

## Few remarks on NPT, the nuclear ban treaty and the CTBT

The NPT was signed almost exactly 50 years ago. The need of an NPT can be certainly traced back to the Cuban Missile Crisis of 1962 that showed how concrete the risk of a nuclear catastrophe has been and how we have been close to the nuclear brink. The idea was (and still is) that if many countries possessed nuclear weapons, then the probability of a nuclear holocaust would have been much higher. It can be easily said that the NPT is a very imperfect and, on many accounts, problematic treaty. It distinguishes between nuclear and non-nuclear states, hence introducing a significant discrimination among member states; it does not require any time schedule for the commitment to nuclear disarmament (art. 6), nor, in fact, imposes any effective limitation on the quality and quantity of the nuclear arsenals of nuclear weapon states. It is, on one side, practically impossible to amend and modify the treaty and, on the other side, as is the case of many international treaties, there is no serious obstacle to withdrawal for member states (if a country decides to do so taking into account its “supreme national interests”). The NPT reiterates the “inalienable right” to the access of nuclear civilian technology without requiring a proper updated international control of civilian nuclear activities, that we all know are very much related to nuclear military activities<sup>1</sup>.

With all its problems, still the NPT is one of the most widely signed international agreements and it has been successful, up to now, in limiting the number of nuclear weapon states to “5 official nuclear weapons states”, while only 4 other states, not member of the NPT, possess nuclear weapons. If the present discussion on creating a de-facto nuclear weapon free zone in North East Asia makes some progress, then we will have a very significant strengthening of the NPT. This will require, as it is obvious, the denuclearization of DPRK.

On the other side, there are serious threats to the NPT. One of the most important, and the most recent one, is connected with the JCPOA, namely with the agreement on the Iranian nuclear issue. The decision of the USA to abandon the agreement and reinstate heavy sanctions on Iran can generate serious problems for the NPT in the Middle East. If the other partners of the JCPOA (Russia, China, France, Germany, the UK and the European Union) do not oppose the demise of the JCPOA and do not fully commit to keeping the JCPOA alive<sup>2</sup>, then Iran may decide at some point to suspend its membership of the NPT, possibly creating a larger NPT problem in the Middle East<sup>3</sup> and maybe even a war in that region.

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<sup>1</sup> Remember that the IAEA additional protocol, that is a significant improvement over the standard safeguards agreements, is not compulsory at all.

<sup>2</sup> This in particular will require to resist effectively to the so called “secondary sanctions”, namely the sanctions that the US plans to impose on foreign entities that do not respect the (new) US sanctions on Iran.

<sup>3</sup> Notice that already there is some talk of US and Saudi Arabia cooperating on nuclear technologies and Saudi Arabia did not sign any additional protocol.

But other problems exist in relation with the NPT. Every 5 years the member states of the NPT are supposed to gather for a quinquennial NPT review conference. Since the year 2000, the quinquennial NPT review conferences have been divided in two categories: those conferences that ended up with no final document<sup>4</sup> and those that ended up with a final document whose recommendations have not been implemented. In the year 2000, thirteen steps have been mentioned in the final document and, largely, have not been implemented. In the year 2010 it was agreed to convene a conference, before 2012, on the creation of a zone free of weapons of mass destruction in the Middle East. This conference, as is well known, was never convened. In 2005 and 2015 no final document was produced by the NPT review conference. The entire setting of the NPT Review conferences has shown its weakness and, up to a point, its lack of relevance. The consequences for the credibility of the NPT itself should not be underestimated.

The final draft of the Treaty on the Prohibition of Nuclear Weapons (in short NBT, or Nuclear Ban Treaty) was approved on July 7<sup>th</sup>, 2017 by 122 States of the UN and has been signed, up to May 2018, by 58 States and ratified by 10 States. When it will be ratified by 50 States it will enter into force. The treaty prohibits the development, testing, production, stockpiling, stationing, transfer, use and threat of use of nuclear weapons, as well as assistance and encouragement to the nuclear military activities. For states joining the treaty that possess, own or control nuclear weapons, there will be a deadline, determined by the member states of the treaty, for the verified and irreversible elimination of their nuclear weapon programs.

It has been claimed by some that there is possibly an incompatibility between the NPT and the NBT. This argument is hardly understandable. First the NBT will just strengthen the NPT, by fixing a deadline for the removal-elimination of nuclear weapons of member states. The NBT also strengthens in principle the relations between the IAEA and member states. Moreover the NBT will explicitly forbid member states to host nuclear weapons of other states and to cooperate with the managing of and the operations related to the nuclear weapons that belong to other states.

This last point is very important. For the first time there is a provision that will forbid the hosting of nuclear weapons and the “nuclear sharing” practice of countries that are allied of nuclear weapon states. The NPT has been signed at a time when the nuclear sharing practice of countries allied with the US has been de-facto deemed not incompatible with the NPT rules. This compromise was set in order to avoid the more involving and the more risky project of a NATO multilateral force.

But the question of whether the nuclear hosting and nuclear sharing practices are incompatible or not with the NPT, remains open. And moreover we have all to understand that the nuclear hosting and nuclear sharing practices can be, in the future, a way to circumvent the NPT itself. Think of nuclear countries, even non member of the NPT, deploying nuclear weapons in the

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<sup>4</sup> In fact, as it has been pointed out to me, out of 9 quinquennial review conferences, 5 did not end up with a final document

territory of non nuclear states members of the NPT. Will this be considered acceptable from the point of view of the NPT? For example, the Middle East could, in principle, be filled with nuclear weapons belonging to other states. The NBT explicitly negates this possibility for its member states.

It is very clear, that given the present international environment, the path for a large scale membership of the NBT will be far from an easy one. But we have to stress that the NBT is the right step in the right direction. Countries that are seriously interested in nuclear disarmament should do whatever possible to strengthen the NBT and promote its membership. And short of a full membership of the NBT, countries should whenever possible promote some of its significant goals, like the elimination of the nuclear sharing/nuclear hosting practice.

Finally let us get to the CTBT that forbids all nuclear weapons tests. As is well known the CTBT is not yet entered into force as there are still 5 countries that did not ratify the treaty (US, China, Egypt, Iran, Israel) and 3 countries that did not even sign the treaty (DPRK, India, Pakistan). These are 8 countries belonging to the group of 44 countries whose ratification is required, according to Annex II of the CTBT, for the entry into force of the CTBT itself. The only country that has carried on nuclear tests, after the year 2000, is the DPRK. But DPRK has just now destroyed its nuclear test facility. So there is some progress.

But what is the reason why those 8 countries have not yet ratified the treaty? With the possible exception of DPRK, the reason has probably nothing to do with the need of performing nuclear tests for the creation or the preservation of an “efficient” nuclear arsenal. The US, Israel, China, India and Pakistan do not need further nuclear tests. They do not sign or ratify the CTBT since they want emphatically to preserve their role of nuclear weapon states and not accept further impositions from the international community. It is a kind of “nuclear hybris”, that is a politically dangerous signal given to the international community and to non nuclear weapon states in particular. It is a signal that goes in reality against the NPT.

Iran, a member of the NPT, has been under pressure for its civilian nuclear program. With the JCPOA in force, it was very easy to forecast an Iranian ratification of the CTBT. But now that the JCPOA is in a critically difficult situation, the outlook looks not easy at all. Egypt, also a member of the NPT, awaits for some movements for the creation of a NW (or WMD) – free zone in the Middle East and, in such position, does not take any further step in the direction of “nuclear arms control”. Despite the fact that the CTBT is not yet in force, the CTBTO is providing an enormous wealth of data and is covering the planet with seismic test sites that are able to detect, very efficiently, possible nuclear tests

In conclusion the strengthening of the NPT (and now the perseveration of the JCPOA), the creation and consolidation of NW (or WMD) –free zones, the improvement of the NPT-related mechanisms (making the NPT review conferences more efficient, enforcing the control by the IAEA of civilian nuclear activities), the widening of the membership of the NBT and the progress towards the entry into force of the CTBT are all parts of a global effort to reduce the role of nuclear weapons, to highlight the dangers for mankind represented by these weapons and to move towards a more secure global environment.