not lock the strategic situation for the foreseeable future, but was a temporary arrangement. All Non-nuclear weapon States were granted positive and negative security assurances, and European Non-Nuclear Weapon States were granted specific compensations: the NATO mechanisms of nuclear planning were revamped to give a say to non-nuclear members.

Article VI is not a clear-cut commitment to nuclear disarmament. It places nuclear disarmament and general and complete disarmament on an equal footing. In fact, the Preamble makes it clear that nuclear abolition would be “*pursuant to a treaty on general and complete disarmament*”. Article VI concerns as much the “*cessation of the arms race*” – which was viewed by the negotiators as a critical step to avoid the risk of nuclear war – as nuclear disarmament *per se*.

And it would be unfair to say that the Nuclear Weapons States have failed to implement Article VI. The nuclear arms race has ended. The CTBT, also a key concern of NPT negotiators as shown by the Preamble, has been concluded. And nuclear forces have been significantly reduced in four of the five Nuclear Weapons States.

Those who argue that there is a direct causal link between disarmament and non-proliferation have little evidence to prove their case. Between 1987 and 1998, there was significant progress on the front of nuclear disarmament [*INF, PNI, START-1, START-2, NPR, RSA, UK, FR, FSU, CTBT, de-alerting*]. There is *no* evidence that these moves had the slightest impact on the nuclear programmes of India, Iraq, Iran, Israel, Libya, North Korea or Pakistan.

I should add that the de-emphasis of nuclear weapons in defense policies would not necessarily serve the purpose of the Treaty. Closing the nuclear umbrella which protects US allies would be an encouragement to nuclear proliferation in East Asia and perhaps even in Europe. A no-first-use doctrine would be a green light for the use of chemical or biological weapons by an adversary. And de-emphasis of nuclear deterrence could also run contrary to the Article VI goal of general and complete disarmament since it would force countries to develop their conventional armories.

Such are the reasons why I believe we should discard the “13 Steps” included in the 2000 Final document, which do not help maintaining the credibility of the Treaty. Instead, I suggest that we should return to the “Decision on the Principles and Objectives” of 1995. This document is more important than the 2000 one, because it was a *quid pro quo* for the indefinite extension of the Treaty. Also, the Principles and Objectives of are less outdated than the 13 Steps, which mention START-2, START-3 and the ABM treaty.

This is not to say that disarmament measures do not matter. Some of them bring clear benefits in terms of strategic stability and confidence-building. Three steps could be taken. The first one would be a commitment by the five Nuclear Weapons States to cap the size of their nuclear arsenals at current levels, with an exit clause in case that they saw a radical change in their security environment. A second step would be a global ban on certain kinds of nuclear weapons such as atomic demolition munitions or nuclear artillery, which no nuclear-capable country is known to possess or develop currently. This appears to be a realistic way to see the arms control process applying to the category of so-called “tactical” nuclear weapons. A third step would be the discussion by of a ban on stationing nuclear weapons on foreign soil. Such a decision would create a norm against the future possibility that a nuclear-capable State transfers weapons to a Non-Nuclear Weapon State under the disguise of applying the same mechanism as NATO. It could also be part of a deal with Moscow that would include a tangible reduction and consolidation of nuclear weapons storage sites located in the western part of the country.

Mr. Chairman, the dynamics of proliferation are, once again, at an important juncture. We are “back to the future”: the year 2006 resembles in some ways the year 1966. There is a growing fear of a new wave of nuclear proliferation, but also an important demand for nuclear energy. At that time, we tackled the problem through a combination of international agreements and multilateral arrangements, in a spirit of compromise, and efficiency. The same kind of combination might be needed today to avoid a world of many nuclear-capable countries in the next decade.

I thank you for your attention.