

NPT regime as stronghold and guidepost for multilateral system of arms regulation

Permit me to begin these words by presenting my personal appreciation to the organizers of this important Seminar, which deals with Nonproliferation Issues in a Changing World: to the Government of the Republic of Kazakhstan, here represented by the Deputy Prime Minister, Mr. Vladimir Shkolnik, and to the Monterey Institute of International Studies, under the most active and skillful guidance of Mr. Bill Potter. I think that gatherings like this surely help to clear the path towards a long time standing desire of the international community: living in a world of peace, stability and well being. This meeting and the International Conference to follow under the suggestive title of “XXI Nuclear Weapons Free Century”, give us the idea of the enormous task that we have in front of us in the decades to come.

I. New Security Environment

The end of the Cold War presented for the world the best opportunity to find ways and means to overcome the ideological confrontation between blocks that lasted for more than four decades. It was, undoubtedly, the main political phenomenon that dominated the international relations during that time. Day by day, its principal actors were engaged in a struggle for power and international influence, each one allied to other countries or group of countries.

During that time, the sublimation of distrust for each other was everyday's business. From the security perspective, the cold war seriously affected the political behaviour and the strategy of each super-power specially vis-à-vis nuclear weapons, making out of them the central character of such period. Thus, the cold war and nuclear weapons were the elements that reinforced mutually the military Powers in an interconnected process of insecurity, distrust and conflict. This situation overshadowed, along that part of history, many of the efforts carried out by the international community towards arms control and détente. The tragic experiences of August 1945 in Hiroshima and Nagasaki could were just a voice in the wilderness.

The theoretical problem of the paradigms of the international relations is marked by the different approach from a realistic or an idealistic point of view. For realists, following the school of Machiavelli and Morgenthau, the military forces constitute the core of the state power and they represent the means not only to preserve but to increase power in the field of international policy. Given that in this case the international system is characterized by the lack of a hierarchical order, the system requires a military force and its dissuasive effect. During the Cold War this was called “deterrence” or “nuclear dissuasion”. Of course this was the point of reference and the justification for the proliferation of nuclear weapons, under the theoretical concept that the best way for states to ensure international peace is by the balance of power and that the security is guaranteed by the possession of an adequate military force.

On the other hand, the idealistic paradigm – with roots on Grotius and Kant – underlines that international peace and security should be kept by the compliance with

and total respect of the Member States to the United Nations Charter and relations between states should be based on International Law principles such as *Pacta sunt servanda*, free determination of peoples, peaceful resolution of conflicts and guided by international agreements aimed at. In other words, legal compliance was considered preferable to the military deterrence and

Since the Cold War and the nuclear weapon had the same birth certificate, the end of the Cold War a decade ago should have given us the best opportunity to definitely put an end to what has been the most dangerous and expensive stage of the international relations, that is the nuclear arms race between the super-Powers. It is a dangerous mistake to believe – and worst yet, try to make believe – that the end of the Cold War meant the end of the nuclear threat. It would be even more harmful for world peace and security to allow the nuclear fear, which dominated the international society since the nuclear weapon was used, to be replaced by nuclear complacency.

Recent developments suggest that the international nonproliferation regime has entered a crucial stage. The international security concept is undergoing major shifts and the key players are calling for a new strategic framework more respectful of this changing environment. In practical terms, the lack of progress in several arms control initiatives, combined with the renewed interest in unilateral policies suggest a lack of political will to engage in multilateral efforts.

Accordingly, current trends in nonproliferation are dominated by the two very defined and interconnected elements: a) the lack of political will to launch negotiations on new multilateral arms control agreements and to strengthen the existing ones; and b) the renewed interest in unilateral perspectives.

a) The lack of political will can be clearly identified in some multilateral failures. The universal memberships of the NPT have not yet been achieved, in spite that it was indefinitely extended in 1995; moreover the gains achieved by its permanent extension are being questioned because of the nuclear tests in South Asia in 1998. Other important nonproliferation instruments like the Nuclear Weapon Free Zones Treaties lately concluded, or the CTBT, or the START II have not yet entered into force; negotiations on FMCT and Nuclear Disarmament in the CD are deadlocked; and recently we experienced a setback in the negotiations on the BWC Protocol. Moreover, transcendent bilateral arms control agreements are being called “relic of the past”, and are considered obsolete. Finally, in the real negotiating world, some Treaties have proven inefficient or unverifiable, while process of negotiation has become too lengthy.

b) The renewed interest in unilateral perspectives is based mainly on three precepts: 1. The notion that national interests and security are best served through unilateral agreements; 2. The military approach to global nonproliferation in order to rise the military spendings, and to preserve the technological advance, thus to continue reliance on nuclear deterrence; and 3. The belief – internally widespread – that Treaties are useful only if they serve the national interest.

Despite all these trends multilateralism remains the most effective instrument.

A. Primacy of multilateralism arises from the fact that most of the key arms regulations issues are today the result of the strong interconnectedness of

the world military structures. Today, not only countries but also non-state actors act in the military field. This requires collectively agreed and implemented solutions on arms supplies.

- B. Machinery for addressing arms regulations and for negotiations is ready-made and it provides the framework not only for multilateral but also for plurilateral and bilateral talks.
1. Security Council – as the major body of the UN primarily responsible for the maintenance of international peace and security
 2. Deliberative bodies of the General Assembly

Though sometimes the UN efforts do not bring practical results, they nevertheless are useful at least in two respects. The General Assembly resolutions reflect the growing concern of the international community about the nuclear threat and thus maintain moral and political pressure on the nuclear powers forcing them to continue negotiations and to seek compromise solutions. The UN reports as well as the discussions at the UN for a help to better understand the disastrous potential of the nuclear weapons and make this information available to the people all over the world.

3. Conference on Disarmament (CD) – as the single multilateral disarmament negotiating body of international community.
4. Six broad-based international regimes seek to limit the expansion of various military capabilities: the nuclear, biological, and chemical weapons nonproliferation regimes; the Missile Technology Control Regime (MTCR); the Coordinating Committee on Multilateral Export Controls (CoCom); and a nascent multilateral effort to regulate transfers of conventional armaments.

The first three of them are pure nonproliferation regimes, i.e., regimes that seek to prevent unconditionally the spread of the weapons they respectively address. In this sense, they might also be considered disarmament regimes. The latter three regimes do not seek to freeze the diffusion of the technologies they regulate but rather seek to impose reductions or limitations on this process. These might be denominated as regulated trade regimes.

Overarching all of the major regimes is the UN system, which could impose sanctions or other multilateral action against states the actions of which constitute a threat to the peace. UN efforts in the aftermath of the 1991 Persian Gulf War to expose and dismantle all of Iraq's weapons of mass destruction and related production capabilities are the most prominent example of such measures. In January 1992, the leaders of the member States of the UN Security Council underscored this potential by declaring that the spread of weapons of mass destruction constituted a "threat to international peace and security", alluding to Chapter VII of the UN Charter, which authorizes the council to impose economic sanctions or to use military force to address such threats. The

communiqué also stated that body would promptly address matters referred to it by the International Atomic Energy Agency (IAEA), described below.

II. Non-proliferation regime as a stronghold of system of arms regulation

In the new political environment it is important to have vivid memory of the non-proliferation regimes' achievements and to stress their ability to adapt to new developments.

Today, more than ever the NPT remain the vital instrument as it has always been. It prevents proliferation of NW not only to states, but also to non-state actors.

For the first time in the history of NPT, State parties adopted by consensus in the 2000 Review Conference a fully negotiated final document containing a set of the practical steps for the systematic and progressive efforts aimed at achieving further progress in nuclear disarmament and nuclear non-proliferation.

It should be emphasized that these steps include *inter alia*, an unequivocal understanding by the nuclear-weapon states to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament.

Alongside with NPT, non-proliferation regime includes: NWFZs. Today's nuclear-weapon-free zones can be divided into three kinds. First, there are the regional zones, such as those in Latin America and Caribbean, Africa or the southern Pacific. Then there are the territories and areas whose legal status presupposes an absence of nuclear weapons. They include Antarctica, outer space and the seabed. Lastly, there are a number of subregional zones and even zones within States; their legal and practical status is not always clear. Examples include the Korean peninsula since the signing by the States there of the 1992 Joint Declaration of the Denuclearization of the Korean Peninsula.

Significantly, while nuclear weapons spread across our planet from the Northern Hemisphere, the movement to establish nuclear-free zones has been in the opposite direction. Historically, Antarctica was the world's first nuclear-free zone. Our planet's southernmost continent is, in fact, a fully demilitarized zone and subject to a ban not only on the deployment of nuclear weapons but also on the disposal of nuclear waste. Gratifyingly, not one single breach of the Antarctic Treaty has been recorded since that instrument was signed in 1959.

The establishment of NWFZs received extensive attention at the 2000 NPT Review Conference. The final document praises the ongoing creation or implementation of NWFZones in South America, the South Pacific, Africa and Southern Asia and express the desirability of continuing establishment of such zones in other areas.

In the world becoming regionally differentiated, new regionalism gives an additional impetus to further creation of NWFZs. The establishment of

nuclear-weapon-free zones has a number of very important advantages. First of all, they take account of the region's particularities and often provide for measures that could not be taken at the global level. They supplement and reinforce global agreements and provide the foundation of the system of international security.

Nor can there be any doubt that the establishment of nuclear-weapon-free zones is a powerful positive factor as regards the resolution of many other problems. It helps to strengthen trust between those involved and, therefore, promotes the general strengthening of security in the region. It creates opportunities for closer cooperation in the peaceful use of nuclear energy and enables the environmental situation to be substantially improved.

At the same time, experience of the establishment of nuclear-free zones shows that implementation of the agreements does not always go smoothly and that there are a number of complex issues on which there may be differences of opinion and differing interpretations. First among them is the question of the transport of nuclear weapons. Some agreements on the establishment of zones contain no obvious ban on the transport of nuclear weapons through the zone. That can lead to conflicting interpretations of the agreement both by countries in the zone and by nuclear Powers. That problem is compounded by the fact that the possessors of nuclear weapons are generally reluctant to say whether their aircraft or ships are carrying nuclear payloads.

There is a great deal of controversy about the nuclear Powers' attitude to zones in general. As a rule, these Powers support the creation of zones, with reservations. For example, it is not uncommon for them to reserve for themselves the right to violate the status of the zone in the event that they need to exercise their right of self-defence as provided for in the Charter of the United Nations.

Another problem of both theoretical and practical importance is that of the emplacement in the territory of a country that is a party to a nuclear-free zone agreement of equipment that belongs to a nuclear Power and is relevant to nuclear weapons but does not contain radioactive materials. Examples are communications or navigation equipment for nuclear-weapon delivery vehicles.

In the course of preparing a nuclear-weapon-free zone agreement for Central Asia, it obviously makes sense for the States in the region to look especially carefully at those issues which the experience of other zones suggests are the most likely to be controversial.

III. Non-proliferation regime as a guidepost for multilateral arms regulation process

The experience and example of non-proliferation regime could serve as a guidepost for making multilateral arms-regulation process more focused, effective and rational rather than political in the new changing environment.

1. The major lesson is that to pilot the change in a constructive way the political will is needed first of all. The political will is not appearing in the vacuum. It needs efforts in all directions: horizontally - governmental and people's. Vertically - on global, regional and national levels.
2. The core of the regime is arms regulation. It is what we need today. Arms regulation, the idea formulated during the creation of the UN Charter, is less than general and complete disarmament but more than arms control. Its focus is the creation of the norms of behaviour with regard to one of the most dangerous weapons - weapons of mass destruction.
3. Relying on the experience of the non-proliferation, the arms regulation should be viewed in the future as a vehicle not to codify the *status quo* but rather to provide the framework for a change based on the strategic stability.
4. The creation of the regime of NP provides a good methodology of dealing with arms regulation issues not through linkage, but through simultaneous undertaking of global and regional efforts with a view to the ultimate achievement of single common goal. The breakthrough in one direction very often stimulates progress in others. In other words, this methodology can be characterized as constructive parallelism, which should be applied to arms regulation process today.
5. Negotiations on NPT, CWC and CTBT regimes demonstrate that before treaty making begins they should pass through the difficult and long-lasting preliminary stages.
6. Collective cooperation approach does not exclude unilateral actions, but they should be undertaken within the multilateral context.

These lessons are tremendously important for CD, which is blocked after concluding CTBT in 1996 by the absence of agreement among the member States on the programme of work, which includes, *inter alia*, three important issues, which are regarded as priorities by states (a) FMCT, b) Nuclear disarmament, c) PAROS. Moreover, the linkages and disagreements on whether or not all of them are ripe to negotiations prevent the CD from starting the substantive work.

CD is not the only body, which suffers in the new political environment. The same can be said, actually, about all other negotiations.

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The major problem is to mobilize the political will. If we draw lessons from the history of the nuclear age, we shall conclude that time has come for the Security Council to give the impulse to start anew the multilateral process of arms regulations.

At the end of the Cold War in 1992 the Security Council on the highest level again raised the issues of disarmament. The time has come for Security Council meeting at the high level to formulate the philosophy of the new agenda for multilateral arms regulation process and to recommend a new approach to negotiations based on the diplomacy of constructive parallelism.