

Nuclear Proliferation Risk and Responsibility

A Report to
The Trilateral Commission

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The Trilateral Commission was formed in 1973 by private citizens of Europe, Japan, and North America to foster closer cooperation among these three democratic industrialized regions on common problems. It seeks to improve public understanding of such problems, to support proposals for handling them jointly, and to nurture habits and practices of working together. The European group has widened with the ongoing enlargement of the European Union. The Japanese group has widened into a Pacific Asia group. The North American group now includes members from Canada, Mexico, and the United States.

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Challenge of Deterring Nuclear Proliferation

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The greater the number of states possessing nuclear weapons, the greater the risk that, one day, by design or by accident and with catastrophic consequences, the weapons will be used or will fall into the hands of nonstate actors.

We must therefore reject as irresponsible the idea that the international community should get used to the fact that sooner or later more countries will possess nuclear weapons and that we can do nothing about it. Rather, it is essential to take all the necessary steps to prevent and deter nonnuclear weapons states (NNWS) from acquiring such weapons.

Prevention entails persuading a state (both the leaders and the people) that it is not in that state's best interest to acquire a nuclear weapons capability because possessing such weapons would not increase national security, would not improve the stability of the regime, would not improve the prestige or status of the state, and would be detrimental to its economic development. Prevention can mainly, if not exclusively, be achieved through bilateral and multilateral negotiations in order to create the necessary geopolitical environment, including first of all appropriate security guarantees. To be most effective, preventive measures should be taken long before a crisis has arisen. We will not dwell further on this important facet.

Deterrence plays its role when a NNWS cannot be persuaded that acquiring a nuclear weapons capability is not in its best interest. In such a case it is essential for such a state to know, first, that any undeclared nuclear weapons program has a high probability of early detec-

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tion and, second, that if detected, extremely negative consequences would be inevitable (and not simply possible). Unfortunately, neither of these two deterrents is credibly in place today, and it is therefore essential to take the practical steps necessary to improve the situation.

For that, we need to draw on the lessons learned from previous nuclear proliferation crises.

Sensitive Fuel Cycle Activities

In the wake of the first Gulf War, when it was discovered that Saddam Hussein had secretly been developing nuclear weapons at undeclared sites, the International Atomic Energy Agency (IAEA) passed the 1997 Model Additional Protocol, designed to enable the agency to confirm there were no undeclared nuclear materials and activities in a NNWS. To date, however, 21 NNWS with known nuclear activities have no Additional Protocol in force; including at least three—Argentina, Brazil, and Iran—that are known to have uranium enrichment activities.

The international community should demand much more forcefully that such states sign and ratify the Additional Protocol, and the IAEA should mention these states explicitly in its annual report. The Nuclear Suppliers Group could also play a significant role in this respect by adopting a rule that no nuclear material, equipment, and know-how would be transferred to any country having conversion, enrichment, or reprocessing activities unless it has an Additional Protocol in force and unless these and all other nuclear facilities are covered by an INFCIRC/66-type safeguards agreement.¹

Noncompliance

If a state has been found by the IAEA to be in noncompliance with its safeguards undertakings, experience with both North Korea and Iran has shown that, in order to conclude in a timely manner that there are

1 A comprehensive safeguards agreement remains in force only for so long as the state remains party to the NPT, whereas under a INFCIRC/66-type agreement, all nuclear material supplied or produced under that agreement would remain under safeguards, even if the state withdraws from the NPT, until such time as the IAEA has determined that such material is no longer subject to safeguards.

no undeclared nuclear material and activities in the state as a whole, the IAEA needs verification rights extending beyond those of the comprehensive safeguards agreements and Additional Protocol. This appears clearly from the director general's report of April 28, 2006, to the IAEA Board of Governors, where it is stated, "the Agency is unable to make progress in its efforts to provide assurance about the absence of undeclared nuclear material and activities in Iran," nor to assess "the role of the military in Iran's nuclear programme."

The report also states, "any progress in that regard requires . . . transparency that goes beyond the measures prescribed in the Safeguards Agreement and Additional Protocol."² A similar request was made in 2005 by both the director general and the Board of Governors. The problem here is that such IAEA board resolutions do not provide the agency with any additional legally binding verification authority. Therefore, the most effective and feasible way to establish the necessary authority is for the United Nations Security Council (UNSC) to adopt (under Chapter VII of the UN Charter) a generic (that is, not state specific) and legally binding resolution stating that if a state is reported by the IAEA to be in noncompliance:

- The noncompliant state will have to suspend all sensitive nuclear fuel cycle activities for a specified period of time,³ but could by all means continue to produce electricity from nuclear power plants;
- If requested by the IAEA, the UNSC would automatically adopt a specific resolution (under Chapter VII) providing the IAEA additional verification authority until it is able to conclude that there are no undeclared nuclear materials and activities in the state and that its declarations to the agency are correct and complete; and

2 The April 28, 2006, report also states: "Additional transparency measures, including access to documentation, dual use equipment and relevant individuals, are, . . . still needed for the Agency to be able to verify the scope and nature of Iran's enrichment programme, the purpose and use of the dual use equipment and materials purchased by the PHRC [Iran's Physics Research Center], and the alleged studies which could have a military dimension."

3 This time would be at least until the IAEA has drawn the conclusion that the state declaration is correct and complete, or possibly longer, in line with what Director General ElBaradei has called a "rehabilitation period" or a "probation period, to build confidence again, before you can exercise your full rights." (See *Newsweek*, January 23, 2006.)

- No nuclear material shall henceforth be delivered to that state without the guarantee that all nuclear material and facilities declared to the IAEA would remain under IAEA's safeguards even if the state withdraws from the Nuclear Non-Proliferation Treaty (NPT).

As for the specific case of Iran, it is high time for the IAEA Board of Governors to formally request the UNSC to provide (under Chapter VII) the increased and legally binding investigation authority the agency has repeatedly stated is needed in Iran.

Withdrawal from the NPT

The current crisis in Iran appears to be a repetition of the earlier (and ongoing) crisis in North Korea.

North Korea

Every year since 1993, the IAEA has declared North Korea to be in noncompliance with its safeguards agreements and has reported North Korea to the UNSC, without the latter deciding to take any action. In 2003, North Korea gave notice that it was withdrawing from the NPT, and in 2004 it declared that it possessed nuclear weapons, without any move from the UNSC because China threatened to veto any resolution adverse to North Korea.

Iran

If the international community does not seem to have learned the lessons from the crisis in North Korea, Iran has. There are signs that it is preparing to follow the same steps as North Korea if the development of its nuclear program is threatened by the UNSC or any of its members.

Isn't Iran's deliberately provocative attitude a step toward preparing for its withdrawal from the NPT, as is its letter of March 21, 2006, addressed to Secretary General Kofi Annan that complained about the fact that senior U.S. officials have publicly threatened to resort to force against Iran "in total contempt of international law and the fundamental principles of the Charter of the United Nations"?

Also, on May 7, 2006, the Iranian Parliament, in a letter to Secretary General Kofi Annan, threatened to force Iran's government to withdraw from the NPT if pressure continues on Tehran to suspend uranium enrichment activities.

It is therefore essential for the international community not to wait for Iran's withdrawal from the NPT, but for the UNSC to adopt (under Chapter VII of the UN Charter) a generic and legally binding resolution stating that if a state withdraws from the NPT after being found by the IAEA to be in noncompliance with its safeguards undertakings:

- Such withdrawal constitutes a threat to international peace and security as defined under Article 39 of the UN Charter; and
- All materials and equipment made available to such a state, or resulting from the assistance provided to it under a comprehensive safeguards agreement, will be forthwith removed from that state under IAEA supervision and remain under the agency's safeguards.

Conclusion

The longer the UNSC takes to adopt the resolutions suggested in this paper, the more difficult it will be to save the credibility of the nonproliferation regime.

President Kennedy predicted in the early 1960s that before the end of the following decade there would be between 20 and 25 states possessing nuclear weapons. Fortunately, this did not materialize, but many changes have occurred since then. Today, inaction may lead to Kennedy's prediction coming true, with dreadful consequences for international security, particularly if one takes into account the new dimension of international terrorism. Einstein once said, "The world will not be destroyed by those who do evil, but by those who let them do and refuse to intervene."

