

## German Foreign Policy in Dialogue

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The EU's Emerging Role  
in Nuclear Non-Proliferation Policy

Trends and Prospects in the Context of the NPT-Review Conference 2005

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# **Foreign Policy in Dialogue**

**A Quarterly E-Newsletter on German and European Foreign Policy**

*Edited by Marco Overhaus, Hanns W. Maull and Sebastian  
Harnisch*

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## **I. The EU's Emerging Role in Nuclear Non-Proliferation Policy - Trends and Prospects in the Context of the NPT-Review Conference 2005**

### **Editorial**

*By Marco Overhaus*

Review Conferences (RevCon) of the Treaty on Nuclear Non-Proliferation (NPT) have taken place every five years since the Treaty entered into force in 1970. Yet, these conferences have not become routine events in the calendar of international diplomacy. Rather, they have served as a focal point that has forced both governments and epistemic communities of experts and advocates to take stock of the NPT's effectiveness in preventing the proliferation of nuclear weapons and to devise appropriate strategies to improve the system. Though the RevCon in May 2005 similarly functioned as a focal point for discussions, its outcome was judged a disappointment by most participating parties and outside observers alike. The conference barely made it over numerous procedural hurdles, and it then could not agree on substantive steps to promote nuclear non-proliferation and disarmament.

This poor outcome was even more regrettable as it took place against the background of unprecedented challenges to the international non-proliferation regime. Three of them stand out – none of them entirely new but all with a new quality - which had developed over the last few years. Firstly, it was revealed that at least three members of the NPT had undertaken covert nuclear programs that suspiciously looked designed to take them to the edge of a nuclear weapons capability. North Korea very likely already has crossed that line, as leaders in Pyongyang openly claim and western intelligence services acknowledge. The country had clearly violated the NPT's provisions before it withdrew from the Treaty in 2003. By contrast, Libya decided, not least under the impression of the U.S.-led war against Iraq, to renounce all its programs to produce Weapons of Mass Destruction (WMD). Finally, Iran has pursued certain activities in the nuclear fuel-cycle (most notably, importing centrifuges for Uranium enrichment) without complying with its safeguard obligations under the NPT regime. Although Tehran insists that these activities are purely for peaceful uses of nuclear energy, many independent observers have concluded that Iran is trying to acquire a nuclear weapons capability.

The second challenge to the international non-proliferation regime has arisen from changes in the international environment. UN Secretary-General Kofi Annan summarized this challenge

recently in an article for the *International Herald Tribune* (May 30, 2005) when he wrote that “the NPT-based regime has not kept pace with the march of technology and globalization”. One important aspect of globalization is the emergence of non-state actors in the field of nuclear proliferation. To be sure, this process has been going on for years, but its effect became plain for everyone to see when the private proliferation activities of Pakistan’s “father of the atomic bomb”, Dr. A.Q. Khan, were disclosed to the public in 2002/ 2003. Under the eyes of the Pakistani government, Khan had been able to build up a sophisticated network for trading nuclear technology and “surplus” hardware from his laboratories, even incorporating third countries (such as Malaysia) as production sites. The NPT regime was clearly unable to prevent this privatized form of nuclear proliferation.

Finally, the recalibration of the U.S. non-proliferation policy under the Bush Administration has posed a third fundamental challenge to the traditional core elements of the regime. Since September 11, 2001, President Bush has shifted the focus of his policy ever further away from steps to nuclear disarmament (e.g., through a Comprehensive Test Ban Treaty or the verifiable cut-off of fissile material) towards non-proliferation initiatives within a plurilateral, rather than a comprehensive multilateral framework. Not all of these initiatives (such as the Proliferation Security Initiative) contradicted the NPT regime *per se*, but U.S. policy has polarized the international community, as non-nuclear weapon states (NNWS) complain about an unfair bias of the regime towards non-proliferation.

In the face of these challenges and clearly as a reaction to them, the European Union has begun to assert its ability to promote non-proliferation as an effective, unified actor. On December 12, 2003, the European Council adopted (along with the European Security Strategy) the Union’s first “Strategy Against Proliferation of Weapons of Mass Destruction”. Its primary objective is to “prevent, deter, halt and, where possible, to eliminate proliferation programmes of concern worldwide.” To this end, the Strategy identifies a wide range of instruments, namely “multilateral treaties and verification mechanisms; national and internationally-coordinated export controls; co-operative threat reduction programmes; political and economic levers (...); interdiction of illegal procurement activities and, as a last resort, coercive measures in accordance with the UN Charter.”

But the EU member states form a rather mixed, heterogeneous club. There are two nuclear weapon states (France and United Kingdom), as well as many NNWS; the EU has NATO members, but also non-aligned countries, countries with a preference for using nuclear energy

and those opposing it (e.g., Germany under the Red-Green government). Against this background, the EU's WMD Strategy was meant to help enable the EU to formulate and implement a single, coherent non-proliferation policy in international fora. Together with EU non-proliferation efforts directed at Iran, RevCon 2005 clearly represented a critical test case for the Europeans.

This issue of "Foreign Policy in Dialogue" undertakes to assess the track record of the EU and its member states before and during the Review Conference in New York in May 2005. Was the Union able to act as a coherent force during the preparatory phase and the conference itself? What is its share of responsibility for the conference's failure? What were the specific answers of EU member states to the challenges mentioned above? Would a more unified European approach have made a difference?

As usual, we compiled our set of contributions in order to offer our readers a balanced account of the issue at hand from different yet complementary angles. In his analysis of Europe's non-proliferation strategy, *Oliver Meier* takes a rather kind look at the *European Union's* overall performance before and during the RevCon. In his view, the Europeans largely managed to unify positions among its 25 member states, albeit with some qualification in the area of nuclear disarmament, where internal divisions between NWS and NNWS are deepest. Meier argues that the EU could not have done anything to avert the conference's failure because "a few delegations including Egypt, Iran and the United States were using the meeting to pursue their own narrow agendas".

In the course of the 1990s, Germany has increasingly sought to profile itself as a vocal promotor of the NPT-regime. According to Harald Mueller, Germany not only pursued a discernible agenda of its own during the Conference (with an emphasis on dealing with non-compliance, withdrawal from the Treaty and improving export controls) but also demonstrated its willingness to implement the EU's Common Position. In his contribution, he shows how Berlin consistently tried to play an important role as initiator of consensus among the EU states, which in turn was meant to move the so-called Western Group (which includes the United States, see Glossary) in its preferred direction. This "strategy" succeeded in unlocking the procedural stalemate, but it could not produce a more substantive outcome, however.

Rebecca Johnson analyzes the British non-proliferation policy in the context of the RevCon 2005. As one of two NWS, and with its "special relationship" with the United States, the

United Kingdom clearly holds a special position within the EU. In her contribution, Johnson stresses the fact that London had to play several (and contradictory) roles: as a trustworthy partner of the U.S., a leading member of the EU and as an influential nuclear weapon state. On balance, Johnson strikes a rather sceptical note on how well the UK government was able to reconcile these different roles. In her view, London had only low expectations for a substantive outcome of the Conference from the beginning: “Its principal objective was to avoid open and damaging conflict that would further weaken the [NPT, M.O.] regime or exacerbate U.S. isolation”.

*Annika Thunborg* and *Alexander Kmentt* look at the NPT policies of *Sweden* and *Austria*, respectively. Both countries belong to the group of non-aligned countries within the EU, and Austria is also a member of the *New Agenda Coalition* (NAC, see Glossary). Both countries share a strong preference for linking non-proliferation issues to nuclear disarmament. For Sweden, Thunborg identifies the insertion of a clear reference to previous calls for nuclear disarmament by the NWS into the final document as its principal policy goal during the RevCon 2005 (it did not happen). Similarly, Austrian policy stressed the need for a “carefully crafted balance of the NPT’s three pillars: Non-proliferation, disarmament and peaceful use.” Not surprisingly, both authors see the rather modest ambitions of the EU on disarmament as one of the principal shortcomings of its common policy during the conference.

Finally, *Sebastian Harnisch* and *Ruth Linden* describe the diplomatic efforts of the United Kingdom, France and Germany (the so-called EU-3) to solve the conflict over Iran’s nuclear program. Though much of this took place before the Review Conference in May 2005, the conflict with Iran is critical for the future of the NPT and for the EU’s ability to speak with one voice and act coherently in the area of non-proliferation policy. For many observers, the hope was that the initiative of three influential EU countries, backed by the Community as a whole, could work as a model case for “effective multilateralism”. Harnisch and Linden acknowledge that these high expectations were only partly met. Negotiations broke down in September this year, following the election of a hardliner to the Iranian presidency. Still, the authors consider it to be a success that the EU-3 could confront Tehran with a common European consensus position in some crucial areas, “thereby giving a broadly recognized mediation mission a fair chance to resolve the conflict diplomatically.”

The nuclear diplomacy of the UK, France and Germany towards Tehran may also be instructive for judging the prospects of European non-proliferation and disarmament policy in

general. Harnisch's and Linden's key conclusion is that the "EU-3" failed to play the role of a mediator between the United States and Iran "because both parties viewed the European Union as a buffer and a potential coalition partner vis-à-vis the other". In fact, this epitomizes the growing "consensus gap" between an American policy that has reacted to the threats of terrorism and WMD-proliferation with even less enthusiasm to reduce its own weapons stock piles, on the one hand, and a few NNWS *radicals* which insist on their "inalienable right" to acquire nuclear technology of all sorts. While some of them may well have purely peaceful intentions, others (such as Iran) are likely to gamble to reach the nuclear threshold, which then would allow them to shift gears sometimes in the future.

Whether Europe will be able to bridge (if not to fill) this consensus gap or not will matter quite a bit for the future of the NPT. As the contributions to this volume demonstrate, the EU still has some way to go before it can play such a role. With its WMD-Strategy it has taken an important step, yet what matters is its ability to move forward with an ambitious and credible agenda in both nuclear disarmament and non-proliferation.

**The EU at the NPT Review Conference:  
A Modest Success for the EU's Emerging Policy in Nuclear Non-Proliferation**

*By Oliver Meier*

The May 2005 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was an important first test of the EU's new non-proliferation policy. This policy is based on the European Security Strategy (ESS) and more specifically on the associated Strategy Against Proliferation of Weapons of Mass Destruction (WMD Strategy).<sup>1</sup> Both documents were adopted in December 2003 and for the first time provide the EU with a binding framework and a coherent approach to tackle the spread of WMD.

The ESS was the result of an intense desire by European leaders to rebuild intra-European relations after the Iraq crisis. Pre-war diplomatic debates had revealed a deep split among Europeans on the value of multilateral arms control inspections as well as on the use of force to enforce compliance with disarmament obligations. More deeply, a unified and coherent strategy was also seen as necessary to counter the new, largely unilateralist U.S. security approach, with an emphasis on counterproliferation, that was unveiled after the September 11, 2001 terrorist attacks. Europeans generally felt uncomfortable with the U.S. inclusion of pre-emptive military action as a non-proliferation tool but had few new approaches to offer as alternatives.

The ESS and the WMD Strategy thus serve two potentially contradictory goals simultaneously: the development of a unified transatlantic approach on proliferation issues and the strengthening, or at least the preservation, of multilateral WMD control regimes. The performance of the EU before, during and after the latest NPT Review Conference can be measured against these goals.<sup>2</sup>

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<sup>1</sup> "A Secure Europe in a Better World: European Security Strategy," Brussels, December 12, 2003, available at: <http://ue.eu.int/uedocs/cmsUpload/78367.pdf>; "EU Strategy Against Proliferation of Weapons of Mass Destruction," Council of European Union, Brussels, December 12, 2003, available at: <http://ue.eu.int/uedocs/http://ue.eu.int/uedocs/cmsUpload/st15708.en03.pdf>

<sup>2</sup> See also Oliver Meier/ Gerrard Quille: "Testing Time for Europe's Nonproliferation Strategy", in: Arms Control Today, 35(4), May 2005, p. 4-12.

### *The Run-Up to the Review Conference*

The EU has more than ten years experience of engagement with the NPT. Once France acceded to the treaty in 1992, all EU member states were also members of the NPT. The EU played a crucial role in securing the indefinite extension of the NPT in 1995. The diplomatic campaign it conducted in the run-up to the conference is still seen by many as a model for joint European action. During the 2000 NPT Review Conference, the EU helped to achieve the Final Document, which contained new and specific commitments by the nuclear weapon states towards disarmament.

But agreeing on a Common Position in the run-up to the 2005 NPT Review Conference was difficult for the EU. Consensus on such a binding document which serves as a guideline for EU action before and during the Review Conference was all the more important because the ESS and the WMD Strategy themselves provided only limited guidance. The WMD strategy generally makes non-proliferation a central goal of the EU's Common Foreign and Security Policy (CFSP), stating that "our objective is to prevent, deter, halt and, where possible, eliminate proliferation programmes of concern worldwide."<sup>3</sup> But the only recommended policy action related to the NPT that the document mentions is to "pursue the universalisation of the NPT, the [International Atomic Energy Agency] safeguards agreements and protocols additional to them."<sup>4</sup>

During the consultations on the Common Position, several issues proved to be controversial among EU member states, including nuclear disarmament. There had always been divisions within the EU on this issue, with the nuclear weapon states on one side and proponents of nuclear disarmament like Sweden and Ireland on the other side. But agreement was particularly difficult in 2005 because France and the United Kingdom tried to reverse positions the EU had held in the past and did not shy away from breaking ranks with the other 23 EU member states.

One contentious topic was the status of past disarmament obligations. On this question, Paris supported the position of the U.S. government and argued for a lax interpretation of the disarmament promises the nuclear weapon states had made in the context of the 2000 Review

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<sup>3</sup> WMD Strategy, para. 2.

<sup>4</sup> WMD Strategy, para. 16.

Conference. London provided political cover for the Bush Administration on the question of how to advance a treaty banning the production of fissile materials for military purposes. The Blair Government supported the U.S. line that talks on such a treaty should not include a monitoring mechanism and thus deviated from the previous EU position that a treaty should be effectively verifiable.

In the end, diplomatic compromises were found on these and other controversial topics and the European Council meeting on April 25 and 26, 2005 approved a new Common Position, a week before the Review Conference opened in New York. It commits the EU and its member states “to strengthen the international nuclear non-proliferation regime by promoting the successful outcome” of the 2005 NPT Review Conference and details 43 distinct measures how to achieve this goal.<sup>5</sup>

### *The EU's Performance at the Review Conference*

At the Review Conference in May 2005, the EU was in a tough spot. It avoided antagonizing the United States and was simultaneously conducting high-profile talks with Iran on a peaceful solution of the crisis about its nuclear program. Many observers saw Washington's and Tehran's hard-line policies as the main obstacles on the way to an agreement on a Final Document which required consensus among the 188 NPT member states. While the EU shared Washington's concerns about strengthening compliance with the NPT, Europe's approach was less confrontational. Many European diplomats, including German officials, privately voiced discontent with Washington's uncompromising stance in New York. But the urge to maintain transatlantic unity prevented open criticism by Europeans of the U.S. approach to the NPT. Articulating a position distinct from the Bush Administration's was also not helped by the fact that the rules of the conference placed the EU together with the U.S. in the “Western Group” (see Glossary). The group system which is made up of the Western Group, the Eastern Group and the Group of Nonaligned States had evolved during the Cold War and is now a caricature of relevant political alliances. However, states have been unable to change it.

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<sup>5</sup> “Council Common Position 2005/329/PESC of 25 April 2005 relating to the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons”, Council of the European Union, available at: [http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/l\\_106/l\\_10620050427en00320035.pdf](http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/l_106/l_10620050427en00320035.pdf)

The peaceful resolution of the dispute about Iran's nuclear program was seen by many as a litmus test for the NPT's ability to prevent the military misuse of peaceful nuclear programs. The issue cast a shadow over the conference and European officials from France, Germany and the United Kingdom as well as Brussels were deeply involved in the endgame of talks with Iran in parallel with discussions at the Review Conference. While there was transatlantic unity in terms of demands made towards Tehran – namely that Iran had to give up efforts to close the nuclear fuel-cycle – Europe and the U.S. disagreed in their assessment of Iran's compliance with the NPT. Bush Administration officials repeatedly accused Iran of operating a clandestine nuclear weapons program while Europeans at least publicly did not make such assertions.

The EU was unable to substantially soften hard-line stances of Iran and the United States but it made several substantive contributions to the Review Conference. The most novel submission was the European proposal for a clarification of the procedures for withdrawal from the treaty. Article X of the NPT was invoked for the first time when North Korea in January 2003 announced that it was leaving the treaty. The EU – largely based on German ideas – proposed to raise the hurdles for withdrawal from the NPT. Specifically, the EU suggested that the UN Security Council should automatically debate any notice of withdrawal from the NPT. The EU also proposed measures to ensure that nuclear technology acquired under the NPT may not be misused for military purposes even after a member state has left the treaty.<sup>6</sup>

Another topic on which the EU placed emphasis were more stringent nuclear safeguards to prevent the clandestine misuse of nuclear technology for hostile purposes. Specifically, the EU wanted the Review Conference to make acceptance of stricter control measures under the 1997 Additional Protocol a condition of supply for nuclear technology (see Glossary).

### ***Assessing Europe's Performance***

In the end, none of these or any other of the numerous proposals to strengthen the treaty were adopted. The Review Conference failed miserably. After almost three weeks of procedural debate about the agenda and one week of substantial discussions, the meeting was only able to

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<sup>6</sup> See "Withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons: European Union common approach" Working Paper submitted by Luxembourg on behalf of the European Union to the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, NPT/CONF.2005/WP.32. New York, May 10, 2005.

adopt a procedural report that was void of any substance. In all likelihood, there is nothing the EU could have done to avert the disaster. The Review Conference was unable to agree on any substantive measures because a few delegations including Egypt, Iran and the United States were using the meeting to pursue their own narrow agendas rather than as a meaningful negotiating forum. The meeting revealed a deep split among members of the international community. The nuclear weapon states, led by the U.S., stubbornly refused to promise further steps to fulfil their obligation under article VI to pursue nuclear disarmament. Developing states were sceptical of tighter control measures which might restrict their access to nuclear technology for peaceful purposes as guaranteed under the NPT. Procedurally, the conference was held hostage by the consensus rule which gave a few delegations the power to block agreement.

On the positive side, the EU can take credit for some accomplishments. First, it was able to achieve unity among its 25 member states. In an interview two months after the Review Conference, the EU's top non-proliferation official, Annalisa Giannella, argued that given "the starting positions of our member states, which are very different for political reasons, historic reasons, and because of differences of status in the UN, it was a real effort, a real achievement" for the EU to have agreed on a Common Position.<sup>7</sup> As Giannella also pointed out, it was a second achievement for the EU that a number of states, including members of NATO and the New Agenda Coalition<sup>8</sup> supported the EU's position in New York. Finally, the EU during the conference made a number of essential proposals that broke the deadlock on procedural issues and its intervention helped to avert a complete collapse at a critical stage of the meeting.

Despite these achievements, the Review Conference revealed shortcomings in the EU's nonproliferation policies. First, the process of defining the European middle ground on nuclear disarmament made clear that Europe is no longer unified in being a driving force on this issue. Inner-EU discussions had become a mere reflection of global divisions on nuclear arms reductions and foreshadowed the split that eventually led to the collapse of the Review Conference.

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<sup>7</sup> Oliver Meier (2005): "Between Noble Goals and Sobering Reality: An Interview With EU Nonproliferation Chief Annalisa Giannella", in: Arms Control Today, 35(7), p. 20-22, transcript of the interview at: [http://www.armscontrol.org/interviews/20050724\\_Giannella.asp](http://www.armscontrol.org/interviews/20050724_Giannella.asp)

<sup>8</sup> The member states of the New Agenda Coalition are Brazil, Egypt, Ireland, Mexico, New Zealand, South Africa, and Sweden. These countries frequently issue joint proposals to advance nuclear disarmament (see Glossary).

Second, during the Review Conference the EU was not as united on many non-proliferation topics as the Common Position made believe. Worryingly from a European perspective, old divisions along the lines of transatlantic disunity resurfaced. In particular, in closed Western Group meetings EU delegations repeatedly failed to act united. It didn't help that the Western Group was chaired by the United Kingdom during the Review Conference which some saw as acting in a biased, pro-American manner.

Under the given circumstances, the EU could have done better but certainly could have done worse, too. For the Review Conference to succeed, it would have been necessary to isolate the few radical delegations that were bent on spoiling the meeting. While the EU was able to enlarge the middle ground among the 188 member states, it was not willing to publicly break ranks with the U.S. even on issues where it profoundly disagreed with the Bush Administration.

### *The Aftermath – What Next?*

A successful EU non-proliferation policy will depend on drawing the right lessons from the Review Conference's failure and on salvaging as much as possible of the substance that was lost in the disaster. Unfortunately, only few of the good ideas presented in New York are likely to be taken forward before the next Review Conference in 2010. Proposals to reform the functioning of the NPT, such as the EU's proposal on article X (the question of withdrawal), have to be adopted by consensus by all NPT member states and Review Conferences have so far been the only occasion where such decisions could be taken.

Other ideas to strengthen non-proliferation more generally, however, can be pursued in forums other than the NPT. When asked what the EU can do to implement its proposals to the NPT before the next Review Conference, Annalisa Giannella stated that the EU will “continue to work to strengthen the NPT as we continue to work to strengthen other treaties and conventions because we can use all the opportunities we have in the context of our political dialogue. We can also use our participation in the export control regimes, we can work on the multinational approach for the fuel-cycle. There are a lot of opportunities and forums to work on specific aspects, and we will continue to do so.”

One forum of particular relevance is the International Atomic Energy Agency (IAEA) which can agree on certain measures to strengthen verification of the treaty as well as on specific steps to improve compliance. The IAEA's Director-General Mohamed ElBaradei had initiated a debate about the improved controls on certain nuclear fuel-cycle facilities months before the Review Conference took place and this issue can be taken forward without having to wait another five years.

On nuclear disarmament, things will be particularly difficult for the EU. This is where divisions within the EU are deepest. Making sure that the two European nuclear weapon states, France and the United Kingdom are supporting European majority positions will be the first task for governments. Are Paris and London really committed in supporting Europe's multilateral approach to nuclear disarmament and are they willing to submit their arsenals to arms control measures? Or are they towing the U.S. line which opposes restrictions on American nuclear weapon capabilities? Only when Europe is truly united on this issue will it be able to confront the Bush Administration with the multilateral approach that the ESS and the WMD Strategy promote.

There is a real danger that the EU will shy away from these conflicts both within and with its major partner on the other side of the Atlantic. Already, the EU has begun shifting the emphasis of its non-proliferation policy, away from traditional multilateral instruments such as the NPT towards areas where it has more agreement with the U.S. such as export controls and bilateral arrangements to strengthen non-proliferation. Even in those areas, the EU will need to hold firm to well-established non-proliferation principles. A coming challenge to EU policy will be the United States proposal to rewrite U.S. law and the policies of the Nuclear Suppliers Group<sup>9</sup> to allow full civilian nuclear cooperation with nuclear-armed India, even though India does not allow full scope nuclear safeguards, continues to produce fissile material, and has not agreed to support any meaningful nuclear restraint measures.

Neglecting the disarmament aspects of the nuclear non-proliferation regime or weakening global norms to ensure that peaceful activities are not misused for military aims would further hobble the NPT. The NPT Review Conference has made one thing clear: without a stronger commitment by the nuclear weapon states to fulfil their disarmament obligations the treaty is bound to become irrelevant. Europe is in a unique position to prevent this from happening.

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<sup>9</sup> See Glossary.

## **Germany and the 2005 NPT Review Conference**

*By Harald Mueller*

### ***Introduction***

Germany has traditionally taken a strong interest in the Review Conferences of the Non-Proliferation Treaty (NPT).<sup>10</sup> The country was one of the main targets of the Treaty in the first place as many participants, major allies included, deemed a military nuclear program in the Federal Republic as one of the most destabilising possibilities of the East-West conflict. Consequently, the country became a very active participant in the process with the objective of preserving its prerogatives as to the civilian uses of nuclear energy. The picture changed significantly in 1990 when Germany promoted full-scope safeguards as a condition of new nuclear supply contracts, a position it had opposed before as a curb on its nuclear export ambitions. In the following Review Conferences, Germany became a staunch promoter of the Treaty as such and put more emphasis than before on issues of nuclear disarmament. Under the Red-Green coalition government it shifted to membership in the small club of principled opponents of nuclear energy, trying to prevent kind words about civilian nuclear uses in official communiqués as far as possible.

Germany had initiated both the "Joint Action" by the European Union for the promotion of the indefinite extension of the Treaty in 1995, and the Common Position with which the EU had entered, and influenced considerably the result of, the NPT Review Conference in 2000.

### ***German Activities During the Preparatory Phase***

Germany assumed an unprecedentedly active role both during the preparatory process of the 2005 Review Conference and in the preparation of the EU Common Position. Apart from submitting a report on its own disarmament efforts<sup>11</sup> (like other countries), its delegation introduced a series of working papers into the sessions of the Preparatory Commission, flagging carefully the items on which the country took a particular interest. These topics included nuclear terrorism<sup>12</sup> and cases of non-compliance with<sup>13</sup> and of withdrawal from the

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<sup>10</sup> See Harald Mueller (2003): German National Identity and WMD Nonproliferation, in: *The Nonproliferation Review*, 10(2), p. 1-20.

<sup>11</sup> NPT/CONF.2005/PC.I/13, April 12, 2002.

<sup>12</sup> NPT/CONF.2005/PC.I/WP.12, April 18, 2002.

NPT<sup>14</sup>, improvement of export controls<sup>15</sup>, the inclusion of sub-strategic nuclear weapons into the nuclear disarmament process<sup>16</sup>, the conditions for establishing a nuclear weapons free world and the strategy to come closer to it<sup>17</sup>. On the one hand, this active policy documented the keen German interest in strengthening the non-proliferation and anti-terrorism tools of the NPT-regime, something very dear to the nuclear weapon states (and the Bush Administration in particular). On the other hand, Germany demonstrated an independent position on nuclear disarmament issues at a time when the American and French allies were openly retracting on their disarmament commitments which they made in the 2000 Final Declaration.<sup>18</sup>

With this agenda of its own, the German representatives entered the difficult and tough negotiations on the EU's Common Positions. The hardened stance by France on issues that most of the non-nuclear weapon states regarded as "acquis" sealed by the 2000 Review Conference exacerbated the existing divergences between the camps within the EU. Notably Ireland and Sweden, which are both members of the New Agenda Coalition (see Glossary), were annoyed (if not irate) about the French policy. Nevertheless, with a last-minute compromise the Common Position could be adopted. It was certainly less substantial than the one five years ago, but it was nevertheless a useful document which could have served as the groundwork of a final declaration, because it already represented a compromise between nuclear and non-nuclear weapon states on the one hand and between promoters and opponents of nuclear energy on the other.<sup>19</sup>

Germany had been instrumental in installing some language on substrategic nuclear weapons in the document. It had worked hard to keep references to the 2000 final declaration and to nuclear disarmament in the document, an attempt that finally succeeded. There was also a tenacious fight about the way the Fissile Material Cut-off (FMCT, see Glossary) would enter the text. Because of the American refusal to accept verification as a topic for the negotiations, Britain objected to the inclusion of the term "verifiable" (see the contribution of Rebecca Johnson in this volume). Not the least because of German insistence, it became possible to

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<sup>13</sup> NPT/CONF.2005/PC.III/WP.16, April 29, 2004.

<sup>14</sup> NPT/CONF.2005/PC.III/WP.15, April 29, 2004.

<sup>15</sup> NPT/CONF.2005/PC.III/WP.14, April 29, 2004.

<sup>16</sup> NPT/CONF.2005/PC.I/WP.5, April 11, 2002.

<sup>17</sup> NPT/CONF.2005/PC.I/WP.4, April 11, 2002.

<sup>18</sup> See the "Thirteen Practical Steps", Glossary.

<sup>19</sup> Council Common Position relating to the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Brussels, EU, April 25, 2005.

install a reference in the Common Position, noting that all related issues could enter negotiations, which implicitly preserved the possibility to address verification of the FMCT. Germany also supported a friendly reference to the report of an expert group of the International Atomic Energy Agency (IAEA) on the multilateralisation of the fuel-cycle<sup>20</sup>. There was hope that this might, under favourable circumstances, open the way for a palatable solution of the Iranian nuclear crisis. Finally, Berlin promoted the EU's demand of the Review Conference to recognize the Additional Protocol as the valid standard of verification of the NPT (see Glossary).

Germany did not succeed to have the Common Position address the issue of compliance/withdrawal explicitly and operationally. Yet, Berlin managed to agree with France on a joint working paper on the topic which on the eve of the Conference became an EU working paper.<sup>21</sup> On the way, some aspects valuable to Germany were sacrificed for the sake of compromise. Probably most painful was the loss of a proposal to convene a special conference of the States Parties in the case of withdrawal from the NPT. It was objected to by the EU nuclear weapon states who were afraid that the role of the United Nations Security Council (UNSC), and thereby their own privileged positions, might be compromised by an independent deliberation of the community of States Parties. Germany had promoted the idea of such a conference not the least for establishing an institutional counterbalance to the dominating role of the UNSC, but this position was not tenable due to British and French opposition (and some doubts by a few other EU member states as well). In the end, from the German perspective it was more important to have an EU paper tabled at all than to prevail on principle and lose the partners in the process.

Germany entered the Review Conference with the determination to work for a successful outcome. Success in this case was defined as the adoption of a final declaration with substantial content, that is, a thorough review of the past four years, but even more important, a forward-looking plan of action on how to tackle the main weaknesses of the regime.

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<sup>20</sup> Multilateral Approaches to the Nuclear Fuel-cycle: Expert Group Report submitted to the Director General of the International Atomic Energy Agency, Vienna, IAEA, INFCIRC/640, February 22, 2005.

<sup>21</sup> NPT/CONF.2005/WP.32, May 10, 2005.

### *The German Delegation*

The delegation was formally led by Foreign Minister Joschka Fischer who delivered the statement in the general debate, the opening phase of the Review Conference. With the presence of the chief of the foreign office – Fischer was one of the very few foreign ministers of a major country to attend - Germany unambiguously demonstrated its commitment to the NPT and the importance it attached to the Review Conference.

For the major part of the proceedings, the Deputy Commissioner for Arms Control and Disarmament, Friedrich Groening, was present as the highest ranking diplomat in the delegation. He focussed on intense bilateral talks with a number of key delegations. The operative lead of the German delegation was in the hands of Berlin's Ambassador to the Geneva Conference on Disarmament, Volker Heinsberg. The leading office in the Foreign Ministry, *Referat 240*, with authority over nuclear disarmament and non-proliferation, was represented during the first two weeks and in the last week; its participation was less numerous than planned (one official at the beginning, two at the end) because of the temporary dramatic turn of the Iranian nuclear crisis during the Conference. The other Foreign Ministry office participating was *Referat 410* from the economics department with authority over export controls and peaceful nuclear uses. Two officials of the German mission to the United Nations were attached to the delegation as well. Finally, a member of the German mission to the IAEA was working in the delegation, serving also as a liaison to the Economics Ministry. The delegation was supported by three non-governmental advisors, from the Peace Research Institute Frankfurt, the Institute for Security and Peace Research in Hamburg, and the Research Center Juelich, respectively. Conspicuously absent from the delegation were representatives of Ministry of Education and Research, in earlier decades the hegemonic force in German nuclear policy, and of the Ministry of the Environment, the main power pushing for the nuclear phase-out policy in Germany and with an explicitly anti-nuclear stance. Of course, both ministries were involved in interagency consultations whenever issues concerning their authority were at stake.

This may sound like many people, but actually, in the usual course of an NPT Review Conference, so many things may happen simultaneously that a country that wishes to make an impact in all issue areas needs the capacity for a division of labor. This division must enable the delegation to be present at any given place with the necessary expertise concerning the issue at stake. The agenda during a conference may comprise taking notes in the General

debate, being present in two Main Committees or Subsidiary Bodies at the same time, participating in the consultation of the Western Group and the EU, taking part in the General Committee (which emerged, surprisingly, as a more important steering body than in previous conferences, and of which Ambassador Heinsberg was a member), being present at NGO events of interest, and conducting bilateral talks that might be of importance for the course of the conference. A relatively large delegation therefore is no luxury if the goal is to exert influence during the proceedings of the Conference.

### ***Germany and the Procedural Issues of the Conference***

The Conference remained deadlocked for three weeks over procedural issues<sup>22</sup>. The reason was the refusal by the U.S. (and, behind American shoulders, France) to accept any reference to the "Thirteen Steps" on disarmament agreed to in 2000, and to shape the agenda and program of work accordingly, while the Non-Aligned Movement (NAM) insisted on this<sup>23</sup>. The mechanics of the deadlock worked as follows: The Conference President, Ambassador Duarte of Brazil, would consult with the U.S. delegation on the next steps in the mistaken belief that concessions on procedure would help the American delegation to participate constructively in the proceedings. He would then submit proposals that were largely unacceptable to the NAM. Britain, as the chair of the Western Group, would appeal to "support the president", which was synonymous with supporting the U.S. position. Since opposing the president would have been the equivalent to opposing motherhood, all western states, some of them grudgingly, would go along.

This situation changed only when, towards the end of the second week, the Conference's president changed tactics under heavy pressure of the NAM and produced a proposal for the agenda that represented a viable compromise. All of a sudden, the blame for the deadlock seemed to shift from the Non-Aligned to the U.S. – provided, the other Western countries would go along with the president's proposal.

Germany had been in a difficult position throughout this first phase. The course of the conference ran completely counter to its avowed objective to achieve substantive results. Yet, as long as the president's proposals went along with Washington's desires, opposing him

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<sup>22</sup> I would like to note at this point that I relied much on the regular reporting on the conference proceedings by ACRONYM and "Reaching Critical Will" ([www.acronym.org.uk](http://www.acronym.org.uk); [www.reachingcriticalwill.org](http://www.reachingcriticalwill.org)).

<sup>23</sup> On the "Thirteen Practical Steps" and the Non-Aligned Movement see the Glossary.

would have left the German delegation in an uncomfortable and probably unproductive isolation both within the EU and the Western Group. With the new constellation, though, the old formula "We must support the President" could be employed to steer the Western Group in a different direction. This was achieved by first creating unity within the EU. After France was persuaded to go along with minor changes, Britain, the last flag-bearer of U.S. delaying tactics also fell in line. Here it was helpful that, on a national basis, the United Kingdom had no problems with accepting the "Thirteen Steps" from the year 2000 as a reference document for the review. With the EU bloc representing a majority in the Western Group behind the conference president's position, the U.S. all of the sudden was isolated. The non-EU western countries (Norway, Canada, Australia, New Zealand, Japan, South Korea, Argentina, Switzerland and a few others) stood also behind Duarte's suggestions. Within a short time frame, new instructions arrived from Washington, and the Conference could adopt an agenda.

Exactly the same game was repeated at the next hurdle, which was the agreement on a work program. Here, the crucial point was the creation of "subsidiary bodies" on nuclear disarmament, regional issues, and "other matters", notably the issue of withdrawal from the NPT. The U.S. did not want such bodies (which basically were an invention of the 1995 Extension Conference as part of the so-called "enhanced review process"), mostly to avoid a too strong focus on disarmament issues (and on Israel). When the president came around with a formula that was acceptable for the majority of the NAM (even though it was not greeted enthusiastically by the small group of NAM radicals), Germany initiated EU support, the united EU would carry the Western Group, and the U.S. delegation, again in the undesired position of the isolated show-stopper, had to turn around, though not without bitter complaints.

The third round of this exercise happened during the endgame of the Conference, when the (unsubstantial and purely procedural) final report was to be adopted, first by the Drafting Committee and then by the Plenary. The U.S. and France objected to two passages which emphasized (in their view) nuclear disarmament too heavily. A heated debate within the EU convinced France that it was better to accept this language, and this was then, through deliberations within the Western Group, made clear to the U.S. as well. In this way, the Conference avoided an even greater disaster - to end without anything written on paper.

### *Germany in the Conference - The Substantive Issues*

In his contribution to the general debate, Foreign Minister Fischer again emphasized the issues which Germany had already made during the preparatory process. He insisted on the “Thirteen Steps” as the standard for measuring compliance with disarmament obligations, asked for the prompt ratification of the Comprehensive Test Ban Treaty (CTBT) by those states not yet having done so, and called for the immediate start of negotiations on a FMCT;<sup>24</sup> he alluded only briefly to the contemporary debate in Germany on the withdrawal of American tactical nuclear weapons from German soil that had been initiated by the liberal party. As in German working papers, the critical tone of the statement in the direction of the nuclear weapon states was balanced by a harsh admonition to Tehran to renounce permanently the enrichment of uranium.<sup>25</sup>

After the General Debate and due to the procedural squabbles, the Conference had little time to engage in serious negotiations, in fact less than four full days. During this time, the three Main Committees and their Subsidiary Bodies were exposed to principled statements of a number of delegations and to a brief and inconclusive bargaining about the text that ended uniformly in disagreement.

In Main Committee I (on nuclear disarmament) and its Subsidiary Body, Germany, as the only EU member state, promoted the wording of the Common Position. In a debate characterised by self-congratulatory statements on their disarmament achievements by the nuclear weapon states, radical demands by the NAM, and total opposition to all proposals for disarmament steps by the United States and, less loudly, France, the mere reading of the EU Common Position sounded like a lonely voice of reason. It was notable that no other EU member state would come out in its support. Ireland and Sweden rallied behind a "New Agenda Coalition" working paper, the Netherlands, Belgium, Italy Spain and Poland proposed another series of steps in the so-called "NATO-7" proposal (together with Norway and Turkey). The rest kept silent.

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<sup>24</sup> On CTBT and FMCT see Glossary.

<sup>25</sup> Speech by Joschka Fischer, Federal Minister for Foreign Affairs, at the Opening Session of the 7<sup>th</sup> Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, New York, May 2, 2005.

The EU's appearance in Main Committee II was much better. On the Additional Protocol, strengthened export controls, UN Security Council resolution 1540 and the Proliferation Security Initiative, the EU was unanimous (as was the Western Group), and Germany just had to join the chorus. Germany's statement was more enthusiastic than that of other fellow Europeans on the multilateralisation of the fuel-cycle. Yet, this did not become a major issue.

In Main Committee III and the Subsidiary Body, the picture was again more mixed. Here, Germany's peculiar position on the peaceful uses of nuclear energy came into play; the delegation had to try to block a too positive language on civil nuclear power. It was helped by the rather more radical position of Austria in this respect, but, of course, the EU was not united in this regard. In the Subsidiary Body, Germany was pushing for the EU paper on withdrawal and non-compliance procedures and became intricately involved in drafting talks with other western countries that had proposed different ways to deal with these problems, notably Australia and New Zealand. However, the Conference was over before this work could be brought to a conclusion.

### *Germany Within the EU*

If one tries to assess the impact of the EU on this failed conference, ironically it must be rated as rather high. Without the EU block moving the Western Group, the Conference might have broken up during the second week (something the president of the Conference seriously considered). It thus might never have entered substantive discussions, and would certainly have closed without even a formal report. Within the EU, Germany played a decisive role as an initiator for achieving consensus. This exercise showed how, using "soft power" rather than arms-twisting, Germany is able to use its integration - and relative weight - in the European Union as a power multiplier to foster its multilateral agenda. That it did so successfully, though, was to a large degree a matter of personality - the skills, professionalism and commitment of Ambassador Heinsberg, and the unswerving support lent to his efforts by the higher-ranking official from Berlin.

On substantive issues, Germany was perhaps the most "European" member during this Conference, as it tried to introduce the language and the positions agreed in the Common Position more than other member states. The exception to this was the issue of peaceful uses, where the rigid anti-civilian nuclear energy position of the Berlin government limited both its

flexibility and its influence and put Germany in a minority position within the EU (and the NPT community at large).

On balance, the NPT Review Conference has shown that Germany is able to promote its multilateral agenda in the non-proliferation field through skilfully deploying its EU membership. It has also been possible for Berlin to serve as a herald of the EU non-proliferation strategy which is informed by the principles of multilateralism dear to the German heart. The close relationship with France has been extremely helpful in that regard as was tangible throughout the Conference despite major divergences on disarmament issues. It is certainly worth compromising on some subjects where the outer limits of French national interests come into play. The common ground that can be achieved with the French partner is still good enough to move forward the multilateral non-proliferation agenda, even including disarmament issues. France, too, is interested to work with Germany, and is obviously reluctant to risk isolation within the Union.

Concerning the alternatives of following national positions and strategies and investing in an EU consensus and work through the Common Foreign and Security Policy (CFSP) in the non-proliferation field, the latter option is clearly the more promising one. The aggregate power of the Union is way above what Germany can muster alone. Germany is influential enough (skilful diplomacy provided) to have a significant part of its agenda included in any Common Position or Joint Action.

## **Keeping the Lid On: Britain's Role and Objectives in the 2005 NPT Review Conference**

*By Rebecca Johnson*

The United Kingdom entered the 2005 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) wearing several hats and laden with a number of different objectives, not all of which could be harmonised. Britain had low expectations of a substantive outcome, and its approach was conditioned by its perception of itself as the principal (and most trustworthy) transatlantic partner for the United States, a leading member of the European Union, and a small – but of course influential - nuclear weapon state. But there were contradictions inherent in all three roles.

Britain's multiple hats at the NPT Conference included coordination of the Group of Western European States and Others (WEOG, see Glossary). Tony Blair was also in line to take over the EU presidency on July 1, 2005, and, to complete the hat-trick, would also be hosting the G-8 meeting in Scotland in July. To add to the complicated calculus, the government of Tony Blair faced election on May 5, during the first week of the conference, and did not make its opening statement until his re-election was assured. Though this was regarded as a foregone conclusion, Blair had been weakened by widespread public anger about his handling of many issues, not least the suppression of facts and intelligence advice in order to garner support for President George W. Bush's ideologically-driven war in Iraq.

Despite saying in the UK General Statement that Her Majesty's government looked "forward to negotiation and agreement of a strong final document," it was clear in the run-up to the Review Conference that the Foreign and Commonwealth Office (FCO) had minimal expectations for any kind of substantive success for it. Its principal objective was to avoid open and damaging conflict that would further weaken the NPT-regime or exacerbate U.S. isolation. Since most British policymakers privately regard Washington's current approach to the Non-Proliferation Treaty and international law as unwise and inept, not to say dangerous to wider security objectives, the desire to mitigate U.S. isolation on these issues resulted in some schizophrenic diplomacy.

For example, since 1996, Britain has been fully supportive of the Comprehensive Test Ban Treaty (CTBT), which it ratified, along with France, in 1998. Though the United States also signed the treaty in 1996, the Republican-dominated Senate failed to ratify it in 1999, and the

Bush Administration has now declared its implacable opposition to the CTBT. In this case, Britain went along with the EU's expression of the "utmost importance"<sup>26</sup> it attached to the entry into force of the CTBT at the earliest possible date, but, as seen later, was prepared to sacrifice this principled stand to get U.S. agreement on a joint statement by the permanent members of the United Nations Security Council (UNSC, P-5).

Britain has also been one of the strongest supporters of multilateral verification for decades, and fully backed the 1995 "Shannon Mandate" agreed by the Conference on Disarmament (CD, see Glossary) for negotiating a verifiable ban on the production of fissile materials for nuclear weapons. Britain shared with the rest of the EU an impatience that the CD had failed to negotiate this important treaty. But since Washington's decision in July 2004 that it would only contemplate a bare-bones Fissile Materials Cut-Off Treaty (FMCT, see Glossary) – without any negotiated verification regime – Britain has retreated from its earlier position, as illustrated when it abstained on the FMCT resolution in the UN General Assembly in December 2004, becoming the only EU country to join the United States and Israel in not voting in favor. The UK's influence was subsequently visible in the removal of any specific reference to verification from the section relating to the FMCT in the EU's Common Position and NPT statement, which called for negotiations on "a non-discriminatory and universal treaty".

As the incoming EU President, the UK was keen to show itself to be fully behind the 43-point Common Position on the NPT Review Conference that Luxembourg put forward on behalf of the EU. This covered a laundry list of issues, including support for traditional measures such as the CTBT and less traditional instruments such as UN Security Council resolution 1540 and the Proliferation Security Initiative (PSI, see Glossary). It was also noticeable that on key issues like irreversibility, transparency, verification and non-strategic nuclear weapons, the EU Common Position did not reproduce the language of the agreed final document of the 2000 NPT Review Conference, but reverted to earlier, less progressive language.

The EU's general statement, which annexed the Common Position, was kept deliberately bland, but it recalled the NPT's preamble about the devastation of nuclear war and called the NPT "an irreplaceable, legally binding instrument for maintaining and reinforcing

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<sup>26</sup> General Debate Statement of H.E. Nicolas Schmit, Minister Delegate for Foreign Affairs for Luxembourg, on behalf of the European Union to the 2005 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, New York, May 2, 2005.

international peace, security and stability”. Multilateralism was much more strongly emphasised than in any UK statement. In evoking the 2003 EU Strategy Against the Proliferation of Weapons of Mass Destruction, the EU underlined that “integral to this strategy is our conviction that a multilateralist approach to international security, including disarmament and non-proliferation, provides the best way to maintain peace and stability [...] multilateralism is based in particular on the principle of shared commitments and obligations contained in legally binding instruments and on the fulfilment of obligations under multilateral agreements.”<sup>27</sup> The UK endorsed these formulations but gave a different twist, emphasising “changing threats, and challenges [to the NPT]... [and] the need for balanced implementation of the Treaty”. Britain noted that non-proliferation and disarmament are inter-linked in achieving the Treaty’s goals but argued that “progress in non-proliferation is important in its own right [...]”.<sup>28</sup>

The EU statement made strong representations about North Korea and Iran, which the UK wholeheartedly endorsed. If it had been possible, the UK would undoubtedly have wanted the Review Conference to have reinforced political pressure on North Korea and Iran through expressions of support for the Six Party Talks and the EU-3 initiative respectively,<sup>29</sup> but Britain was very resistant to initiatives being put forward by Canada and others for strengthening NPT States Parties’ institutional powers to deal with such challenges more effectively as they arose. Similarly, though keen to prevent countries such as Iran and North Korea from utilising the NPT’s article IV provision on nuclear energy cooperation to develop fuel-cycle technologies capable of producing plutonium and highly enriched uranium (HEU), Britain has its own nuclear interests to protect, notably reprocessing at Sellafield. Saying that the “challenge is to acknowledge and to underscore by our actions that all of us have responsibilities as well as entitlements under the Treaty”, Britain made clear its view that the emphasis should be on whether certain states can be ‘allowed’ to develop certain technologies (the ‘sheep and goats’ approach), rather than on the proliferation dangers of the technologies themselves.<sup>30</sup> Consequently, the UK indicated that it supported the suspension of nuclear fuel-cycle cooperation with states that violated their non-proliferation and safeguards obligations and that it wanted the Review Conference to decide on action to resolve existing

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<sup>27</sup> General Debate Statement by Nicolas Schmit.

<sup>28</sup> General Debate Statement by Ambassador John Freeman, Head of the UK Delegation to the 2005 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, New York, May 5, 2005.

<sup>29</sup> On the EU-3 initiative see Sebastian Harnisch’s and Ruth Linden’s contribution to this volume.

<sup>30</sup> General Debate Statement by Ambassador John Freeman.

cases of violation by States Parties. It also stressed that States Parties needed to “work together to prevent future abuses of the Treaty so as to ensure that nuclear energy can continue [...]” and also “address the separate, but no less serious, issue of withdrawal from the Treaty”.<sup>31</sup> During the Review Conference, most notably in Main Committee III, which dealt with nuclear energy-related issues, the UK was seen to be working with France, Japan and a few others to scupper any serious consideration of non-discriminatory restrictions on the nuclear fuel-cycle.

In the complex negotiations over both the EU and P-5 approaches to the 2005 Review Conference, Britain’s relationship with France was the usual sibling mixture of rivalry and the mutual protection of shared interests. They colluded to protect their mutual privileges from being eroded by proposals for disarmament or non-discriminatory nuclear fuel-cycle controls that some of the other EU states were keen to see taken forward, but they disagreed on issues such as withdrawal from the NPT, regional issues and how to deal with the United States.

Inevitably it was this – the UK’s relationship with the United States – that created the greatest number of challenges. A strategic imperative for successive British governments, partnership with the United States was more fraught with difficulties in 2005 than at any previous NPT conference. UK concerns encompass not only U.S. policies with regard to the CTBT and verification, but the Bush Administration’s general attitude towards multilateralism and arms control. There is also growing dismay at the decimation of competent personnel in the State Department and key diplomatic missions, including Geneva and New York. These concerns, however, are expressed only in private.

In the run-up and during the 2005 Review Conference, the position of John Bolton was particularly problematic. Bolton, Undersecretary of State for arms control and international security, had orchestrated U.S. opposition to the CTBT since 2001 and the U.S. strategy with regard to the NPT. Bolton was responsible for the U.S. rejection of the draft agenda and agreements on documentation at the 2004 Preparatory Committee meeting, primarily in order to side-line the disarmament plan of action adopted as part of the consensus final document of the 2000 Review Conference. His strategy was therefore the principal factor in the failure of the 2005 Review Conference to adopt an agenda and work program until the second and third weeks, though other states hid behind the U.S. policy or aggravated the situation with their

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<sup>31</sup> General Debate Statement by Ambassador John Freeman, op.cit.

own obstructive tactics.<sup>32</sup> Nominated by President Bush to replace John D. Negroponte as U.S. ambassador to the United Nations, Bolton was expected to take up the new post before the Review Conference, but failed to receive Senate endorsement. Even as the Review Conference proceeded, Bolton's fitness to be U.S. ambassador was being publicly called to account. In part because of these difficulties, the U.S. delegation during the 2005 Review Conference appeared to lack the experience, direction and necessary agility to respond to challenges that arose during the conference.

The U.S. posture affected Britain's role in relation to the Review Conference in several ways. First, the U.S. offered neither leadership nor much negotiating flexibility, making it much more difficult for the UK to play its preferred bridging role. For example, though Britain supported French-led efforts to negotiate a joint P-5 statement on the NPT, U.S. obduracy over the CTBT left the UK caught between maintaining the EU's strong support for entry into force of the treaty, which Washington rejected, and sacrificing the CTBT in order to secure U.S. agreement on the P-5 statement. In the end, after trying to hold the line on the CTBT, the UK and France chose to crumble together in the final week of the Review Conference and urged their P-5 colleagues to settle for U.S.-preferred language that highlighted the moratorium instead of the treaty. Since this was a compromise too far for Russia, which ratified the CTBT in 2000, there was no P-5 statement.

The counter-productive rigidity of U.S. positions caused additional problems for Britain as coordinator of the WEOG during the Review Conference. Much of the procedural decision-making at NPT meetings is currently managed through the group system, which consists of WEOG, a declining Group of Eastern European States, the 110-plus members of the Group of Non-Aligned States (NAM), and China. As one of the Treaty's three depositaries, the UK has coordinated WEOG since 1975. Russia, by contrast, handed the Soviet Union's coordination role of the Eastern European Group to the Czech Republic when the Cold War ended.<sup>33</sup>

While it has to be recognised that the present group system is outdated and dysfunctional, and coordinating under such circumstances can be a thankless task, the role has conferred on Britain an influential leadership position at all NPT PrepComs and conferences that London appears reluctant to surrender. Increasingly, however, Britain's continuation in this role has

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<sup>32</sup> See also the contribution of Harald Mueller in this volume.

<sup>33</sup> On the regional groups system, see Glossary.

come under question. Though the concerns are usually framed in terms of the inappropriateness of such coordination being carried out by one of the nuclear weapon states, there was a much higher level of criticism of the UK's role at the 2005 Review Conference than at any of the others. In large part, the criticisms have been sharpened because the UK delegation was perceived as manipulating Western Group positions in order to shelter U.S. exceptionalism, particularly with regard to the conference agenda and establishment of the Subsidiary Bodies (most notably on nuclear disarmament and security assurances).

Britain was also perceived by some of its EU colleagues as having abused its position as WEOG coordinator when it challenged the Conference Secretariat's interpretation of the agreement with the NAM that had finally made adoption of the agenda possible. Though the U.S. played no overt part in this argument, it was clearly pleased when the UK delegation won its challenge, securing the deletion of the only remaining mention of the outcome of the 2000 Review Conference from the conference report. The success of this procedural ploy caused considerable bad feeling among NAM and, indeed, many WEOG states.

In conclusion, the British Foreign and Commonwealth Office appears quietly satisfied that the NPT parties were able to adopt a procedural report of the conduct of the Review Conference and close in an orderly manner, even though nothing of substance was achieved. This minimalist outcome is counted as a political success because it is viewed as less damaging for the credibility of the non-proliferation regime than an open fight about the issues. Though the larger issues remain unresolved, Britain seems to hope that different political circumstances (notably a change of U.S. policy, though that cannot be expressed aloud) will enable them to be addressed more constructively in the future.

As the EU seeks to adopt a more coherent approach to preventing the proliferation of Weapons of Mass Destruction, Britain's conflicting interests and roles have become more visibly problematic. Its perpetual see-sawing between the United States and Europe is a general characteristic, but this has also a particular nuclear dimension. Dependent on U.S. technology and missiles to sustain Britain's nuclear status, the UK is more reluctant than other EU countries to challenge U.S. nuclear policies and developments in any meaningful way. Moreover, despite presenting itself to the Review Conference as the most restrained and responsible of the nuclear weapon states, the UK government has already taken the first steps towards deciding on a further nuclear weapon system to replace Trident around 2020. Late in

2004, London rushed through renewal of the 1958 Mutual Defence Agreement with the United States in order to ensure continued nuclear collaboration and support, and has invested billions of pounds in a massive refurbishment of facilities at the Atomic Weapons Establishment at Aldermaston, including a new supercomputer and laser facilities for conducting inertial confinement fusion experiments on nuclear warhead components.

Though the EU's Common Positions were good on paper, the UK's anomalous role helped to ensure that there was no effective EU strategy for implementing them at the Review Conference. Until the EU addresses the nuclear elephants in its own living room – which include the British and French nuclear arsenals, U.S. non-strategic nuclear weapons deployed in Europe as part of NATO, and Europe's own contribution to the enrichment of uranium and reprocessing, as well as the European collaborators in the international nuclear black markets – it will fail to play a convincing role in addressing the problems facing the nuclear non-proliferation regime.

## **Swedish Nuclear Non-Proliferation and Disarmament Policy and the European Union**

*By Annika Thunborg*

### ***Sweden as a Strong Promoter of Nuclear Disarmament***

The fact that the 2005 NPT Review Conference failed to reach any agreement on substantive issues was deeply disconcerting to the international community and to the vast majority of its member states. It was even more disappointing to countries that had invested a great deal of time and resources into the Conference and its preparatory process. Sweden was one of those countries. It had chaired the first preparatory meeting in 2002 and therefore chaired Main Committee III on the peaceful uses of nuclear energy during the Conference. It had taken the initiative to what became the EU's Strategy Against Proliferation of Weapons of Mass Destruction (WMD) in December 2003. It had worked to pursue nuclear disarmament through the New Agenda Coalition (NAC, see Glossary) and it had become a member of the G-10 – a group of western like-minded countries (Australia, Austria, Canada, Denmark, Hungary, Ireland, the Netherlands, New Zealand, Norway and Sweden) that pursues issues such as the early entry into force of the Comprehensive Test Ban Treaty (CTBT), the Additional Protocol (see Glossary) as a condition for nuclear supply, strengthened export controls and physical protection, and multilateral control of the nuclear fuel-cycle. It had pushed the further reduction of non-strategic nuclear weapons together with, for example, Austria and Ukraine. It had chaired the Nuclear Suppliers Group (see Glossary) in 2004 and 2005. Finally, Sweden had established the independent Blix Commission on WMD and missiles in 2003 with experts from 15 countries.

### ***Track Record Before the Review Conference 2005***

The high level of activity by Sweden was not an isolated event. It was a continuation of a tradition that started in the post-World War II era. Sweden's commitment to multilateral institutions and international treaty regimes has its roots in Sweden being a small, non-aligned country. These treaty-based systems have been considered to provide the best possible guarantee for national and international peace and security - based on international law and the principle of "one state, one vote".

As a country outside military alliances in the north-western corner of Europe during the Cold War, Sweden contemplated developing its own nuclear weapons for approximately ten years between 1953 and 1963. Besides political, military, strategic and financial considerations, the development of the nuclear non-proliferation and disarmament regime in the 1960s was an important factor influencing the political decision to remain non-nuclear. As early as 1965 – after the Partial Test Ban Treaty (PTBT) had been negotiated – Sweden put forward proposals on a CTBT with a verification system, a cut-off of the production of fissile material for weapons purposes, a horizontal non-proliferation regime, i.e. stop for qualitative, quantitative and geographical proliferation of nuclear weapons, and verification systems for an NPT based on the safeguards of the International Atomic Energy Agency (IAEA). Sweden was instrumental in making sure that the NPT also contained articles IV and VI (the latter admittedly weaker than Sweden had preferred). It was clear in the negotiations that the treaty would never have come into existence without articles IV and VI being included. This reflected the concept that the three pillars of the Treaty - nuclear non-proliferation, disarmament and the peaceful uses of nuclear energy – were equal and mutually reinforcing.

The end of the Cold War and the consequent change in the strategic doctrine did not change the Swedish commitments. (In the beginning of the 1990s, Sweden described itself as not allied to anyone, keeping an option to stay neutral in case of war in Europe). But the subsequent membership in the EU slightly changed the forms of Swedish policy. With the development of and the interest in having a Common Foreign and Security Policy (CFSP), Sweden would first and foremost try to pursue its policies through the Union. If only a minimalist position could be achieved, Sweden felt free to follow more maximalist positions in other institutional contexts. The EU's limitations with its three-way split into nuclear weapon states (NWS), non-nuclear weapon states (NNWS)/members of NATO and NNWS/militarily non-aligned countries was one reason why Ireland and Sweden took the initiative to create the NAC in 1998. It was also the NAC and not the European Union that played the key role in negotiating the nuclear disarmament agreement with the NWS during the successful NPT Review Conference in 2000 (the so-called Thirteen Steps, see Glossary). Although the Union had agreed on a Common Position with several relatively strong measures on nuclear disarmament, its unity fell apart during the Conference, with the UK and France siding with the other nuclear weapon states while Ireland and Sweden pushed for an agreement together with the other NAC-countries.

With the ideological and operational changes in U.S. foreign policy under the Bush Administration and the challenges this has created for the internal solidarity of the EU member states, it has become even more important for the Union to try to find policy areas in which it can act united to show its own cohesiveness and where the EU can cooperate with the United States.

The fact that the EU was able to reach an agreement on the relatively strong-worded WMD Strategy was certainly due to a convergence of views after September 11, 2001, but it was also due to the need for the Union to find areas in which it could act in a united way. The interest by Sweden, for example, to lobby for the UN Security Council resolution 1540, and to be a part of the Proliferation Security Initiative (PSI, see Glossary) - on some conditions - is due to a convergence of views with the United States on the need to strengthen non-proliferation measures.

#### *Sweden and the EU's Common Position for the 2005 Review Conference*

The EU Strategy on WMD, which laid down a multilateral approach to non-proliferation, made it much easier to elaborate a Common Position for the 2005 NPT Review Conference than would otherwise have been the case.

This Common Position contains a long list of strong non-proliferation measures, for example to discourage withdrawal from the NPT, on the role of the UN Security Council in cases of non-compliance, suspended nuclear cooperation in case of inadequate safeguards, prevention of nuclear terrorism, support for UNSC resolution 1540, comprehensive safeguards and additional protocols as the verification standard of the NPT. Among the proposed measures was also to make the "inalienable right" to the peaceful uses of nuclear energy conditional on non-proliferation compliance.

However, the European Union was not able to agree on equally strong measures on nuclear disarmament. This weakened the EU's possibilities to make its non-proliferation agenda heard and to play a credible role as agenda setter and mediator during the Review Conference. The measures on nuclear disarmament in the Common Position include further reductions in strategic and non-strategic nuclear arsenals, the principles of irreversibility and transparency to apply to disarmament measures, the early entry into force of the CTBT, and the early commencement of negotiations on a fissile material cut-off treaty (FMCT).

Ireland and Sweden, supported by - for example - Austria, the Netherlands, Belgium, Germany and Lithuania, fought hard to make these measures appear in the Common Position in as strong a form as possible. France, supported by the UK, wanted to weaken (or even delete) the paragraphs on reductions, irreversibility and transparency. The UK could not support the clear-cut formula on a verifiable FMCT any longer (due to a change in the U.S. position) so a compromise had to be worked out which only had an implicit reference to verification. France went so far as to try to make the 2000 agreement disappear altogether (thereby aligning itself with the U.S. position) – something that Ireland and Sweden could not go along with under any circumstances. After many confrontations at the negotiating table, the EU agreed on the paragraph 2b in the Common Position which expresses the Union's support for the outcomes of the 1995 and 2000 Review Conferences, and "bears in mind the current situation". Due to the EU's rather weak position on these disarmament issues, Sweden and Ireland continued to work through the NAC together with other like-minded countries (for example Canada, Japan, Norway, the Netherlands and Germany).

During the few days that the Conference was able to pursue substantive work, the Union worked in a rather united way in Main Committee II (on safeguards) and Main Committee III and its Subsidiary Body (on peaceful uses and withdrawal), whereas it had a much lower profile in Main Committee I (on nuclear disarmament). Furthermore, the EU did not play a very constructive role on the procedural issues which held any substantive deliberations hostage over the first three weeks of the Conference. The reason was that the UK (who also was the coordinator of the Western Group) sided for over a week with the United States which was the only country resisting the establishment of Subsidiary Bodies. Consequently, the EU's performance during the Conference must be considered as mixed.

### ***Outlook***

What role will the European Union play within the Non-Proliferation Treaty regime in the foreseeable future? On the positive side, we find the EU's strong commitment and unity with regards to non-proliferation issues, including withdrawal, and to the early entry into force of the CTBT and the moratorium on testing. Here the Europeans can continue to play a strong and important role. Unfortunately, however, there continue to be obstacles that prevent the EU to fully exploit its potential:

1. A crucial problem is the Union's perceived imbalanced approach to the NP-Treaty. If the EU does not start to promote nuclear disarmament in a more credible way, it will not be heard in the way it should with regard to its strong agenda on non-proliferation. Likewise, the EU will have to promote the universality of the NPT in a consistent way (several of its members and the United States have entered into agreements with India with regard to civil nuclear technology).
2. France is more than reluctant to uphold the commitments that it made in the 2000 Final Document.
3. The United Kingdom's special relationship with the United States often influences the country's positions within the European Union.
4. The system of rotating presidencies constitutes another obstacle. Not all member states have or can have a high profile on the NPT. How influential the Union can be, still depends to a considerable degree on the profile of the incumbent presidency.

*This article was written in the author's personal capacity and does not necessarily reflect the views of the Swedish government.*

## **Austria's Perspective on Nuclear Non-Proliferation and the EU's Role in this Policy Field**

*By Alexander Kmentt*

During the Cold War, non-proliferation and disarmament policy was clearly dominated by the two superpowers while the role of the other states was effectively limited to providing “multilateral legitimacy” to the decisions of the two blocks. Even after 1989/ 1990, the topic remained dominated by the large military powers, but it became possible to view non-proliferation and disarmament beyond the prism of the East-West confrontation. The 1990s thus offered new opportunities for states, such as Austria, to become engaged in the debate. Austria has traditionally played an active role in the UN-system and, as a neutral country since 1955, has tried to promote multilateral non-proliferation and disarmament approaches. Since joining the European Union in 1995, Austria has also found new opportunities to contribute to the security policy debate in the wider sense and to influence EU positions in multilateral forums.

The central and most complex policy debate in this context was and continues to be in the area of nuclear non-proliferation and disarmament, with the Nuclear Non-Proliferation Treaty (NPT) at its core. Austria's aim is not only to prevent the proliferation of nuclear weapons but also to include a legal commitment to their elimination and to regulate access to nuclear energy for peaceful purposes.

Differences in the policy approaches regarding these three pillars are also clearly apparent within the EU. The European Union comprises two nuclear weapon states (NWS), France and the United Kingdom. The remaining non-nuclear weapon states (NNWS) are divided into NATO members and non-NATO members, such as Austria. The situation is further complicated by the fact that some EU members are very strong supporters of an increased role of nuclear energy for the production of electricity, whereas others, among them Austria, are strongly opposed and question the viability of nuclear energy all together. Hence, all EU attempts to find a common position on the NPT are almost inevitably very difficult. Consequently, EU positions and statements on nuclear issues often represent the lowest common denominator that is acceptable to all EU member states.

### *Nuclear Non-Proliferation*

A high degree of convergence among EU member states exists in the area of nuclear non-proliferation and the need to strengthen the NPT-regime to prevent nuclear materials and technology to fall into the hands of terrorist groups or irresponsible states. To this end, the European Union managed to agree on a joint and ambitious Strategy Against the Proliferation of Weapons of Mass Destruction (WMD) in 2003, which provides a valid framework for a common EU policy approach. For the 2005 NPT Review Conference, the Union also agreed on a Common Position for the Conference, which also underlined the wide convergence of opinions that exists in the area of non-proliferation. Austria contributed to the Common Position and to formulation of the WMD Strategy itself. Consequently, Vienna is fully committed to its implementation. There are three aspects in the wider non-proliferation debate on which Austria has focussed particularly: the need to strengthen the safeguards system of the International Atomic Energy Agency (IAEA), export controls and to ensure the physical protection of nuclear materials.

### *IAEA Safeguards*

Concerning safeguards, the developments of recent years have clearly demonstrated the necessity of the universal application of the IAEA's Model Additional Protocol (AP, see Glossary). The peaceful use assurances that the international community seeks can only be provided by strengthening the measures contained in this instrument. The safeguards system of the NPT has seen several developments over the years since the entry-into-force of the Treaty (see Glossary). The so called "comprehensive safeguards agreement", first issued in 1971, was for a long time the standard for meeting the requirements of article III.1 of the NPT. In the early nineties, however, the international community was harshly confronted with the fact that the system as it stood did not provide the IAEA with the tools required to detect clandestine nuclear activities in a country (most notably Iraq in 1991). The most outstanding outcome of the resulting efforts to strengthen this regime was the adoption of the AP by the IAEA Board of Governors in 1997, an instrument that was needed to give the Agency the authority required to implement the additional verification measures.

The 2000 NPT Review Conference re-affirmed that the IAEA safeguards system should be regularly assessed and endorsed the strengthening measures contained in the AP. The Conference has thereby left no doubt that there is only *one* safeguards system for NPT purposes, which is a dynamic, living system that has to be improved whenever there is a need to do so. From article III.1 derives the responsibility of States Parties to enable the Agency to implement the system in its current state of the art.

Following this rationale, Austria holds the legal position that article III.1 of the NPT contains the obligation for all non-nuclear weapon states (NNWS) to “up-date” their safeguards agreements with the IAEA. States Parties to the NPT have already endorsed the AP in all the relevant forums and agreed that it needs to be universally applied if the IAEA is to be able to fulfil its mission and detect undeclared nuclear activities. The promotion of the universalisation of the AP as well as the view that this constitutes an obligation for NNWS is one of Austria’s declared priorities in the field of nuclear non-proliferation.

#### *Physical Protection of Nuclear Materials*

While verification is a key aspect to hold states responsible to comply with their treaty obligations, the nuclear Non-Proliferation Regime also requires effective physical protection of nuclear materials. Nuclear materials must be kept and protected in a manner to minimize the possibility of theft or loss. Austria has thus made the strengthening of the Convention on the Physical Protection of Nuclear Material (CPPNM) a priority in the past few years.

The CPPNM was drafted in the late 1970s. However, in the past ten years it has become increasingly clear that the convention was insufficient to respond adequately to today’s challenges, in particular, as it only regulated the physical protection of nuclear material while being transported internationally. It took quite a number of years and many sessions of legal and technical experts until agreement was reached on a well-defined amendment to the CPPNM. Based on expert reports and on intensive consultations with many States Parties to the CPPNM, Austria has prepared the amendment proposal to the Convention and submitted it on behalf of 24 contracting parties to IAEA Director-General ElBaradei. This proposal met wide support and paved the way for a diplomatic conference that took place in Vienna in July 2005.

The conference adopted by consensus the extension of the scope of the Convention to cover also the physical protection of nuclear material used for peaceful purposes, in domestic use, storage and transport, as well as the physical protection of nuclear material and nuclear facilities used for peaceful purposes against sabotage. The amended CPPNM will, once it enters into force, be an important contribution to both, the fight against terrorism and to nuclear non-proliferation.

### *Control of Nuclear Exports*

The third pillar of an effective nuclear non-proliferation regime derives from the need to control the supply of nuclear materials and technology. Austria attaches particular importance to effective export controls. Nuclear co-operation involving the transfer of nuclear goods or technology should only take place under specific conditions. The exporting state has to be convinced that the conditions in the recipient country provide sufficient assurances for an exclusively peaceful use of the nuclear items. The obligations contained in article III.2 of the NPT are individual obligations of each States Party. Therefore each States Party should have an appropriate set of national rules and regulations for export controls in order to meet its responsibility. The Final Declaration of the 2000 NPT Review Conference pointed this out particularly.

Nuclear export controls were a source of misperceptions for a long time and were perceived as a discrimination against developing countries that wanted access to nuclear technology. This atmosphere delayed agreement on the proper implementation of NPT export controls for many years. A decisive break-through was achieved in the 1995 Review and Extension Conference, when the States Parties clarified that the safeguards condition for supplies of sensitive nuclear items should be „full-scope safeguards“. The 2000 Review Conference reaffirmed this standard. Austria actively pursues a strengthening of both the guidelines of the Zangger Committee (see Glossary), which was chaired until recently by the late Austrian expert Fritz Schmid, and the Nuclear Supplier's Group (NSG, see Glossary). In the NSG-context, Austria promotes a change in the guidelines so that the existence of an Additional Protocol in the recipient country would become a condition of supply for *all* nuclear exports.

### *Nuclear Disarmament*

For Austria, as for most other NNWS, the NPT's strength and foundation lies in the carefully crafted balance of its three pillars: non-proliferation, disarmament and peaceful use. States renounce nuclear weapons and in return are guaranteed access to peaceful use of nuclear energy while the NWS will gradually get rid of these weapons. Certainly, there was not much prospect for nuclear disarmament during the Cold War. Nevertheless, after the end of the East-West confrontation there was a considerable potential for this situation to change.

In 1995, the promise by nuclear weapon states of a gradual process to move towards nuclear disarmament was essential in getting agreement on the indefinite extension of the NPT. At the following NPT Review Conference in 2000, this "deal" was still fresh in everybody's mind and the NNWS, lead by the New Agenda Coalition (NAC, see Glossary), managed to extract agreement on the famous "Thirteen Practical Steps" (see Glossary)<sup>34</sup> from the NWS. This agreement was seen as a major achievement towards real progress, both on nuclear disarmament and nuclear non-proliferation. Austria had considered joining the NAC but decided in the end not to do so. Nevertheless, Austria fully supported the NAC efforts and has since 2001 co-sponsored the relevant resolutions that were presented by the NAC to the UN General Assembly.

Austria shares the opinion that a clear linkage exists between nuclear non-proliferation and nuclear disarmament. The only sustainable long-term approach to address the dangers of nuclear proliferation is to reduce the reliance on and attractiveness of atomic weapons all together. To this end, those states that possess them and that clearly have an enhanced military capacity as a consequence should take steps towards nuclear disarmament. Otherwise, more states will want to "join the club", in particular, as the NPT-granted "nuclear weapons status" is considered arbitrary and discriminatory.

Some NPT States Parties – at the moment particularly the United States - put a particular focus on the dangers of nuclear non-proliferation. The current security environment with the threat of terrorism, the recent discovery of the A.Q. Khan network (centered around Pakistan), the nuclear programs of North Korea, Iran and Libya certainly seem to justify such a focus.

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<sup>34</sup> See Final Document of the 2000 NPT Review Conference, NPT/CONF.2000/28 (Parts I and II), p. 13-15.

However, Austria fundamentally disagrees with arguments that the certainly necessary focus on non-proliferation should be at the expense of progress on disarmament. Both aspects need to be pursued simultaneously.

Unfortunately, there is little proof of the NWS' willingness to make progress on the commitments they have assumed at the 2000 NPT Review Conference. The fact that nuclear weapon states appear to continue to work under the assumption that long-term retention of their arsenals is a valid option only underscores the argument of some countries concerning the discriminatory nature of the NPT. It is true that the NPT has always been seen by some NWS as a non-proliferation instrument only, which would give "legitimacy" to their special status and which would enshrine the status quo indefinitely. The commitment to article VI may have been little more than lip service, to be forgotten once the indefinite extension of the NPT was achieved in 1995.

#### *Disarmament Priorities*

In Austria's opinion, the most pressing steps that would need to be taken to reinvigorate the stalled nuclear disarmament agenda relate to the Comprehensive Nuclear Test Ban Treaty (CTBT) and to a future Fissile Material Cut-Off Treaty (FMCT, see Glossary).

The CTBT enjoys overwhelming international support with 176 signatures. It is of paramount importance that the political support to this landmark treaty does not waver. As is well known, the conclusion of a CTBT was an essential element in gaining support from non-nuclear weapon states for the indefinite extension of the NPT at the Review and Extension Conference in 1995. This promise by the nuclear weapon states will only be fully honored if the CTBT finally enters into force. As host to the Preparatory Commission of the CTBT, Austria feels particularly committed to the earliest possible entry into force of the treaty.

Of equal importance is to start - without further delay - the negotiations on a comprehensive FMCT. Austria sees such a treaty as a key element for nuclear non-proliferation and disarmament. However, the arguments that have been put forward that such a Treaty could not be effectively verifiable are not convincing. In fact, an FMCT without a robust verification regime would largely be devoid of its purpose and would raise questions about the commitment of those who are the main addressees of such a treaty.

### *The 2005 NPT Review Conference*

In line with its traditional position, one of Austria's key priorities for the 2005 NPT Review Conference was to continue to stress the nuclear disarmament dimension of the NPT and to strengthen it in the EU's Common Position. In the EU-framework, the issue of nuclear disarmament tends to be subject to controversial discussions. This can also be seen in the voting patterns of the UN General Assembly, where the EU vote is frequently split on nuclear issues along the NWS/ NNWS line. It will take a lot of effort and an enhanced spirit of compromise to move the European Union closer together in this area in the future. Austria, for its part, will continue to promote a comprehensive approach that takes into account the clear linkage between nuclear disarmament and non-proliferation.

Like most NPT States Parties, Austria had hoped that the 2005 Review Conference would send a much needed signal to strengthen the NPT norms. With the focus of some delegations solely on non-proliferation and by others solely on disarmament, both aspects of the treaty were effectively weakened. Austria will continue to support a comprehensive approach to the NPT, both within the EU and in the NPT framework more generally.

### *Conclusion*

There is an increasing danger that the failure to move towards nuclear disarmament by nuclear weapon states will undermine the Non-Proliferation Treaty just as the general lack of multilateral progress in the field of disarmament, non-proliferation and arms control has the potential to undermine the body of international law that we have created.

If one agrees with the argument that the biggest threats to international peace and security today come from rogue states and/or terrorists that may get hold of weapons of mass destruction, a trustworthy and functioning system of multilateral arms control, non-proliferation and disarmament treaties, and of the NPT in particular, becomes even more important. Certainly, the strict implementation of nuclear non-proliferation tools, such as export controls, verification and physical protection are perhaps the most obvious measures needed to be taken to address the terrorist/rogue state problem. To this end, the cooperation of all states is essential. However, non-proliferation is not enough. The existing double standards and in particular the artificial distinction between disarmament and non-proliferation that

continues to be cherished by some, fundamentally undermines the trust that is necessary for a functioning international security system that is based on treaty obligations. The continuation of this – many would say – hypocritical status quo exacerbates the feeling of inequality and resentment in many states. This in turn, as we have seen very clearly in recent years, is often the breeding ground for terrorism itself.

*This article was written in the author's personal capacity and does not necessarily reflect the views of the Austrian government.*

## **Iran and Nuclear Proliferation – Europe’s Slow-Burning Diplomatic Crisis**

*By Sebastian Harnisch and Ruth Linden*

### ***Introduction***

Iran’s nuclear ambitions pose a threefold challenge to the European Union at a time when European integration is challenged both domestically and internationally. Firstly, success or failure of France, the United Kingdom and Germany (the so-called “EU-3” or “E3”) to prevent Iran from acquiring weapons-capable nuclear technology will have consequences for the future of the international Non-Proliferation Treaty (NPT) regime. If the initiative were finally to succeed, the EU could heal the NPT’s wounds despite the failure of the Review Conference in May 2005. If not, the Iranian case, even more so than the North Korean nuclear crisis, could sound the death knell to stop nuclear proliferation in the Middle East and elsewhere. Secondly, a positive outcome of the EU-3 initiative could help to bridge the internal divisions encountered during the run-up to the Iraq intervention which have since compromised the EU’s ability to speak with one voice in foreign, security and defense affairs. In addition, the Iranian dispute provides a hard test case for the EU’s still infant Strategy Against the Proliferation of Weapons of Mass Destruction (EU Non-Proliferation Strategy). Finally, a success of the initiative would help smooth the growing rift that has plagued transatlantic relations since the Kosovo intervention and the Iraq war.

These are a lot of ifs. However, as the E3/EU have come to accept this formidable triple challenge, it is worth elaborating on the activities of the “Big-Three” and their EU-partners. In particular, we are interested in knowing if and how the EU has tried to bring its concept of “effective multilateralism” to bear in the non-proliferation area. The article posits that the E3/EU’s role as a mediator between Washington and Tehran was always likely to fail because both parties viewed the European Union as a buffer and a potential coalition partner vis-à-vis the other, but never seriously accepted its role as a mediator in solving the dispute. The EU-3 mediation ended in early September 2005 when the newly elected and self-confident Iranian leadership concluded in the aftermath of the failed NPT Review Conference that it could form a coalition of disgruntled non-nuclear NPT member states. Russia and China were more than hesitant, too, to endorse a sanctions-based policy under U.S. leadership towards Tehran.

### *The EU-3 Role as a Mediator in the Iranian Nuclear Dispute*

Before the existence of Iran's nuclear fuel-cycle program became known in August 2002, the European Union pursued a "Critical Dialogue" with Tehran. Its purpose was to moderate Iran's behavior in such diverse fields as human rights, regional security affairs and combating terrorism through economic incentives, namely a comprehensive Trade and Cooperation Agreement (TCA). In contrast, the United States continued to isolate and contain Iran militarily through alignments in the region. Washington also refused to cooperate with Iran in the civilian nuclear sector, exerting pressure on third parties, especially Russia, to do the same. In 2002, the Bush Administration also started to challenge the regime politically by condemning it as part of the "axis of evil".

Against the background of the U.S.-led intervention in Iraq, the Iranian leadership sought to reduce international suspicion concerning its fuel-cycle activities, most notably the previously undisclosed heavy water production facility in Arak and the gas centrifuge uranium enrichment plant in Natanz. Iran invited the Director of the International Atomic Energy Agency (IAEA) ElBaradei to visit Natanz (in February 2003). In addition, it promised to submit the facility to inspections and to consider adopting the Additional Protocol (see Glossary) to allow more intrusive inspections. In early May 2003, Tehran reportedly sent a message to Washington through the Swiss government that it was prepared to negotiate a "grand bargain" with the Bush Administration. Iran offered to address, among other things, concerns about its nuclear program and about its alleged support of terrorism in exchange for the establishment of diplomatic relations and the lifting of economic sanctions. Deeply divided over the question of whether to seek regime-change in Iran as well, the Bush Administration did not respond to the Iranian initiative. Instead, Washington called for a non-compliance resolution in the run-up to the September 2003 IAEA Board of Governors meeting.<sup>35</sup>

British Foreign Secretary Jack Straw was the first high-ranking official to react with an initiative with his French and German counterparts to fill the void. In May 2003, John Wolf, U.S. Assistant Secretary of State for Non-Proliferation, had called upon the Europeans to use

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<sup>35</sup> Samore, Gary (2005): Meeting Iran's Nuclear Challenge, The Weapons of Mass Destruction Commission No. 21, p. 2. <http://www.wmdcommission.org/files/No21.pdf>

their diplomatic weight to convince Iran to give up its fuel-cycle activities.<sup>36</sup> In June, the European Council for the first time raised serious concerns about the Iranian effort to close the fuel-cycle. The June Declaration asked for full cooperation with the IAEA and the immediate acceptance of the Additional Protocol.<sup>37</sup> Thus, Iran became the first serious test case for the EU's Non-Proliferation Strategy and its "bigger brother", the European Security Strategy, which were both launched at the July 2003 summit meeting in Thessaloniki. Both strategies are based on a multilateral approach that combines political and diplomatic preventive measures with the ultimate recourse to coercive measures by the UN Security Council in the case of non-compliance.<sup>38</sup>

Setting the stage for their later mission to Tehran, the EU-3 drafted a compromise resolution, calling on Iran to accelerate its cooperation with the IAEA and to provide full transparency about its undeclared past activities. The resolution also demanded Tehran's acceptance of the Additional Protocol and "to suspend all further uranium enrichment-related activities, including the further introduction of nuclear material into Natanz". In addition, as a confidence building measure, Tehran was asked to suspend any reprocessing activities.<sup>39</sup> Facing a clear threat that the IAEA Board would find Iran in non-compliance with its safeguards agreement (see Glossary) at its next meeting in November, Tehran agreed to a mediation mission by the British, French and German foreign ministers who had issued a joint letter that offered technical help with Iran's nuclear power program in return for full cooperation and transparency with the IAEA.

### *The Tehran Accord and Its Demise*

As a consequence of the resulting Joint Statement by the three EU foreign ministers (the so-called Tehran Declaration of October 21, 2003) Iran promised three things: firstly, that it would fully cooperate with the IAEA and resolve all outstanding safeguard issues concerning the past; secondly, that Iran would sign the Additional Protocol to the NPT and begin the ratification process while adhering to its provisions pending ratification. Thirdly, Tehran promised to "voluntarily suspend all uranium enrichment and reprocessing activities as

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<sup>36</sup> Agence Europe, Bulletin quotidien Europe, May 3, 2005, p. 7.

<sup>37</sup> Council Conclusions (2003): Iran, July 12, 2003.

[http://europa.eu.int/comm/external\\_relations/iran/intro/gac.htm](http://europa.eu.int/comm/external_relations/iran/intro/gac.htm)

<sup>38</sup> See the contribution of Oliver Meier in this volume.

<sup>39</sup> IAEA Governor Board (2003): Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, September 12, 2003. <http://www.iaea.org/Publications/Documents/Board/2003/gov2003-63.pdf>

defined by the IAEA”.<sup>40</sup> In return, the EU-3 stated that full implementation of Iran’s decision, confirmed by the IAEA, should enable a resolution of the conflict. In addition, the Europeans agreed that a full resolution of all outstanding past safeguard issues would open the way for longer-term cooperation, which could include Iranian access to modern nuclear technology in a variety of areas.<sup>41</sup> The Europeans also committed themselves to promoting security and stability in the region, which included the eventual establishment of a zone free from Weapons of Mass Destruction (WMD) in the Middle East.<sup>42</sup>

The Tehran agreement soon unravelled. Iran first kept its promises and submitted additional information to the IAEA. Most significantly, Iran acknowledged at this point that it had carried out undeclared enrichment and reprocessing experiments. As a consequence and on the insistence of the Europeans, the IAEA Board issued a resolution that gave Iran and the IAEA director-general more time to resolve past safeguard violations. However, in a February 2004 report Director-General ElBaradei declared that Iran’s “complete declaration” was in fact incomplete, because it had failed to provide information on Iran’s earlier procurement and research efforts with advanced P-2 centrifuge designs and on Polonium-210 experiments, a nuclear material also used to construct nuclear weapons.<sup>43</sup> Even more worrying, however, was that Iran had failed to provide access to suspected nuclear sites and even had razed one site (Lavisian-Shian) before the IAEA could inspect it. In April 2004, Tehran stated that it would begin “hot tests” at the Esfahan uranium conversion facility to process so called “yellowcake” into Uraniumhexafluorid, a gas, which is then spun into a centrifuge to “enrich” the content of uranium-235 isotopes up to 90 per cent and more. The conflict escalated further when Iran declared on June 23 that it would resume manufacturing centrifuge components and testing centrifuges. EU-3 representatives warned their Iranian counterparts in late July (Paris talks), that the Board of Governors would refer Iran’s non-compliance to the United Nations Security Council (UNSC). Against this background of uncompromising positions, the EU-3 negotiators presented to their Iranian counterparts a compromise solution in mid-

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<sup>40</sup> The Tehran Joint Statement did not elaborate on the duration and scope of the suspension, thus leading to conflicting interpretations between Iran and the EU-3. Hence, the so called- “Paris Accord” (see below) in December 2004, specified in greater detail these terms of the Tehran Statement.

<sup>41</sup> This vaguely termed promise was specified by EU-3 negotiators in private. They stated that the EU was prepared to help Iran’s civilian nuclear program by guaranteeing access to nuclear fuel and management of spent fuel, if Tehran was prepared to forego the development of an indigenous fuel-cycle capability.

<sup>42</sup> Joint Statement (2003): Agreed Statement at the end of a visit to the Islamic Republic of Iran by the Foreign Ministers of Britain, France and Germany, October 21, 2003. <http://www.acronym.org.uk/docs/0310/doc13.htm>

<sup>43</sup> Director General of the IAEA, Mohammed ElBaradei (2004): Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran (GOV/2004/11). February 24, 2004. [http://www.iaea.org/Publications/Documents/Board/2004/gov2004-11\\_derestrict.pdf](http://www.iaea.org/Publications/Documents/Board/2004/gov2004-11_derestrict.pdf)

October (the Vienna talks) according to which the referral to the UNSC would be blocked in return for the resumption of the suspension. Key elements of this “non-paper” then provided the basis for the so called “Paris Agreement”.

### ***The Paris Agreement: Same Procedure All Over Again***

The Paris Agreement (PA) of November 2004 drew important lessons from the failure of the Tehran accord.<sup>44</sup> Firstly, it was a two-sided agreement. Secondly, the terms and scope of the suspension of uranium enrichment and plutonium reprocessing were much more detailed, including procurement, conversion, assembly, production and testing activities. Thirdly, the agreement called for “objective guarantees” that Iran would not misuse its nuclear program for military purposes. This, of course, was a key term reflecting the European demand that Iran must permanently suspend - at least on a national basis - key elements of the full fuel-cycle to prove its peaceful intentions after having seriously violated its safeguards obligations for decades. Fourthly, the agreement stipulated that suspension will be essential “while negotiations on a longer-term agreement are under way.”<sup>45</sup> Fifthly, the E3/EU offered more details on benefits in case of Iranian cooperation, including additional political and economic inducements such as the resumption of talks on a TCA. Finally, the PA committed the parties to setting up a steering committee which in turn would convene three working groups on political and security issues (chaired by the UK), on technology and cooperation (chaired by Germany), and on nuclear issues (chaired by France). The working groups were asked to provide progress reports to the steering committee, thereby adding momentum to the negotiation process of a final settlement (PA 2004). The PA temporarily smoothed the conflict on both sides. Iran again fully suspended enrichment and reprocessing as well as related activities.

In the run-up to George W. Bush’s first visit to Europe in his second term in March 2005, European negotiators persuaded the Bush Administration to openly and explicitly support their mediation efforts, despite its sustained concerns about the military application of Iran’s nuclear activities. Thus, after 18 months of negotiation, Washington agreed to enhance the E3/EU’s room of manoeuvre by allowing Europeans to offer spare parts for Iran’s dilapidated civilian aircraft fleet and to start negotiations on Iran’s accession to the World Trade

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<sup>44</sup> Meier, Oliver/Quille, Gerrard (2005): Testing Time for Europe’s Nonproliferation Strategy, in: Arms Control Today, May 2005, p. 1. [http://www.armscontrol.org/act/2005\\_05/Oliver\\_Quille.asp?print](http://www.armscontrol.org/act/2005_05/Oliver_Quille.asp?print)

<sup>45</sup> The E3/EU also recognize in the PA that the suspension is a voluntary confidence building measure and not a legal obligation.

Organisation (WTO).<sup>46</sup> In mid-March 2005 Iran tabled a new offer that contained the idea of a phased introduction of uranium enrichment and reprocessing activities in Iran under full scope IAEA safeguards. Not surprisingly, the E3/EU rejected this offer but promised to present a new proposal by the end of July/early August, acknowledging that a newly elected Iranian president would then be able to assess this proposal.

During the 2005 NPT Review Conference in May, European officials, and German Foreign Minister Joschka Fischer in particular, challenged the Iranian assertion that it held an inalienable and unrestrained right to engage in the full nuclear fuel-cycle. However, as Egypt, Malaysia and other members of the Non-Aligned Movement (NAM, see Glossary) supported the Iranian claim, European countries were unable to persuade NPT member states to accept the E3/EU strict reading of the NPT.

### *Iran – The Legal Challenge*

Making the case against Iran's nuclear program has been so difficult, because it touches one of the central "bargains" of the NPT. Essentially, this bargain includes the pledge by non-nuclear weapon states not to acquire them in exchange for their right to develop, produce and use nuclear energy peacefully and the commitment of nuclear-armed states to eventually give up their arsenals. In the past, Iran consistently held the view (with other non-aligned countries) that nuclear states, in particular the U.S., have not kept their disarmament promises and prevented nuclear cooperation for peaceful purposes. At this year's NPT Review Conference in New York, Iranian Foreign Minister Kharrazi again declared that "the total indifference of nuclear weapon states to the wishes of the international community to make progress towards nuclear disarmament" would potentially "amount to the unravelling of the fabric, credibility and authority of the NPT".<sup>47</sup> Moreover, he insisted that the "objective guarantees" demanded by the Europeans would not amount to the cessation of "legal activities" in the nuclear field (meaning basically enrichment of uranium).

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<sup>46</sup> Harnisch, Sebastian/Linden, Ruth (2005): Einsame Vermittler. Die EU-3 müssen ihre diplomatischen Hebel stärken, Nichtverbreitungsbrief 05/2005. <http://www.politik.uni-trier.de/mitarbeiter/harnisch/pubs/Nichtverbreitungsbrief05-2005.pdf>

<sup>47</sup> Kharrazi, Kamal (2005): Statement by Dr. Kamal Kharrazi, Foreign Minister of the Islamic Republic of Iran to the Seventh NPT Review Conference, New York, May 3, 2005, p.2. <http://www.un.org/events/npt2005/statements/npt03iran.pdf>

Against the prospect of open, but phased, nuclear weapons proliferation in the case of Iran, the EU has used a variety of means to reconcile the development of nuclear energy for peaceful purposes with preventing Tehran from using its nuclear knowledge for military means. Thus, the EU has promoted the strengthening of the IAEA safeguards system by requiring trading partners to accept the Additional Protocol as part of a “non-proliferation clause” in its trade and cooperation agreements.<sup>48</sup> It has tightened nuclear export controls by agreeing on an extended moratorium on new transfers of uranium enrichment and plutonium reprocessing technology under the G-8 initiative against WMD in Gleneagles,<sup>49</sup> and several of its member states have participated in activities to interdict transfers of sensitive technologies under the Proliferation Security Initiative<sup>50</sup> (see Glossary).

In legal terms, EU member states have taken the position that amending the NPT or negotiating a new, more binding, international obligation to forego full fuel-cycle operations by non-nuclear weapon states should not be the first choice to address weapons proliferation. In contrast to the more indiscriminate position of the Bush Administration which bans sales of enrichment and reprocessing technology to states that do not possess such facilities, EU members argue that only states in violation of their NPT obligations and IAEA safeguards agreements should have their right to nuclear energy limited.<sup>51</sup>

### *The European Reading of Art. IV NPT*

In the case of Iran, the EU-3 argument focuses on a strict, but plausible interpretation of NPT article IV in combination with the articles I, II and III. According to this reading article IV. 1, which asserts the inalienable right of all NPT parties to carry out peaceful nuclear activities in conformity with articles I and II means that Iran’s right for peaceful use is conditional upon the provision of “objective guarantees” that its nuclear program is exclusively peaceful. The European Union holds that uranium enrichment and conversion as well as plutonium

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<sup>48</sup> Giannella, Annalisa (2005): Interview with Oliver Meier, July 24, 2005, in: Arms Control Today (Online Edition), August 2005, p.1. [http://www.armscontrol.org/interviews/20050726\\_Giannella.asp](http://www.armscontrol.org/interviews/20050726_Giannella.asp)

<sup>49</sup> Harnisch, Sebastian (2005): Nach den Anschlägen von London: die G-8-Initiative gegen Massenvernichtungswaffen braucht mehr politische Führung und klarere Prioritäten, Nichtverbreitungsbrief 06/2005, July 13, 2005. <http://www.politik.uni-trier.de/mitarbeiter/harnisch/pubs/Nichtverbreitungsbrief06-2005.pdf>

<sup>50</sup> Harnisch, Sebastian (2004): Transatlantische Kooperation tut Not. Europa, die USA und die Massenvernichtungswaffen, in: Internationale Politik 59(1), p. 19-25.

<sup>51</sup> Straw, Jack (2004): Countering the Proliferation of Weapons of Mass Destruction, Statement on the British Parliament, February 25, 2004.

reprocessing activities are not “normal activities” in the case of Iran, because it has concealed a lot of activities from the IAEA that could be used to produce nuclear weapons.<sup>52</sup>

In the same vein, E3/EU negotiators argue that article IV.2, which states that all NPT parties have the right to undertake and participate in the fullest possible exchange of equipment, materials and scientific/technological information, does not stipulate a duty by member countries to export these technologies to other NPT members. Against the background of the negotiating history of article IV, Europeans interpret section 2 (which stipulates only that all parties undertake to facilitate the “peaceful” exchange of nuclear technology) to mean that facilitation and cooperation in sensitive areas is conditional upon “objective guarantees” of peaceful purposes. In fact, since the 1970s, European members of the Nuclear Suppliers Group (NSG) have not transferred enrichment, reprocessing or heavy water production technologies to countries not already possessing them.<sup>53</sup> This strict interpretation of article IV.2 is even more plausible considering that Iran engaged in prolonged, illegal and secret procurement activities with non-NPT members (i.e. Pakistan) to circumvent the legally restricted nuclear cooperation policy of European NPT members.<sup>54</sup>

Against the background of Iran’s proven violation of its safeguards obligation, the lack of plausible commercial applications of certain elements of the nuclear program and Iran’s ever advancing missile capabilities, which includes activities to produce nuclear warheads, EU-3 negotiators have consistently held that Iran’s acceptance of the IAEA Additional Protocol was not enough to meet the requirement of an “objective guarantee” for the peaceful application of all full fuel-cycle activities. But instead of outrightly denying Iran any nuclear peaceful activities, as the Bush Administration had suggested in the North Korean case, the E3/EU took the view that it should offer nuclear, political and economic incentives to reconcile Iran’s right to peaceful nuclear energy production with the NPT member’s right of objective guarantees for Iran’s exclusively peaceful intentions.

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<sup>52</sup> Giannella, Annalisa (2005): Interview with Oliver Meier, July 24, 2005, in: Arms Control Today (Online Edition), August 2005, p. 2. [http://www.armscontrol.org/interviews/20050726\\_Giannella.asp](http://www.armscontrol.org/interviews/20050726_Giannella.asp)

<sup>53</sup> Scheinman, Lawrence (2004): Article IV of the NPT: Background, Problems, Some Prospects (WMD Commission Working paper No. 5, p. 2. <http://www.wmdcommission.org/files/No5.pdf>

<sup>54</sup> Several nuclear facilities in Iran, especially the heavy-water (HW) production plant and the HW-Reactor in Arak, closely resemble Pakistan’s respective sites.

### *The August Proposal and the Escalation of the Crisis*

Even before the E3/EU presented a comprehensive proposal on August 5, the outgoing Iranian President Khatami declared that Iran would start its uranium conversion activities in Esfahan no matter what the Europeans offered. After taking office, the incoming President Mahmoud Ahmadinejad obviously followed up on the strategy of his predecessor of continued cooperation with the IAEA and continued talks with E3/EU officials while breaking free of its promise to suspend full fuel-cycle activities during negotiations.<sup>55</sup> While Tehran announced the start of uranium conversion to allow appropriate IAEA monitoring, it rejected the E3/EU August 5 proposal as “absurd, demeaning and self-congratulatory”.<sup>56</sup> In their proposal, E3/EU officials had offered more comprehensive benefits and cooperation in the political, economic and security realm. However, they stuck to their main non-proliferation position that Iran must not be allowed to independently master uranium enrichment and plutonium reprocessing. Instead, the proposal foresaw guaranteed access to the civilian nuclear market, a non-discriminating EU nuclear export control policy towards Iran and EU cooperation to build a new research plant and exchanges in light-water reactor (LWR) technology.<sup>57</sup> Since the E3/EU proposal was closely co-ordinated with the Bush Administration, the limited scope of the benefits, especially the lack of initiatives to normalize U.S.-Iranian relations, makes clear that Washington decided to hold back its own crucial bargaining incentives for a later stage in the process. In the E3/EU proposal, the U.S. went only as far as to recognize Iran’s right to the civilian use of LWR technology and research facilities which it had rejected before.

After Iran restarted uranium conversion on August 8, the EU called for a special session of the IAEA Board which urged Iran to restore the suspension of uranium conversion activities. In addition, the Board directed the director-general to prepare a comprehensive report on Iran’s past activities and ongoing cooperation with the IAEA for the next Board meeting on September 19. From the E3/EU’s legal perspective the resumption of uranium conversion should trigger the referral of the Iranian case to the United Nations Security Council, since the

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<sup>55</sup> Mojtabehzadeh, Pirouz/Afrasiabi, Kaveh (2005): Iran’s Nuclear Program. A Crisis of Choice, Not Necessity, in: Iran Daily, August 14, 2005.

<sup>56</sup> Response by the Islamic Republic of Iran to the Framework Agreement proposed by the E3/EU. <http://www.basicint.org/countries/iran/IranResponse.pdf>

<sup>57</sup> Letter of E3 Ministers and the EU High Representative to Dr. Rouhani dated August 5, 2005. <http://www.basicint.org/countries/iran/IranIAEA20050808.pdf>

E3/EU agreed to hold off the reporting only as long as Tehran suspended its most sensitive fuel-cycle activities.<sup>58</sup>

In the run-up to the IAEA Board meeting, E3/EU countries made clear that they would not settle for anything less than permanent suspension of critical fuel-cycle activities. Thus, EU-3 ministers responded very critically to the maiden speech of the Iranian president at the UN Summit meeting on September 18, 2005, in which he defended Iran's inalienable right to all fuel-cycle activities.<sup>59</sup> During the Board meeting, the E3/EU presented a draft resolution that would ask the governors to report Iran's past "breaches and failures to comply with its NPT safeguards agreement" to the Security Council. However, press coverage indicates that several Board members, including Russia, India and China, are opposed to refer the Iranian case to the Security Council at this point.<sup>60</sup> In addition, three EU member states, Italy, Spain and Portugal, have openly questioned the E3/EU's mandate to negotiate with Iran.<sup>61</sup>

### ***Outlook***

A balanced judgement of the EU-3 policy towards Iran should be based on several criteria. First, the EU-3 have done rather well when it comes to internal policy coherence and acceptance of their role as negotiators on behalf of the European Union as a whole. The negotiators from Germany, France and the United Kingdom could confront Tehran with a European consensus position in some crucial areas – for instance that states with a poor record of compliance with NPT or IAEA rules should not enjoy the same unconditional access to the full fuel-cycle as NPT members in good standing. Secondly, the EU-3 have strengthened the IAEA's role as the watchdog for compliance of the NPT's provisions. Most notably, European officials rejected the early U.S. demand that Iran's case should be referred to the UN Security Council and supported the strong independent investigatory role of the Agency's director-general. Thirdly, the three EU countries acted as a diplomatic buffer between diverging forces of the United States and Iran, thereby giving a broadly recognized mediation mission a fair chance to resolve the conflict diplomatically.

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<sup>58</sup> Goldschmidt, Pierre (2005): Decision Time on Iran, in: New York Times, September 14, 2005.

<sup>59</sup> Ahmadinejad, Mahmoud (2005): Address to the Sixtieth Session of the UN General Assembly, September 17, 2005. <http://www.globalsecurity.org/wmd/library/news/iran/2005/iran-050918-irna02.htm>

<sup>60</sup> Fiorill, Joe (2005): Iran Case Could Lead to Nonconsensus IAEA Action, in: Global Security Newswire, September 14, 2005. [http://www.nti.org/d\\_newswire/issues/2005/9/14/2522728e-6b77-47ee-a1ad-cb9f86124ed8.html](http://www.nti.org/d_newswire/issues/2005/9/14/2522728e-6b77-47ee-a1ad-cb9f86124ed8.html); Forney, Matthew (2005): Why China's not Backing Bush on Iran, in: Time Online, September 15, 2005. <http://www.time.com/time/world/article/0,8599,1105656,00.html>

<sup>61</sup> Global Security Newswire (GSN) (2005): Iran Willing to Offer Nuclear Aid to Islamic States, in: Global Security Newswire, August 16, 2005. [http://www.nti.org/d\\_newswire/issues/W\\_2005\\_9\\_16.html#47F2852F](http://www.nti.org/d_newswire/issues/W_2005_9_16.html#47F2852F)

However, as the United States never fully joined the EU-3 with all the diplomatic benefits at its disposal, especially the normalization of U.S.-Iranian relations, the E3/EU lacked the necessary recognition by Iran and the authority from the United States to act as a credible and potent interlocutor. Interestingly, when the Bush Administration openly (yet only partially) joined the EU in February 2005, the Iranian side started to actively build a counter-coalition with non-aligned, non-nuclear weapon states of the NPT. Thus, at the May 2005 NPT Review Conference and subsequent IAEA Board meetings, Iran successfully joined forces with Egypt, Malaysia and other Islamic states that supported Iran's claim that its past violations and deceptions had not compromised its right to all fuel-cycle activities.

Given the seriousness of the crisis of the NPT and the determination by the new Iranian president to pursue the "Japanese Option", i.e. to reach full fuel-cycle activities with a short term option to switch to a military application – previously exercised by North Korea - there is a clear risk of the crisis escalating further. In addition, along this road there is also a clear risk that EU-3 unity or recognition might fall apart in a new role as an enforcer of the NPT. In order to prevent this from happening, the European members of the UN Security Council must enforce the EU principle of "effective multilateralism" by sticking to a transparent process to determine further action on Iran. Hence the EU should insist that the IAEA keeps its function as an impartial investigator of Iran's nuclear conduct or that the IAEA director-general collaborates closely with an independent investigative body under the Security Council to determine the nature of Iran's nuclear activities.

## II. Book Review

**James Sperling (Ed.) (2004): Germany at fifty-five. Berlin ist nicht Bonn? Manchester University Press.**

*Reviewed by Sebastian Harnisch*

This comprehensive study in honour of Peter Merkl brings together a broad variety of both historical and political analysis on Germany in the 20<sup>th</sup> and 21<sup>st</sup> century. The volume, edited by James Sperling, will be appreciated by both experts and novices to the topic. In twenty-three chapters (!) leading experts in their field touch upon the origins of the Bonn and Berlin Republics, the legacies of National Socialism, the evolving political culture of the Berlin Republic, its political parties, institutional change and innovation as well as its foreign policies. In the introduction, Sperling provides a valuable historical comparison between the Weimar, Bonn and Berlin Republics. He argues that the Berlin Republic started within a favourable international setting, encircled by friends, and with a strong democratic fabric both in the political system and in society. However, in contrast to Bonn, Berlin has to handle a much tougher macroeconomic environment, because of the twin transformation of the Eastern Länder and the West German “Wohlfahrtsstaatsmodell” as well as its Europeanization in the European Monetary Union.

From a foreign policy perspective, Thomas Durell-Young’s chapter on Germany’s post-unification military organisation is of special interest. It is exceptionally well written and it addresses a key question in the theoretical debate on Germany’s security policy after 1989: Will a presumably more powerful unified Germany seek autonomous military capacities? Young’s answer is no, because the evolution of national command structures “demonstrates less a manifestation of growing German nationalism, but rather a government still willing to go to great extents to demonstrate that the Federal Republic shares no similarities with past German experiences of militarism and unhealthy civil-military relations” (p. 342). In his chapter on “The German problem reconsidered: the impact of unification”, Stephen Szabo posits that the increasing fluidity of the international environment, i.e. a rather sharp turn towards unilateralism under the Bush Administration, plus a changing domestic ideational context have transformed the Bonn Republic’s strategic culture. Szabo argues that Chancellor Schröder’s call for a “German Way” stands for a broader cultural shift in German politics which involves new political leaders from the “68-generation” and the breaking of several

taboos, such as criticism of Israel (Moellemann); the treatment of Germans as victims of World War II (controversy about the Beneš Decrees). However, Szabo concludes that even the Atlantic link may weaken further in the future, while the Europeanisation of Germany is likely to hold and deepen. To broaden Europe towards the east and to assist the transition of post-communist countries to democracy have been the main goals of Germany's policy vis-à-vis Poland. In a succinct account of German-Polish relations since unification, Arthur Rachwald offers a balanced view of this important relationship. The chapter deals with Germany's advocacy role for Poland to join the EU and NATO, but its strength lies with a fair account of the sources of discord and distrust between the two societies. Rachwald looks at the issue of working migration and immigration from both the Polish and the German perspectives. He also addresses the question of deportation of Germans and Poles during World War II and concludes that both issues will shape – yet not determine - the bilateral relationship in the years to come. In the two remaining chapters on Germany's foreign policy, Emil Kirchner and Mary Hampton analyse Berlin's policy towards the EU and the Transatlantic Alliance. Kirchner stresses in his account that, despite the costs and burdens of unification that have stretched Germany's paymaster role in the EU, all main parties and the policy elites remain committed to a supranational course of the Union. His chapter also provides a very useful and succinct analysis of the convention for a European Constitutional Treaty from the perspective of German parties and Laender governments. While Kirchner concludes that German-EU relations are stable, Mary Hampton argues that Germany's transatlantic partnership with the United States is under duress. Hampton carefully blames both sides for the diminishing role of NATO in Germany's security affairs. Although her conclusions are primarily formulated with the Iraq controversy in mind, Hampton succeeds in creating a very rich and historically balanced account of current transatlantic relations. Overall, the book manages to raise and answer the most important political questions of the Berlin Republic. In this way "Germany at fifty-five" is not only an appropriate birthday present for Peter Merkl, who is one of the eminent scholars on contemporary Germany, but it is also highly recommended for all students of Germany's post-unification foreign and security policy.

### III. Online and Offline Resources Related to the Documents

This section contains the relevant documents which our authors refer to in their respective contributions. The indicated internet sources (URLs) were checked on October 23, 2005. We do not claim to give a full compilation of all relevant sources on the issue at hand.

#### 1. Official Documents and Governmental Actors

Agreed Statement between the Foreign Ministers of France, Germany and the United Kingdom and the Secretary of the Iranian Supreme National Security Council. Tehran, October 21, 2003.

[http://www.iaea.org/NewsCenter/Focus/IaeaIran/statement\\_iran21102003.shtml](http://www.iaea.org/NewsCenter/Focus/IaeaIran/statement_iran21102003.shtml)

Ahmadinejad, Mahmoud (2005): Address to the Sixtieth Session of the UN General Assembly. New York, September 17, 2005.

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Fischer, Joschka (2005): Speech by Joschka Fischer, Federal Minister for Foreign Affairs, at the Opening Session of the 7<sup>th</sup> Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. New York, May 2, 2005.

<http://www.un.org/events/npt2005/statements/npt02germany.pdf>

Freeman, John (2005): General Debate Statement by Ambassador John Freeman, Head of the UK Delegation to the 2005 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. New York, May 5, 2005.

<http://www.un.org/events/npt2005/statements/npt05unitedkingdom.pdf>

Freivalds, Laila (2005): General Debate Statement by H.E. Ms. Laila Freivalds, Minister for Foreign Affairs of Sweden, to the 2005 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. New York, May 3, 2005.

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Foreign and Commonwealth Office: Counter-Proliferation Department (CPD), London.

<http://www.fco.gov.uk/servlet/Front?pagename=OpenMarket/Xcelerate/ShowPage&c=Page&cid=1065432164878>

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Kharrazi, Kamal (2005): Statement by Dr. Kamal Kharrazi, Foreign Minister of the Islamic Republic of Iran to the Seventh NPT Review Conference. New York, May 3, 2005.

<http://www.un.org/events/npt2005/statements/npt03iran.pdf>

Koeffler, Wernfried (2005): General Debate Statement by Ambassador Wernfried Koeffler, Head of the Delegation of Austria to the 2005 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. New York, May 4, 2005.

<http://www.un.org/events/npt2005/statements/npt04austria.pdf>

Response by the Islamic Republic of Iran to the Framework Agreement proposed by the E3/EU. Tehran, August 2005.

<http://www.basicint.org/countries/iran/IranResponse.pdf>

Schmit, Nicolas (2005): General Debate Statement of H.E. Nicolas Schmit, Minister Delegate for Foreign Affairs for Luxembourg, on behalf of the European Union to the 2005 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. New York, May 2, 2005.

<http://www.un.org/events/npt2005/statements/npt02luxembourg.pdf>

Straw, Jack (2004): Countering the Proliferation of Weapons of Mass Destruction, Statement to the British Parliament. London, February 25, 2004.

[http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/vo040225/wmstext/40225m02.htm#40225m02.html\\_sbhd1](http://www.parliament.the-stationery-office.co.uk/pa/cm200304/cmhansrd/vo040225/wmstext/40225m02.htm#40225m02.html_sbhd1)

Swedish Ministry for Foreign Affairs (2005): SIDDR - Stockholm Initiative on Disarmament Demobilisation Reintegration. Stockholm.

<http://www.sweden.gov.se/sb/d/4890>

The Office of Defense Nuclear Nonproliferation, Washington, D.C.

<http://www.nnsa.doe.gov/na-20/index.shtml>

## **2. International Organizations**

2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)

<http://www.un.org/events/npt2005/>

2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (2005): Withdrawal from the Treaty on the Non-Proliferation of Nuclear Weapons: European Union common approach, Working Paper submitted by Luxembourg, NPT/CONF.2005/WP.32. New York, May 10, 2005.

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Conference on Disarmament, Geneva

<http://disarmament.un.org/cd/>

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[http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/l\\_106/l\\_10620050427en00320035.pdf](http://europa.eu.int/eur-lex/lex/LexUriServ/site/en/oj/2005/l_106/l_10620050427en00320035.pdf)

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<http://www.iaea.org>

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[http://www.iaea.org/Publications/Reports/Anrep2004/anrep2004\\_full.pdf](http://www.iaea.org/Publications/Reports/Anrep2004/anrep2004_full.pdf)

International Atomic Energy Agency (IAEA) (2005): Multilateral Approaches to the Nuclear Fuel-cycle: Expert Group Report submitted to the Director General of the International Atomic Energy Agency, INFCIRC/640. Vienna, February 22, 2005.

<http://www.iaea.org/Publications/Documents/Infcircs/2005/infcirc640.pdf>

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<http://www.iaea.org/Publications/Documents/Board/2003/gov2003-63.pdf>

Letter of E3 Ministers and the EU High Representatives to Dr. Rouhani dated August 5, 2005. Vienna, 2005.

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The Acronym Institute for Disarmament Diplomacy, London.  
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## **IV. Glossary**

### **Additional Protocol (IAEA)**

The International Atomic Energy Agency (IAEA) adopted a so-called Model Additional Protocol on May 15, 1997, with the aim to strengthen and expand its inspection regime (see IAEA safeguards). The Additional Protocol is a voluntary document, yet the IAEA urges the States Parties to the Non-Proliferation Treaty (NPT) to adopt it. If it is ratified nationally, it provides the IAEA inspectors with the authority to inspect declared or even un-declared nuclear facilities at no or short notice.

For detailed information see: [http://www.iaea.org/OurWork/SV/Safeguards/sg\\_protocol.html](http://www.iaea.org/OurWork/SV/Safeguards/sg_protocol.html)

### **Comprehensive Test Ban Treaty (CTBT)**

The CTBT bans all nuclear explosions in all environments, for military or civilian purposes and was opened for signature in New York on September 24, 1996, when it was signed by 71 states, including five of the seven then nuclear-capable powers. The Treaty also establishes the CTBT Organization (CTBTO) to verify compliance with the Treaty through a global monitoring system once it enters into force. The Treaty will enter into force after its ratification by the states listed in its Annex 2. These 44 States formally participated in the 1996 session of the Conference on Disarmament, and possess nuclear power or research reactors. As of August 2001, there were 79 parties to the treaty; in addition, 82 states have signed but not ratified the treaty, including the United States.

For detailed information see: [www.ctbto.org](http://www.ctbto.org)

### **Geneva Conference on Disarmament (CD)**

The CD, established in 1979 as the single multilateral disarmament negotiating forum of the international community, was a result of the first Special Session on Disarmament of the United Nations General Assembly held in 1978. Although the CD concerns itself with practically all issues involving multilateral arms control, it currently focuses its attention on the following issues: effective international arrangements to assure non-nuclear weapon states against the use or threat of use of nuclear weapons; prevention of an arms race in outer space; negotiations on a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices; and transparency in conventional armaments production and transfer.

### **Fissile Material Cut-off Treaty (FMCT)**

The FMCT is a proposed international treaty to prohibit the further production of weapons-grade uranium and plutonium. It would not prevent the production of fuel-grade uranium and plutonium, nor of other components in nuclear warheads. It is currently being negotiated in the United Nations Conference on Disarmament. In 2004, the United States announced that they opposed the treaty on the grounds that it would not be possible to effectively verify compliance with it.

### **Global Threat Reduction Initiative (GTRI)**

The GTRI was announced by United States Secretary of Energy Spencer Abraham on May 26, 2004 at a meeting with International Atomic Energy Agency (IAEA) senior officials at the IAEA headquarters in Vienna. The initiative aims to identify, secure, remove and/ or facilitate the disposition of vulnerable, high-risk nuclear and other radiological materials around the world - as quickly and expeditiously as possible - that pose a threat to the United States and the international community. The Global Threat Reduction Initiative is a cooperative program that is intended to build international support for countries' national programs in these areas.

### **Group of Western European States and Others (“Western Group”, WEOG)**

The WEOG is one of the United Nations' five regional groupings. Its 27 member countries include all Western European nations plus Australia, Canada, New Zealand and the United States. This voluntary grouping has no basis in the UN Charter or in its Resolutions. However, as the number of UN members grew, the Secretariat increasingly began to rely on the new structure and to conduct consultations on substantial and procedural issues with the heads of the regional groups, rather than addressing each state directly. Not only has the UN come to rely on this group structure, it has gradually begun to accord it an institutionalized role. In the procedures for election to the major UN bodies (such as the Security Council, ECOSOC, etc.), the distribution of seats has begun to be determined explicitly by a regional quota. The regional groups system has been increasingly questioned, however, since it still reflects the international structure during the Cold War.

### **New Agenda Coalition (NAC)**

In May 1998 the foreign ministers of Brazil, Egypt, Ireland, Mexico, New Zealand, Slovenia, South Africa and Sweden issued a Joint Declaration calling for a new agenda toward a nuclear weapon free world. The NAC calls for the five nuclear weapon states and the three

nuclear-capable states to make an unequivocal commitment to nuclear disarmament and to begin multilateral negotiations that would lead to the elimination of nuclear weapons through a Nuclear Weapons Convention.

### **Non-Aligned Movement (NAM)**

The NAM is an organized movement of nations that attempted to form a Third World force through a policy of non-alignment with the United States and Soviet Union during the Cold War period. NAM focuses on national struggles for independence, the eradication of poverty, economic development and opposing colonialism, imperialism, and neo-colonialism. It represents 55 per cent of the planet's people and nearly two-thirds of the UN's membership. In light of the Cold War's end, it reassessed its role and has redefined itself as a forum for its member nations to develop common policies and positions within the United Nations and other international fora. The NAM countries generally share a strong preference for nuclear disarmament: <http://www.nam.gov.za/>

### **The Nuclear Non-Proliferation Treaty (NPT)**

The NPT entered into force in 1970 and has achieved almost universal membership of States Parties (189 countries as of 2005, with only India, Pakistan and Israel remaining outside). The NPT acknowledges only five official nuclear weapon states (NWS): USA, UK, France, Russia and China. Articles I and II posit that these states would not hand nuclear weapons to others while the non-nuclear weapon states (NNWS) refrain from acquiring them. Article VI commits the NWS to nuclear disarmament. The current nuclear conflict with Iran is centered around article IV which acknowledges the “inalienable right” of NNWS to research, develop, and use nuclear energy for non-weapons purposes.

### **Nuclear Supplier Group (NSG)**

The NSG was founded in 1974 as a reaction to India testing a nuclear explosive device for the first time. The incident demonstrated that nuclear weapons can be produced under the guise of “peaceful” nuclear research and activities. The NSG consists of 44 states which are able and willing to export nuclear material and technology, among them Austria, China, France, Germany, Russia, Sweden, United Kingdom and the United States. These states have voluntarily agreed to coordinate their export controls governing transfers of civilian nuclear material and nuclear-related equipment and technology to non-nuclear weapon states. For

instance, the export of nuclear materials shall be conditional on the recipient countries having IAEA safeguards in place.

### **Proliferation Security Initiative (PSI)**

The PSI was launched by the Bush Administration on May 31, 2003 and was initially joined by ten other countries: Australia, France, Germany, Italy, Japan, the Netherlands, Poland, Portugal, Spain, and the United Kingdom. It constitutes an effort to prevent the proliferation of Weapons of Mass Destruction (WMD) by interdicting shipments - by land, sea and the air - of WMD (biological, chemical, nuclear), their components (also dual use) and related goods (most notably missiles) to terrorists and countries of “proliferation concern”. The Initiative does not expand national competences beyond the existing legal status quo, yet participants of the PSI permit their own vessels and aircraft to be interdicted and pledge to share information more quickly.

### **Safeguards Agreement/ IAEA**

According to article III of the NPT, the International Atomic Energy Agency (IAEA) is charged with the verification that nuclear activities and the transfer of nuclear material and technologies is used for peaceful purposes exclusively and not abused for producing weapons. To this end, the NPT obliges States Parties to conclude so-called Safeguards Agreements with the IAEA. Safeguards include, among other measures, inspections, remote monitoring and seals. The concealment of clandestine nuclear weapons programs in Iraq and North Korea demonstrated the weakness of traditional safeguards. Against this background, the IAEA drafted the Model Additional Protocol to improve and expand the inspection regime (see Additional Protocol).

### **“Thirteen Practical Steps”**

In May 1995 the nuclear weapon and non-nuclear weapon States Parties reached agreement to indefinitely extend the Non-Proliferation Treaty. As part of this “deal” the nuclear weapon states reaffirmed their commitment to nuclear disarmament. This commitment was codified in the so-called 13 “practical steps” of the Final Document of the 2000 Review Conference. The “thirteen practical steps to implement Article VI obligations” include, among other things, the early entry into force of the Comprehensive Test Ban Treaty, a “non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of

fissile material for nuclear weapons” and the strengthening of the Conference on Disarmament.

### **The Zangger Committee**

Between 1971 and 1974, a group of 15 states - some already party to the Nuclear Non-Proliferation-Treaty (NPT) - held a series of informal meetings in Vienna chaired by Professor Claude Zangger of Switzerland. According to its official website, the Group’s main purpose is to “harmonize the interpretation of nuclear export control policies for NPT Parties”. In 1974 it was complemented – if not replaced – by the Nuclear Suppliers Group. The Zangger Committee (ZC) has an informal status and its decisions are in themselves not legally binding for its members. The ZC maintains a Trigger List (triggering safeguards as a condition of supply) of nuclear-related strategic goods to assist NPT Parties in identifying equipment and materials subject to export controls. Today the ZC has 35 members including all the nuclear weapon states.

For more information see: <http://www.zanggercommittee.org/Zangger/default.htm>

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