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The EU and the NPT 2005 Review Conference

10 December 2004, EU Institute for Security Studies, Paris

The European Union has identified the proliferation of weapons of mass destruction as a key threat to its security and considers the Non-Proliferation Treaty (NPT) as a cornerstone of its strategy of fighting the spread of WMD. A successful outcome of the next NPT Review Conference in May 2005 is thus of essential interest to the Union.

Having this in mind, the EU Institute for Security Studies organised a *seminar on 10 December 2004 on EU perspectives for the 2005 NPT Review Conference*. At the demand of the HR's Personal Representative for the non-proliferation of WMD, Annalisa Giannella, the seminar brought together officials from the Council, the Commission, the IAEA, Member States and academics to exchange views on the main challenges for the conference and to explore in particular possible ways to reach a common EU position.

Session I: Non-Proliferation – How to Ensure an Effective Compliance Mechanism?

This session clarified the conceptual framework in which the issue of compliance is embedded. Participants stressed that the *integrity, credibility* and *authority* of the NPT fundamentally hinges on *full compliance* with its obligations. Among the models discussed were co-operative and coercive models of compliance. In a scenario where a State is found in violation of the NPT, enforcing compliance will depend on an effective sanctioning mechanism that has to take effect when detection of a violation has occurred.

Participants highlighted the link between the **universality** of the NPT and compliance. Bringing India, Pakistan and Israel as Non-Nuclear-Weapon-States into the Treaty would greatly improve the conditions for compliance by current non-nuclear state parties. Although there is no realistic chance today to make this happen, participants agreed that the EU should not give up the objective of making the NPT universal. These three de facto Nuclear Weapon States should be engaged in the fight against proliferation, without recognising their nuclear status. Therefore, the international community must avoid that the three countries concerned gain any special status or privilege because of their nuclear arsenals.

To ensure compliance also necessitates the improvement of the **verification** mechanisms. In this sense all participants agreed that the EU has to make every effort to make the Additional Protocol, which significantly expands the IAEA's ability to investigate undeclared or clandestine nuclear activities, recognised as the verification standard.

Verification in itself draws on the enforcement of the treaty provisions. However, it is still uncertain as to who deals with a state that has not complied with the Treaty, and when and under which precise conditions the IAEA is deemed to put the case forward to the UN Security Council. In principle, the UNSC is the appropriate forum for serious cases of non-compliance. However, given the frequent divergences of the Permanent Members on these issues, it will remain difficult for them to achieve the consensus necessary to enforce or coerce the provisions of the NPT. In this context, participants also recommended to give the IAEA more authority and greater investigative powers, in particular to fight the illicit spread of nuclear technology by non-state actors operating at a transnational level.

Last but not least, participants highlighted the importance of more clearly defined modalities concerning NPT **withdrawal**. The current situation where any party can withdraw unilaterally from the NPT with a 90 days notice in case of "extraordinary events" was generally perceived as not satisfactory. In order to strengthen the barrier against withdrawal, participants suggested the establishment of an *ad hoc* committee or an extra-ordinary NPT conference in case a party wished to withdraw. This would offer an opportunity to generate peer pressure and to negotiate with the party concerned to remain within the Treaty.

Session II: Nuclear Disarmament – How to make progress?

Several issues were raised during the session in the context of nuclear disarmament and the forthcoming 2005 NPT Review Conference: the experienced difficulties in making progress in the implementation of the "13 practical steps"; the importance of transparency; and finally negative security assurances.

All participants agreed on the necessity to implement both the non-proliferation and the disarmament aspects of the NPT. In this sense, the nuclear powers have a specific responsibility for the future sustainability of the NPT regime as a whole. However, implementation of the 13 disarmament steps agreed in the 2000 Review Conference has been unsatisfactory. The Comprehensive Test Ban Treaty (CTBT) and the Fissile Material Cut-off Treaty (FMCT) are still in limbo, the ABM Treaty simply became obsolete, and the Moscow Treaty between Russia and the U.S. does not fulfil minimum requirements of transparency and irreversibility.

Participants were rather sceptical about the possibilities to make progress in this area. They nevertheless agreed on the necessity for the EU to address the issue in a Common Position, in spite of the traditional divergences among member states in this field. The Union should in particular continue to push for the entry-into-force of the CTBT and the negotiations for a verifiable FMCT. In the area of de-alerting, it could also be suggested to remove all nuclear weapons from hair-trigger alert. Furthermore, the Union should continue to promote transparency, in particular on sub-strategic weapons. Negative security assurances remain a difficult issue, but the EU could at least probe their feasibility. Some participants insisted on the difference of policies within the P5. The two European nuclear powers have a better record on disarmament than the three other ones. These two could also try to work

towards a P5 declaration on nuclear weapons as pure deterrence instruments (although this may imply difficult discussions as to what is to be deterred).

Session III: The Peaceful Use of Nuclear Energy: Challenges Ahead

Participants agreed that the right for the Peaceful Use of Nuclear Energy is an integral part of the NPT. This also includes fuel cycle activities (reprocessing, enrichment), which are the most worrying from a proliferation point of view. State parties interested in these activities would thus go beyond their Treaty obligations if they renounced to them, and they would only do so if they obtained an interesting trade-off.

In this context, security of supply for fissile material will be crucial to convince NNWS not to embark on fuel cycle activities. From a pure market point of view, there is a sufficient number of producers to ensure supply for at least 20 years. The problem, however, is to guarantee that supply will not be disrupted for political reasons. Several models exist to cope with this problem, ranging from a virtual fuel bank to regional fuel centres. Moreover, a High Level expert group established by the IAEA is currently exploring different options.

Participants agreed that guaranteed access to fissile material is a must, provided that all NPT and safeguards obligations are strictly respected. However, there was no clear consensus as to whether the debate is sufficiently mature to address the management of fuel cycle activities during the Review Conference. However, several participants recommended that the EU should wait for the report of the IAEA expert group, to be published in March 2005, to decide on whether the issue could be reasonably addressed or not.

Conclusions: The EU Perspectives for the 2005 Review Conference

There was a general consensus among participants on the importance of making the forthcoming NPT Review Conference a success. The NPT remains the cornerstone of the fight against nuclear proliferation and strengthens per se global security; it must therefore be defended in its entirety. On the other hand, the perspectives to achieve this objective are rather gloomy: the unresolved question of Iran, the unclear status of North Korea, lacking enthusiasm of the P5 for further disarmament steps, limited progress in the conclusion and implementation of the IAEA's Additional Protocol – to name only a few – are all obstacles towards a successful conference.

In this situation, the EU as the main protagonist of a multilateral, treaty-based approach in the fight against proliferation has a particular responsibility to avoid the Review Conference to become a failure.

- As a first step towards achieving this objective, it is imperative for the EU to reach a Common Position for the conference, covering all three aspects of the NPT (non-proliferation, disarmament, peaceful use of nuclear energy). A failure to do so would be a severe step back and an extremely negative political sign, in particular since the Union reached common positions in 2000 and 1995.

- Member states should also make sure that the Common Position becomes a substantial document. They should strive to protect the integrity and credibility of the NPT and continue to promote its universality. The EU should support and work towards the implementation of the Additional Protocol as the verification standard; it should also continue to work for the promotion of the early entry into force of the CTBT. Building on the effective national export control policies of its Member States, the EU can also declare itself ready to assist third countries to strengthen their export controls.
- More broadly, regional security concerns and status aspirations must be addressed as well. In this context, CFSP in general can play an important role to support the Non-Proliferation Treaty.
- Last but not least, Member states should, within the EU, put aside tactics driven by external groupings (P5 or NAC) and, in the course of the Conference, give priority to EU solidarity over other coalitions and stick to the Common Position once agreed within the EU.

List of Invitees

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