# THE NUCLEAR NON-PROLIFERATION REGIME

## THE IMPORTANCE OF AN INTEGRATED AND MULTILATERAL APPROACH

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AIV

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# Table of contents

**Foreword**

**I The nuclear non-proliferation regime: an overview 7**

**I.1 Introduction 7**
**I.2 The treaty system 7**
*I.2.1 The Non-Proliferation Treaty 7*
*I.2.2 The Comprehensive Nuclear-Test-Ban Treaty 9*
*I.2.3 The Fissile Material Cut-off Treaty impasse 10*
**I.3 Other important instruments of the non-proliferation regime 11**
*I.3.1 The American Nunn-Lugar Initiative 11*
*I.3.2 The Proliferation Security Initiative 12*
*I.3.3 UN Security Council resolution 1540 13*

**II The current state of the non-proliferation regime 14**

**II.1 Introduction 14**
**II.2 Weaknesses of the Non-Proliferation Treaty 14**
**II.3 Multilateral Nuclear Approaches 15**
**II.4 The emergence of non-state actors 15**
**II.5 The limits of multilateral cooperation 16**
**II.6 The positions of the United States and Iran 18**
*II.6.1 The United States 18*
*II.6.2 Iran 20*

**III Nuclear non-proliferation and peace and security 23**

**III.1 Introduction 23**
**III.2 Threat assessment** *(question 1)* **23**
**III.3 Strengthening the nuclear non-proliferation regime** *(question 2)* **26**
*III.3.1 Reducing demand for nuclear weapons 27*
*III.3.2 Reducing the supply of nuclear weapons 31*
*III.3.3 Strengthening enforcement capacity 34*
*III.3.4 Defence against the consequences of NBCR attacks 35*
**III.4 Policy implications for the EU and NATO** *(question 3)* **36**
*III.4.1 The role of the European Union 37*
*III.4.2 The role of NATO 38*

**IV Recommendations 39**

**IV.1 Introduction 39**
**IV.2 The Dutch contribution** *(question 4)* **39**

**Annexe I** Request for advice
**Annexe II** List of abbreviations
**Annexe III** The Non-Proliferation Treaty
**Annexe IV** The nuclear fuel cycle and definitions of important terms
**Annexe V** The 13 practical disarmament steps agreed at the 2000 NPT Review Conference
**Annexe VI** States thought capable of quickly developing a crude nuclear weapon
**Annexe VII** Council Common Position of 25 April 2005 relating to the 2005 Review Conference

# Foreword

On 28 February 2005 the government asked the Advisory Council on International Affairs (AIV) to produce an advisory report on a strategy for preventing the proliferation of nuclear materials and technology (see annexe I). The government regards the continued proliferation of nuclear, biological and chemical weapons and of rocket technology as a major threat to our security. And all the more so if these weapons fall into the hands of states of concern or terrorist groups.

In particular, the government asked the following four questions.

1. In the opinion of the AIV, how much of a threat does the proliferation of nuclear weapons and technology pose to international peace and security and Dutch society?
2. In the opinion of the AIV, what should be the elements of a comprehensive, effective strategy to halt the proliferation of nuclear materials and technology?
3. In the opinion of the AIV, what effects will the proliferation of nuclear resources have on current Dutch security policy and that of NATO and the EU?
4. What can the Netherlands do, nationally and internationally, to counter the proliferation of nuclear weapons?

Previous AIV reports, particularly 'An analysis of the US missile defence plans: pros and cons of striving for invulnerability' (report no. 28) and 'Pre-emptive Action' (report no. 36), have already dealt with certain aspects of the threat posed by the proliferation of weapons of mass destruction (WMD) and the need to strengthen the non-proliferation regime. The present report builds on this and makes new recommendations for strengthening the regime.

The structure of the report is as follows. Chapter I provides an overview of the non-proliferation regime. The current state of the regime is examined in chapter II. Chapter III answers the first three questions in the government's request for advice. Finally, chapter IV lists all the recommendations and thus answers the government's fourth question.

In preparing the report the AIV has confined itself to the issue of nuclear non-proliferation. In its request the government observed that biological and chemical weapons also pose a threat. As proliferation of these weapons is often mentioned in the same breath as that of nuclear weapons (although this is misguided in view of the great differences between the weapons concerned), reference is made where necessary in this report to such weapons, albeit without going into detail.

The report was prepared by the Peace and Security Committee of the Advisory Council, which consists of the following persons: A.L. ter Beek (chair), Professor G. van Benthem van den Bergh (vice-chair), Dr A. Bloed, Dr Ph.P. Everts, Professor F.J.M. Feldbrugge, Lt. Gen. G.J. Folmer (retd.), Ms B.T. van Ginkel, Dr P. van Ham, A.P.R. Jacobovits de Szeged, Professor K. Koch, Rear Admiral R.M. Lutje Schipholt (retd.), Ms dr C.M. Megens, Lt. Gen. H.W.M. Satter (retd.), Professor B.A.G.M. Tromp, General A.K. van der Vlis (retd.) and E.P. Wellenstein. P.W.J. Wilke of the Ministry of Foreign Affairs and D.M. van Weel of the Ministry of Defence acted as civil service liaison officers. The executive secretary was J.M.D. van Leeuwe, assisted by J.D. Kamphuis and by trainees S.F. van den Driest and A.S. Narain.

In connection with the report the members of the committee visited the International Atomic Energy Agency (IAEA) and the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty (CTBT) Organisation, both located in Vienna, in October 2005. In addition, the deputy Permanent Representative of the Netherlands to the UN (PVVN) in Vienna, Ms G.C. Coppoolse, gave a briefing on the Nuclear Suppliers Group. The committee also paid a visit to NATO headquarters in Brussels in June 2005. Talks were also held with the staff of the EU High Representative's Personal Representative on Non-Proliferation of Weapons of Mass Destruction. Finally, briefings were given by former ambassador A.J. Meerburg, who was recently involved in preparing the report on Multilateral Nuclear Approaches (MNAs), former ambassador J. Ramaker, now Special Representative of the countries that have ratified the CTBT, D.J. Kop, until recently on the staff of the PVVN in Vienna, and the AIVD and MIVD.

The AIV is grateful to the persons and authorities it consulted and to those who helped organise the visits.

The AIV adopted this report at its meeting on 13 January 2006.

*The very existence of nuclear weapons gives rise to the pursuit of them. They are seen as a source of global influence, and are valued for their perceived deterrent effect. And as long as some countries possess them (or are protected by them in alliances) and others do not, this asymmetry breeds chronic global insecurity.*[1]

*Mohamed ElBaradei, winner of the Nobel Peace Prize 2005*

# I The nuclear non-proliferation regime: an overview

## I.1 Introduction

The nuclear non-proliferation regime consists of a system of treaties, commitments, practices, organisations and norms. None of them alone can prevent proliferation. But if all elements come together in a single coherent non-proliferation strategy, nuclear proliferation at least becomes a lot more difficult. The regime is dynamic: the significance of treaties changes over the years, new rules, institutions and practices are formed and norms can become blurred. States may also reject certain parts of the regime, thereby possibly weakening it but not necessarily undermining its existence – or right of existence.

This chapter provides a brief overview of the components of the non-proliferation regime. Section I.2 deals with the three treaties regarded by the Netherlands as the pillars of the multilateral nuclear treaty system. The first treaty to be considered is the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which may be regarded as the cornerstone of the non-proliferation regime. Consideration is also given in the context of the NPT to the associated Safeguards of the International Atomic Energy Agency (IAEA), which verifies observance of the NPT, and the Nuclear Suppliers Group (NSG), which consists of the countries that supply nuclear materials and technology. The second and third multilateral treaties are the Comprehensive Nuclear-Test-Ban Treaty (CTBT) and the yet-to- be-drafted Fissile Material Cut-off Treaty (FMCT). Section I.3 briefly explains some other instruments of the non-proliferation regime such as the Nunn-Lugar Initiative, the Proliferation Security Initiative (PSI) and resolution 1540 of the UN Security Council.

## I.2 The treaty system

### *I.2.1 The Non-Proliferation Treaty*

The NPT (see annexe III) was a product of the lessons learned from the Cuban missile crisis of 1962. It was opened for signature in 1968 and entered into force in 1970. The NPT is based on three principles: non-proliferation, the right to peacefully use nuclear technology and nuclear disarmament. In essence, the NPT is an agreement between the non-nuclear-weapon states (the have-nots) and the five nuclear-weapon states (the haves): in exchange for an undertaking to refrain from trying to obtain nuclear weapons the have-nots receive technical assistance in developing their nuclear industry and an undertaking by the nuclear-weapon states to disarm. For many non-Western states the right to unconditional peaceful use of nuclear technology, including assistance from technologically advanced states, was an important reason for acceding to the NPT.

1 Mohamed ElBaradei, 'Towards a safer world', *The Economist*, 16 October 2003.

The NPT recognises five nuclear-weapon states: China, France, Russia (the successor state to the Soviet Union), the United Kingdom and the United States. With the exception of the three other states that have nuclear weapons – India, Pakistan and, probably, Israel – all countries have signed and ratified the NPT over the years. The only country to have unilaterally withdrawn from the NPT (in 2003) is North Korea, which claimed in early 2005 that it possessed some nuclear weapons.

Since it entered into force the NPT has been the principal normative framework for international nuclear non-proliferation policy. Its perceived importance is so great that the fortunes of the treaty affect the entire non-proliferation regime. When the NPT is under pressure – as at present – there is a tendency to conclude that the entire regime is in danger.

Hitherto, the NPT has been largely successful. But this was by no means a foregone conclusion in 1970. At that time predictions about the number of nuclear-weapon states at the turn of the millennium ranged from 15 to several dozen. As it turned out, however, there were still only eight nuclear-weapon states in 2000. Argentina, Brazil and South Africa had given up their nuclear weapons or nuclear weapons programmes and acceded to the NPT. Moreover, a few new states that had been part of the former Soviet Union arranged for the nuclear weapons to be removed from their territory and ratified the NPT. In 2003 Libya too abandoned its – secret – nuclear weapons programme. This was a success for the international community, although the existence of the Libyan nuclear weapons programme came as an unpleasant surprise. The reasons why these countries abandoned their nuclear weapons programmes varied, but their decisions were in any event partly influenced by the strongly normative character of the non-proliferation regime and by the international pressure on them to conform to the regime.

*The IAEA and the Additional Protocol*

The IAEA verifies observance of the NPT.[2] The establishment of this UN agency in 1957 was a direct consequence of President Eisenhower's Atoms for Peace programme. Besides promoting safeguards and verification, the IAEA assists in the peaceful application of nuclear technology. In its capacity as guardian of the NPT, the IAEA is especially interested in nuclear material that is suitable for the production of nuclear weapons (see annexe IV).

Since the NPT entered into force in 1970, the IAEA has been responsible for its verification. The system of comprehensive Safeguards was introduced in 1971 for this purpose.[3] These Safeguards are based on goodwill; the inspections are dependent on what the states themselves declare. However, after the 1990-1991 Gulf War a substantial secret nuclear weapons programme was discovered in Iraq, which had managed to circumvent the IAEA Safeguards for many years. This prompted the adoption of additional measures in subsequent years.

In 1997 the NPT member states reached agreement on an Additional Protocol as an addition to the existing Safeguards.[4] Under the Additional Protocol a state undertakes

2 The IAEA and its Director General ElBaradei received the Nobel Peace Prize on 10 December 2005.

3 INFCIRC/153, <www.iaea.org>.

4 INFCIRC/540, <www.iaea.org>.

to provide information and to allow the IAEA inspectors access to all parts of the nuclear fuel cycle and all other locations where nuclear material may be present. States also agree to allow inspections at 'all relevant sites', for which only 24 hours' advance notice need be given. Environmental samples may also be taken in the area around the declared sites. According to the IAEA the Additional Protocol thus provides a watertight verification system, at least in theory. The problem is that, as noted above, by no means all states have yet signed and ratified the Additional Protocol. Although 113 countries have signed, the Protocol has entered into force by only 69 of them. These include the nuclear-weapon states China, France and the United Kingdom, but not Russia and the United States.[5]

*The Nuclear Suppliers Group and export controls*
Within the framework of the NPT and the IAEA Safeguards, the Nuclear Suppliers Group (NSG) imposes controls on the export of nuclear and nuclear-related (dual use) goods to non-nuclear-weapon states. The NSG consists of 45 countries, including the Netherlands, and was founded in 1974 in response to India's first nuclear test, which had been carried out that same year. If a member of the NSG decides not to grant an export licence for a given delivery to a country, all NSG countries are notified of this. It has been agreed – at least in principle – that in such circumstances they too will not grant an export licence. A condition for delivery is that the recipient state observes the IAEA Safeguards. The NSG is currently discussing the possibility of imposing an additional requirement that the recipient state must also have ratified the IAEA Additional Protocol.

This mechanism of export permits always involves a degree of tension between security and economic interests. The member states may also interpret the supply criteria differently; some favour a flexible and some a strict interpretation. The Netherlands is among those that favour a strict interpretation, although it does not lose sight of the economic interests at stake.

### *I.2.2 The Comprehensive Nuclear-Test-Ban Treaty*
The second treaty that plays an important role in the multilateral non-proliferation regime is the Comprehensive Nuclear-Test-Ban Treaty (CTBT), for which the negotiations were completed in 1996.[6] A former chairman of the Joint Chiefs of Staff of the US, General (ret.) John Shalikashvili, has stated on this subject that 'The main technical constraints that the Test Ban Treaty places on nuclear weapon development involve the vertical progression from first-generation fission designs and more advanced fission weapons; to second-generation thermonuclear designs with increasingly sophisticated yield-to-weight ratios; to exotic 'third-generation' technologies, such as nuclear explosion-pumped x-ray lasers and enhanced radiation weapons'.[7] Although countries with the requisite knowledge, materials and means must be deemed capable of building a crude first-generation nuclear weapon, and being reasonably confident, even without testing, that it would work, he continued that '(i)t would be extremely hard, if

5 Position on 13 October 2005, <www.iaea.org>.

6 Jaap Ramaker et al., *The Final Test. A History of the Comprehensive Nuclear-Test-Ban Treaty Negotiations*, Austria: Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organisation, 2003.

7 John M. Shalikashvili, *Report on the Findings and Recommendations Concerning the Comprehensive Nuclear Test Ban Treaty*, Washington D.C., January 2001.

not impossible, for additional countries to develop a thermonuclear weapon, especially a sophisticated one that could be delivered easily over intercontinental distances'.[8] Although the CTBT therefore does not provide a definitive solution to the problem of combating the development of nuclear weapons, it does make a substantial contribution to an integrated multilateral non-proliferation regime of mutually reinforcing measures.

The CTBT has not yet entered into force, as ratification by the 44 states listed in Annex II to the treaty is first required. Eleven of these states (China, Colombia, Egypt, India, Indonesia, Iran, Israel, North Korea, Pakistan, the United States and Vietnam) have not yet ratified it, and North Korea, India and Pakistan have not yet signed it. The nuclear-weapon states France, the United Kingdom and Russia have both signed and ratified the treaty. In total, 176 states have signed the CTBT, of which 127,[9] including all EU member states, have also ratified it.

Although the CTBT has not yet entered into force, the sheer number of countries that have signed it has created an international norm that condemns nuclear tests. If a country were nonetheless to proceed with a nuclear test it would pay a political price. This given strengthens the non-proliferation regime and the moratorium on nuclear testing that is now in force as part of this regime.

Pending the entry into force of the CTBT, the CTBT Organisation (CTBTO) is building an International Monitoring System (IMS) that is already partly operational. Possible nuclear tests can be detected by a network of stations throughout the world (321 in the final configuration), consisting of seismic sensors, hydroacoustic buoys, stations that monitor radioactivity in the air and infrasound stations that detect very low-frequency sound waves. If there is a suspicion of a nuclear explosion on the basis of the available data, an inspection is carried out on the spot. Effective control of compliance with the CTBT therefore seems assured. [10]

### *I.2.3 The Fissile Material Cut-off Treaty impasse*

The third treaty that is intended to strengthen the multilateral non-proliferation framework is the Fissile Material Cut-off Treaty (FMCT), which is yet to be drafted. This treaty, which was called for by a resolution of the UN General Assembly as long ago as 1993, is intended to ban the production of weapons-grade uranium (see annexe IV for a diagram of the nuclear fuel cycle and an explanation of the most important terms).[11] Pending this, France, Russia, the United States and the United Kingdom have announced a moratorium on its production. China, India and Pakistan have not yet done so.

8 Ibid.

9 Position in late December 2005.

10 This was also the conclusion of the American National Academy of Sciences, which published a report at the request of General Shalikashvili (see note 7) in 2002 on this and on the question of whether the US could keep its existing nuclear weapons up to date without testing: National Academy of Sciences, *Technical issues related to the Comprehensive Nuclear-Test-Ban Treaty*, Washington D.C., 2002.

11 Resolution A/RES/48/75[L], 16 December 1993.

Hitherto, however, the UN Conference on Disarmament in Geneva has not even managed to start negotiations on this as no agreement can be reached on the schedule of work.[12] The main problem is verification. Although technically feasible, this is a sensitive political issue: the nuclear-weapon states too would have to be open about their military nuclear facilities. Until now such facilities have been excluded from IAEA inspections.[13] In 2004 the United States announced that it no longer regarded a verifiable FMCT as a realistic proposition. The prospects for completion of this treaty in the foreseeable future are not favourable. Besides, the major nuclear-weapon states possess such large quantities of weapons-grade fissile materials that they could continue developing new bombs despite an FMCT.

## I.3 Other important instruments of the non-proliferation regime

In addition to the treaties described above, the nuclear non-proliferation regime has other elements whose joint aim is to prevent proliferation. Some of them are described in this section.[14]

### *I.3.1 The American Nunn-Lugar Initiative*

After the collapse of the Soviet Union it quickly became clear that the nuclear (and biological and chemical) legacy of that country constituted a very great proliferation risk. In response, the United States developed the Cooperative Threat Reduction Program in 1991,[15] also known as the Nunn-Lugar Program, after the two American senators who sponsored this legislation. The aim of this programme is to assist the states of the former Soviet Union to monitor, guard and destroy weapons of mass destruction and the fissile materials uranium and plutonium. In addition, the United States is the main sponsor of the International Science and Technology Centres (to which the EU also contributes), at which approximately 58,000 former weapons specialists are employed in civil programmes.[16]

To supplement this initiative, the G8 developed the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction in 2002. This programme focuses on doing away with dangerous stockpiles of nuclear and chemical weapons and materials in the former Soviet Union. In their 2004 action plan for non-proliferation

12 The Disarmament Conference has been deadlocked for over eight years on the subject of disarmament and non-proliferation owing to the disagreements between the participants. The relevance of the Conference is increasingly being called into question.

13 Article III of the NPT exempts the nuclear-weapon states from IAEA Safeguards. Later the five recognised nuclear-weapon states offered to allow IAEA inspections of their civil facilities on a voluntary basis.

14 This report is confined to the nuclear non-proliferation regime. Naturally, this is part of a wider effort to prevent the proliferation of all WMD. The US stated, for example, in its Nuclear Posture Review of December 2001 that it was expressly leaving open the possibility of using nuclear weapons in response to WMD attacks, including attacks with biological or chemical weapons. This only underscores the need to prevent the proliferation of all WMD.

15 Until 1993 this initiative was known as the Soviet Nuclear Threat Reduction Act.

16 Richard G. Lugar, *Nunn-Lugar Report*, August 2005, <www.lugar.senate.gov>.

the G8 undertook to make available USD 20 billion for this purpose until 2012.[17] Although the G8 confirmed this aim at the recent meeting at Gleneagles in early July 2005, it became apparent there that the fund still had a shortfall of USD 3 billion.

Since the 1990s, it has also become more difficult to carry out all the programmes considered necessary in this context, in part because of problems in Russia itself. As Russia becomes more and more aware of its own strengths owing to the growing demand for Russian energy, it no longer wishes to be treated as a junior partner in this matter.[18] For example, the Russians are now less willing to allow on-site inspection of nuclear waste destruction in the arms factories where nuclear material is used.

### *I.3.2 The Proliferation Security Initiative*

The Proliferation Security Initiative (PSI) was announced by President Bush in May 2003 as a practical addition to the existing instruments for combating proliferation. The American initiative is intended to facilitate interdiction of illegal transports of proliferation-sensitive material and is aimed at making better use of existing national and international instruments (export controls, treaties and legislation) and improving international cooperation in interdiction activities. It started with maritime inspections and is now being extended to the civil aviation sector. It is planned to extend it to overland transport too in due course.

Some 60 states, including all EU member states, have now endorsed the PSI on a voluntary basis.[19] The broad outline of the PSI is discussed in a core group of 17 countries to which the Netherlands belongs. Little is known about the interdictions themselves. For example, it is unclear how many have taken place since 2003, whether or not they have been successful, and what precisely they have found. The Americans are very reticent about this, even towards their PSI partners, in order (so they say) not to compromise future activities within this framework.

The PSI is not a comprehensive world initiative and therefore its normative authority is less strong. For example, countries such as China, India and South Korea are not part of it. This hampers the possibility of interdictions in their 'spheres of influence'.[20] But what appeals to the Americans about the PSI is that it does not impose a binding multilateral framework, unlike the NPT. This has been pithily summarised by the Wall Street Journal: 'There's no headquarters, no secretary-general, no talkfests – and perhaps most important of all, no French or Russian veto'.[21] In consequence,

17 The G8 consists of the seven richest industrial countries (Canada, Germany, France, Italy, Japan, the United Kingdom and the United States) and Russia. See, for example, the final declaration of the G8 from Gleneagles, July 2005.

18 See, for example, Carla Anne Robbins & Alan Cullison, *Closed Doors: In Russia, Securing its Nuclear Arsenal is an Uphill Battle*, The Wall Street Journal, 26 September 2005.

19 Council of the EU, *Non-Proliferation – Support of the Proliferation Security Initiative (PSI)*, Brussels, 1 June 2004, 10052/04 (Presse 189).

*20* Andrew C. Winner, *The Proliferation Security Initiative: The New Face of Interdiction*, The Washington Quarterly, Spring 2005.

21 *The New Multilateralism*, The Wall Street Journal, 8 January 2004.

interpretations of the applicability of international law can vary within this coalition, for example concerning what is and is not permissible on the high seas.[22]

### *I.3.3 UN Security Council resolution 1540*

Resolution 1540 of the UN Security Council is a response to the growing threat posed by non-state actors in the area of proliferation. This resolution, dating from 2004, prohibits states from helping non-state actors to obtain nuclear, biological and chemical (NBC) weapons and their means of delivery. States are also obliged to adopt and enforce laws prohibiting such proliferation and to take measures to prevent such proliferation.[23] As Resolution 1540 is expressly intended to keep NBC weapons and technology out of the hands of non-state actors such as terrorists, it is an addition to the existing non-proliferation regime. It is also the first time that the non-proliferation regime has been strengthened by means of a resolution of the UN Security Council and not by protracted negotiations involving all UN member states. This is one reason why resolution 1540 is not uncontroversial. Only time will tell how strong this instrument really is.

22 Attempts are also being made to expand the international law framework for PSI by amending relevant treaties such as the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) and make 'real' anti-terrorism instruments of them. Amendments to the SUA Convention have been ready for ratification since October 2005. But there is not much prospect that countries such as India and Pakistan or for that matter Brazil and South Africa will ratify these amendments in the near future. Proposals for amendments similar to those to the SUA convention can also be expected for civil aviation conventions.

23 Resolution S/RES/1540, 28 April 2004.

# II The current state of the non-proliferation regime

## II.1 Introduction

The present chapter briefly describes a number of important elements of the non-proliferation regime. First of all, section II.2 identifies some weaknesses of the NPT. Section II.3 then explores the potential of Multilateral Nuclear Approaches (MNAs) to the nuclear fuel cycle. Section II.4 examines the emergence of non-state actors in the proliferation field. Section II.5 focuses on recent developments such as the failed NPT review conference in May 2005 and, in the area of non-proliferation, the failed UN summit for heads of government in September 2005. Finally, the state of the non-proliferation regime is illustrated in section II.6 by reference to the positions of the United States and Iran.

## II.2 Weaknesses of the Non-Proliferation Treaty

The NPT had weaknesses from the moment it was drafted. Some of them were clear from the outset, while others became apparent only later. Almost all adjustments to the non-proliferation regime since 1970, when the NPT entered into force, can be regarded as attempts to remedy the imperfections of the NPT. In an article in The Economist, Mohamed ElBaradei, Director General of the IAEA, summarised once again the main limitations of the NPT:[24]

- The Treaty, which was drawn up in 1968, legitimises the arsenals of the existing nuclear powers, thus confirming the idea that 'the early bird gets the nuke'. Under the Treaty other states are forbidden to possess such weapons.
- The Treaty is therefore intrinsically asymmetrical, though this was never intended to be permanent; the nuclear-weapon states agreed to move towards full disarmament, but without a timetable.
- The Treaty prohibites other countries from developing nuclear weapons, but includes no strategy for persuading countries that refuse to sign; this is a loophole that India, Pakistan and Israel have exploited.
- The Treaty relies on the promise of the member states to use nuclear materials for peaceful purposes only and takes no account of the possibility that the right to develop a civil nuclear industry can be misused by a state to develop its own nuclear capability; for example, uranium enrichment is not itself prohibited under the NPT and the same applies to the reprocessing of plutonium as a by-product of nuclear-reactor operation (see annexe IV); in consequence, it is not intrinsically illegal for states to possess stocks of fissile materials that are also ideally suited for nuclear weapons use.
- By no means all non-nuclear-weapon states have signed and ratified the Additional Protocol of 1997, that confers wider powers of inspection on the IAEA.
- The Treaty and the accompanying Safeguards were drawn up on the basis of the level of knowledge existing in the late 1960s; however, technology has not stood still since then and much of the hardware required to build a nuclear bomb is dual use and can also be used in, say, the oil industry or in modern medicine. This hampers export controls.

24 Mohamed ElBaradei, *Towards a Safer World*, The Economist, 16 October 2003.

An important point not mentioned by ElBaradei in his article is that the Treaty leaves open the possibility of withdrawing from it on three months' notice; this is relevant to the so-called break-out scenario.[25] North Korea made use of this possibility in 2003 and seems to have acted legally, at least in this respect.

### II.3 Multilateral Nuclear Approaches

One possible way of reducing the chance that the peaceful use of nuclear energy will lead to break-out has recently attracted renewed interest: Multilateral Nuclear Approaches (MNAs) to the proliferation-sensitive parts of the nuclear fuel cycle. Urenco, a multinational company whose Dutch branch is in Almelo, is a modest example of an MNA.[26] In early 2005 a group of specialists reported on MNAs at the request of the IAEA and suggested five possible approaches, ranging from strengthening existing market mechanisms in the field of nuclear fuels, to developing a nuclear fuel cycle based on stronger multilateral connections.[27] A crucial element in this connection is the question of *guaranteed* supplies of nuclear fuel. In his Nobel lecture in December 2005 ElBaradei once again explained this aspect of his plan: 'My plan is to begin by setting up a reserve fuel bank, under IAEA control, so that every country will be assured that it will get the fuel needed for its bona fide peaceful nuclear activities. This assurance of supply will remove the incentive – and the justification – for each country to develop its own fuel cycle. We should then be able to agree on a moratorium on new national facilities, and to begin work on multinational arrangements for enrichment, fuel production, waste disposal and reprocessing.'[28]

However, although Western states seem to endorse this intrinsically desirable multinational approach, states of the Non-Aligned Movement (NAM), including Brazil, Egypt and South Africa, now regard such measures as an unacceptable infringement of their right to develop the peaceful use of nuclear technology.[29] For the time being they are blocking all attempts to reach agreement on this internationally.

### II.4 The emergence of non-state actors

A substantial part of the hardware required to build a nuclear bomb is currently dual use. In addition, the illegal trafficking in prohibited and/or dual use goods as a result of ongoing globalisation, manifested for example in the form of greatly improved communications, has become simpler. According to ElBaradei in his Nobel lecture, the

25 In a break-out scenario a state acquires nuclear weapons capability within the NPT and then withdraws from the treaty.

26 Urenco is a joint German, Dutch and British initiative, which focuses mainly on the joint sale of enriched material.

27 INFCIRC/640, *Multilateral Approaches to the Nuclear Fuel Cycle: Expert Group Report submitted to the Director General of the International Atomic Energy Agency*, 22 February 2005, <www.iaea.org>.

28 Mohamed ElBaradei, Nobel lecture, Oslo, 10 December 2005.

29 However, not all Western countries take the same position on MNAs. For example, countries such as Sweden, which has its own enrichment industry (and enjoys the economic benefits of it), are still reserved about the idea of MNAs.

emergence of an ever larger black market in nuclear materials and goods is one of the main features of the changed landscape in nuclear non-proliferation and disarmament. Proliferation is no longer reserved to states; instead, individuals are increasingly brokering the trade in strategic goods and technology.[30]

Brokering is an activity in which intermediaries send proliferation-sensitive goods, often under false pretences, through private channels to a 'target country', possibly via third countries. For example, the Pakistani nuclear scientist A.Q. Khan sent sensitive nuclear technology to countries such as Iran, Libya and North Korea over a long period through his network of intermediaries.[31] It should be noted that Khan was a non-state actor only at first sight, given that it is unlikely the Pakistani authorities were ignorant of his activities and provided no passive or active assistance whatever. Khan's knowledge of the technical aspects, and, above all, of the manner in which the necessary components could be obtained and from whom, shows how proliferation networks can operate on a large scale.[32]

The role of non-state actors is not restricted to partial responsibility for the further proliferation of nuclear knowledge, materials and technology. In a different capacity they also pose a new – and, according to many people, the main – threat. Since the attacks of 11 September 2001 the world has realised the risk of terrorists acquiring and using WMD. On this subject see also section III.2.

### II.5 The limits of multilateral cooperation

Non-proliferation has the most chance of success if as many countries as possible join in. However, the multilateral approach is under pressure as a result of the increasingly clear divisions that are surfacing between different states with regard to nuclear non-proliferation and disarmament.

All this became evident in May 2005 when the seventh NPT review conference failed. Indeed, the differences between certain states proved so great that it was impossible to draw up a joint final document.[33] Even the least that had been hoped for, namely a confirmation of the agreements made at the two previous review conferences in 1995 and 2000, and a reference to the 13 concrete disarmament steps agreed in 2000 (including the CTBT and the FMCT, see annexe V), proved impossible, mainly due to the position taken by the United States.

An additional problem is that the image of a NPT in crisis will remain for a long time. As the following review conference will not be held for another five years and the first

30 This means military, nuclear, biological and chemical goods and technology.

31 See for example Jaco Alberts et al., *Zakenman wilde delen kernbom leveren* (Businessman wanted to supply nuclear bomb parts), NRC Handelsblad, 4 July 2005.

32 Michael Laufer, *A.Q. Khan Nuclear Chronology,* Carnegie Endowment for International Peace Issue Brief, Non-proliferation, No. 8, 7 September 2005.

33 The only upside is that no compromises had to be struck for a final document that could have detracted from the results of the previous review conferences in 1995 and 2000. It was not in fact the first time that no final document could be drawn up; this also happened in 1980 and 1990.

preparatory meeting will not be before 2007, the world must get by in the meantime with a weakened NPT, with the risk that its normative character will be further undermined.[34]

This picture was confirmed in September 2005 because negotiations on non-proliferation and disarmament at the UN Summit of heads of government ended in a fiasco. Initially it had been hoped that during the summit a cautious start could be made in repairing the damage caused by the failure of the NPT review conference. But ultimately the subject of non-proliferation was completely dropped from the draft outcome document just two days before the start of the summit as there was no prospect whatever of agreement.[35] Commenting on this, UN Secretary-General Annan rightly, albeit undiplomatically, observed in his address at the summit that the world was on a dangerous path of diplomatic brinkmanship in the face of the growing threat of WMD. In his view, the worldwide consensus on the NPT had been seriously weakened.[36]

The following disagreements played a role at the review conference and the UN summit:

- Disarmament: the United States refused to include in the final document a reference to disarmament agreements reached at the prior two review conferences of 1995 and 2000. Moreover, the Arab countries, particularly Egypt, demanded that Israel sign and ratify the NPT and renounce its nuclear weapons.

- Proliferation/non-proliferation: it proved impossible to include a statement in the final document that Iraq had not observed the IAEA Safeguards Agreement. Iran managed to block this Western demand by means of a reference to the negotiations with Europe on its nuclear programme. The member states were also unable to agree, mainly because of the position taken by China, on a forceful condemnation of North Korea, which had withdrawn from the NPT and declared that it possessed nuclear weapons.

- The right to civil nuclear technology: Western countries wish to have closer regulation of proliferation-sensitive technologies such as uranium enrichment. They are trying, for example, to make MNAs debatable. However, NAM states take the position, on the basis of the NPT, that this would be an unlawful limitation of their right to develop a civil nuclear industry. As long as the nuclear-weapon states do not show any willingness to mend their ways on disarmament, NAM states refuse to discuss MNAs or assume additional obligations such as the Additional Protocol.

34 Burkard Schmitt, *NPT breakdown*, EU Institute for Security Studies Newsletter, No. 15, July 2005.

35 In the final document the member states merely expressed their support for attempts to accelerate the entry into force of the International Convention for the Suppression of Acts of Nuclear Terrorism. But this was not new: the text of this convention had been previously adopted by the UN General Assembly on 13 April 2005 (A/59/PV.91).

36 Kofi Annan, *Statement to the 60th Session of the General Assembly*, New York, 17 September 2005.

## II.6 The positions of the United States and Iran

To shed further light on these disagreements, the diametrically opposed positions of the United States and Iran on the subject of non-proliferation are examined separately here.

### *II.6.1 The United States*

The present position of the United States, the politically most important nuclear-weapon state, on the non-proliferation regime is largely determined by the dissatisfaction of the Bush administration with existing multilateral frameworks and the need, as they see it, for an 'independent', result-oriented approach to security policy.[37] This view was reinforced by the terrorist attacks of 11 September 2001. Since then the United States has regarded itself as a country at war and perceives the most important threat to be the combination of international terrorism and WMD.[38]

Although the United States professes to support the NPT and the norms on which it is based, national security interests take precedence. Since 2000 Washington has gone back on previous disarmament undertakings.[39] For instance, at the last NPT review conference in May 2005 the United States refused to recommit itself to the 13-step plan of action on disarmament, including the accelerated ratification of the CTBT. The United States had already gone back on these commitments in 2002 by unilaterally denouncing the Anti-Ballistic Missile Treaty, and followed this up in 2004 by stating that a verifiable FMCT was not possible and was therefore pointless. In doing so the United States thus destroyed the consensus since the mid-1990s that a verifiable FMCT was both desirable and possible.

37 See also the report of the AIV and the Advisory Committee on Issues of Public International Law (CAVV), *Pre-emptive Action*, report number 36, The Hague, July 2004.

38 President Bush referred to this threat in his speech of 1 June 2002: 'The gravest danger to freedom lies at the crossroads of radicalism and technology [of weapons of mass destruction]'. See George W. Bush, *Graduation Speech to West Point, United States Military Academy*, New York, 1 June 2002.

39 To what extent the United States is thus complying with the spirit of the disarmament article (article VI) of the NPT is debatable. The literal text of this article reads: 'Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control'. But as ElBaradei noted in his article in 2003, the absence of a timetable is a weak point. Nonetheless, there is most certainly an international norm that requires nuclear-weapon states to do more than just negotiate. The negotiations must ultimately produce a result. For example, as the International Court of Justice in The Hague held unanimously in 1996, 'The legal import of that obligation goes beyond that of a mere obligation of conduct; the obligation involved here is an obligation to achieve a precise result – nuclear disarmament in all its aspects – by adopting a particular course of conduct, namely, the pursuit of negotiations on the matter in good faith'. For the arguments underlying this finding see: International Court of Justice, *Legality of the Threat or Use of Nuclear Weapons,* 8 July 1996, <www.icj-cij.org>.

Another recent example of American unilateral action is President Bush's decision to help India develop a civil nuclear industry even though it is not an NPT member.[40] If the US Senate passes the legislative amendments needed for this purpose (which is in turn dependent on the negotiations that must be conducted with India), this will signify a radical change of course from the policy of isolating India for not joining the NPT.[41] Clearly, India cannot be equated with, say, Iran or North Korea. India is the world's largest democracy and certainly does not belong to the category of states of concern. But as long as no satisfactory solution has been reached for the case of India this American initiative will undermine the authority of the NPT and make it impossible to exert the same pressure on countries to comply with its rules.

The United States makes selective use of the NPT, determining for itself who is good and who is not. Non-NPT member India is being 'rewarded', whereas Washington requires countries such as Iran and North Korea to observe the letter of the NPT and the IAEA Safeguards and imposes more far-reaching restrictions on them than the NPT requires. If they do not comply, they are threatened with Security Council sanctions. While evading the implications of the NPT both for itself and for a friendly power (India), the United States nevertheless complains that the multinational NPT is insufficiently effective.

The United States regards the non-proliferation regime, which is based on treaties and international agreements, as inadequate and wishes to plug the gaps in the regime by means of counter-proliferation measures such as the Cooperative Threat Reduction (CTR) Program, the Proliferation Security Initiative (PSI) and UN Security Council resolution 1540. It remains to be seen whether this will be possible if the regime is simultaneously being undermined, as may happen in the case of India.[42] Nonetheless, the United States does spend some €2 billion a year on nuclear, biological and chemical counter-proliferation measures, approximately half of which goes to Russia under the Nunn-Lugar Initiative and the G8 Action Plan.[43] By comparison, all European countries and the EU together have spent only about an eighth of this amount on counter-proliferation measures in recent years: i.e. a total of around €240 million a

40 The general view is that the United States has made this decision for geostrategic reasons: as it is not confident that China will develop peacefully in the longer term, it hopes in this way to have a powerful ally in the region. In fact, the deal is controversial in India itself, where opponents are afraid that India will become America's 'lapdog'.

41 India has always regarded the NPT, which only recognises the 1967 nuclear-weapon states, as exceptionally unjust and has stated from the outset that it would never sign the NPT for this reason.

42 See, for example, Peter van Ham, *WMD Proliferation and Transatlantic Relations: Is a Joint Western Strategy Possible?*, The Clingendael Institute, April 2004. '[…] one of today's key political questions: Does the gradual shift towards assertive counter-proliferation undermine the credibility of the non-proliferation structure in general, and the UN in particular? Or does it offer the necessary (coercive) support to strengthen these norms?'

43 This does not include the many billions of dollars which the US spends on missile defence.

year.[44] This weakens the EU's negotiating stance.

In addition, the United States and Russia are working to reduce the number of strategic nuclear warheads by means of bilateral arms reductions from over 10,000 in 1991 to about 1,700-2,000 in 2012. The most recent agreements date from 2002, when the Moscow Treaty was signed.[45] However, the treaty does not provide for verification or cover tactical nuclear weapons. Moreover, under these agreements non-operational nuclear weapons need not be destroyed, and can instead be stored (which is in fact happening) in order to be put into service again in due course. Naturally, this is not true nuclear disarmament, which requires concrete, irreversible and verifiable steps.

### *II.6.2 Iran*

The status of the NPT as a worldwide normative framework is increasingly hampered by its asymmetric and hence discriminatory character. The five recognised nuclear-weapon states (and the treaty partners protected by them, including the Netherlands) are accorded preferential treatment over other countries. For example, NATO frankly acknowledges in its strategy that nuclear weapons make a unique contribution to deterrence.[46] Likewise, uranium enrichment (for example by Urenco) is regarded in these countries as an acceptable activity.

However, the NPT represents the best result that could be achieved in the late 1960s. It codified the situation at that time and offered the prospect of a nuclear-weapon-free world. But as time passes it is becoming increasingly clear that the asymmetry between the haves and have-nots cannot go on indefinitely.[47] India, Pakistan and Israel had already disregarded the NPT. North Korea now claims to be a nuclear-weapon power and Iran may possibly be the next country with nuclear weapons.

44 The figure of €240 million is based on a global study of open sources for past spending. The precise figure is a matter for debate, since it is difficult to ascertain what the different countries have actually spent on counter-proliferation (it differs from the amounts committed). Moreover, each of the 25 EU member states has its own criteria for what is and is not covered by counter-proliferation.

45 US-Russia Strategic Offensive Reductions Treaty, also known as the Moscow Treaty, of 2002.

46 By way of illustration, NATO states in its most recent Strategic Concept dating from 1999 that '[...] the Alliance's conventional forces alone cannot ensure credible deterrence. Nuclear weapons make a unique contribution in rendering the risks of aggression against the Alliance incalculable and unacceptable. Thus they remain essential to preserve peace'. And '(t)he supreme guarantee of the security of the Allies is provided by the strategic nuclear forces of the Alliance [...]', paragraphs 46 and 62. See also the Pentagon's doctrine on the possible use of nuclear weapons: Joint Chiefs of Staff, *Doctrine for Joint Nuclear Operations* (Joint Pub 3-12), 15 March 2005.

47 See *ElBaradei Warns on Nuclear Weapons*, The Press Association, 13 December 2005: 'Either we continue to rely on nuclear weapons, and face the reality that in the next 10-20 years, 20 or 30 countries will have nuclear weapons, or each country must cease its nuclear weapons programme and destroy existing nuclear arsenals'.

Iran's ambition is to become a regional superpower. The desire to have a nuclear weapon would be in keeping with this picture. States generally try to obtain nuclear weapons because they feel threatened by their neighbours and/or wish to establish regional hegemony and claim the prestige of major power status.

Iran is situated close to India, Israel and Pakistan, all of which are nuclear powers. The security of these three non-NPT countries seems better guaranteed than that of Iran, a NPT member state. As NATO acknowledges, nuclear weapons are a unique deterrent. Iran undoubtedly believes that the United States would not have attacked Iraq if Saddam Hussein had possessed a nuclear bomb.[48]

When viewed in this light, Iran's presumed desire to have a nuclear weapon is certainly explicable. We say 'presumed' because the smoking gun has not yet been found. But the fact that Iran had a secret nuclear programme for many years, which was discovered only by chance in 2002, does point in this direction. In addition, the IAEA has not succeeded in recent years in obtaining a satisfactory answer to all outstanding questions, partly because Iran has not cooperated sufficiently.[49]

If Iran were to develop a nuclear weapon, this would be a fresh blow to the already impaired normative framework of the NPT. This would certainly be the case if it were to lead to a cascade of regional proliferation. A great many states could produce a crude nuclear weapon in a relatively short time (see annexe VI). In a report published in December 2004, the High-Level Panel on Threats, Challenges and Change (HLP) stated that the possibility of a nuclear cascade 'is now very real'.[50]

At the time when this advisory report was finalised, Iran seemed determined to establish an entirely self-sufficient civil nuclear industry, including possession of full, proliferation-sensitive enrichment capacity (see annexe IV). In this connection Iran invokes article IV of the NPT, which unreservedly permits the use of nuclear energy for peaceful purposes. In response, Western governments state that while they respect Iran's right to a civil nuclear programme the possibility of Iran becoming a nuclear-weapon state must be excluded. In the eyes of the West, Iran can restore the oft-betrayed faith in the peaceful nature of its nuclear programme only by renouncing its own enrichment capacity. Iran's attempts to the contrary are encountering strong

48 As Mark Leonard puts it, 'The lesson the Iranians drew from the Iraq war is that the only way to be safe from American invasion is to have a nuclear deterrent – and the challenge is to develop it quickly while American troops are still bogged down in Iraq'. Mark Leonard, *Why Europe will run the 21st century*, London: Bloomberg 2005.

49 See also the letter to the Dutch parliament from the Minister of Foreign Affairs of 20 September 2005 (Parliamentary Papers, House of Representatives, 2005/06, 30 300, no. 3), in which he describes the IAEA report as 'worrying'.

50 See *A More Secure World: Our Shared Responsibility. Report of the Secretary-General's High-Level Panel on Threats, Challenges and Change* (A/59/565), December 2004. The HLP was established by the UN Secretary- General in November 2003 to advise on how the UN could remain relevant in the 21st century. The final report includes a large number of recommendations on strengthening the non-proliferation regime.

resistance from Western countries, which are threatening to refer Iran to the Security Council for previous violations of the IAEA Safeguards Agreement.[51]

The dispute entered a new phase on 10 January 2006 when Iran abruptly ended three-year negotiations with Europe by breaking the IAEA seals in the uranium enrichment facility in Natanz and simultaneously announcing that it would resume research into uranium enrichment.[52] In a reaction to this, the three foreign ministers of France, Germany and the United Kingdom (E3), who had led the recent political consultations with Iran, declared two days later, together with the EU's High Representative Javier Solana (E3/EU), that the time had come to involve the UN Security Council.[53] Hitherto there has been no strong condemnation of Iran, partly because of divergent interests within the IAEA Board of Governors and because it is also uncertain whether and if so what action the Security Council could take.[54] And indeed, Iran does not seem unduly impressed by Western warnings. It is threatening to cease adhering to the Additional Protocol and to deny the IAEA access to its nuclear facilities.[55]

By taking this stance Iran has in any event ensured that it is now a factor of which the world must take account. The same is true of North Korea, a self-professed nuclear power. Both countries are now taken more seriously in international diplomacy than previously. This is a considerable political gain for both of them. Other states with similar potential will undoubtedly be following events with interest.

51 See, for example, the resolution of the IAEA Board of Governors, 'Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran', (GOV/2005/77), 24 September 2005.

52 Iran Begins Removal of IAEA Seals at Enrichment-related Locations, Press release 2006/02, 10 January 2006, <www.iaea.org>.

53 Statement by Germany, United Kingdom, France, and the EU High Representative on the Iranian nuclear issue, Berlin, 12 January 2006, <www.ue.eu.int>.

54 It is hard to obtain consensus within the IAEA Board of Governors on referral of Iran to the Security Council owing to the divergent positions and interests of the different member states. The United States, for example, has broken off all diplomatic relations with Iran. Russia, by contrast, has major economic interests in Iran and is involved, for example, in the development of the Iranian nuclear industry. At the same time, China does not wish to run the risk that its oil supply from Iran will be severed (Iran has also used this lever against other countries, including India). And the NAM countries argue, for fear of establishing a precedent, that Iran does have an inalienable right to develop its own enrichment capacity.

55 Iran has signed but not yet ratified an Additional Protocol. In the meantime it is complying with this Additional Protocol (position on 13 January 2006).

# III Nuclear non-proliferation and peace and security

## III.1 Introduction

The previous chapters showed that the non-proliferation regime is in a state of flux. Counter-proliferation instruments such as the PSI, UN Security Council resolution 1540 and bilateral assistance to the former Soviet republics are gaining ground, while the NPT, which has been unexpectedly successful since it entered into force, is falling prey to divisiveness that is detracting from its normative effect.

This chapter deals with the consequences of nuclear proliferation for peace and security. It is organised on the basis of the first three of the four concrete questions in the request for advice. The last question is dealt with in the concluding chapter. Section III.2 assesses the threat posed by nuclear weapons and technology to peace and security. Section III.3 examines ways of strengthening a nuclear non-proliferation regime. Finally, section III.4 deals with the impact on EU and NATO security policy.

## III.2 Threat assessment *(question 1: In the opinion of the AIV, how much of a threat does the proliferation of nuclear weapons and technology pose to international peace and security and Dutch society?)*

In answering this question the AIV distinguishes between state and non-state actors. It also considers a different, secondary threat, namely the possible use of a radiological or dirty bomb. The AIV notes by way of limitation that it cannot be said in absolute terms how much of a threat is posed by the proliferation of nuclear weapons and technology.

*States and deterrence*

During the Cold War the East and West blocs maintained a nuclear balance which was reflected in the principle of mutual deterrence. The two rivals learned their lesson during the Cuban missile crisis. It can be argued that nuclear weapons helped to ensure that the rivalry between the two opposing sides never resulted in a large-scale conflict during this period.[56] In theory, the principle of deterrence is still applicable between nuclear-weapon states.[57] The AIV stated on this subject in 2002 that 'Deterrence will in general also work in relation to a state of concern'.[58] In this advisory report too, it continues to believe this to be correct.

56 J.G. Siccama, *Afschrikking en oorlog* (Deterrence and war), included in *Internationale betrekkingen in perspectief*, R.B. Soetendorp and A. van Staden (ed.), Zutphen, Aula, 1987.

57 The British Secretary of State for Defence John Reid recently reiterated that as long as other nuclear-weapon states which pose a potential threat to the UK possess nuclear weapons the UK will retain its nuclear deterrent. Quotation from *'VK handhaaft nuclear afschrikking'* (UK maintains nuclear deterrent), Defensiekrant 1 December 2005, <www.defensie.nl>.

58 AIV, *An analysis of the US missile defence plans: pros and cons of striving for invulnerability*, Advisory Report no. 28, The Hague, August 2002.

Whatever the case, the security risks are evident if the number of nuclear-weapon states increases: nuclear weapons still pose a real danger. Each new nuclear-weapon state increases the chance that countries, particularly neighbouring countries, in a relevant region will then strive to obtain a similar weapon (the cascade or domino effect). This possibility is most evident at present in the unstable Middle East (in relation to the Iran issue) and in East Asia where North Korea has announced it possesses several nuclear warheads. The larger the number of nuclear-weapon states, the greater the chance of accidents and misunderstandings. Moreover, this increases the number of possible proliferation combinations and hence the risks that non-state actors such as terrorists will manage to acquire nuclear material. Finally, an increase in the number of nuclear-weapon states would also mean that the world becomes ever further removed from one of the main aims of the NPT, namely nuclear disarmament.

*Nuclear terrorism*

The United Nations, the United States, the European Union, the G8 and the High-Level Panel (HLP) have all stated since 11 September 2001 that the combination of terrorism and WMD is one of the main threats facing us today. The use of a nuclear weapon poses a particular threat in view of the incomparably greater consequences, about which little or nothing can be done. Terrorist groups had carried out or attempted to carry out attacks using WMD even before 2001, the best-known being undoubtedly the Sarin gas attack in the Tokyo subway in 1995. However, the seriousness of this threat never really came to the fore until 2001.

This threat differs from the 'classic' nuclear threat because deterrence does not appear to work against the network-like structures of international terrorist organisations, which are not tied to a particular territory and use attacks with catastrophic consequences as an important weapon. Al-Qaeda is known to be trying to acquire WMD in order to make actual use of them. Intent is one of the two components of a threat, the other being capability. If intent can thus be presumed, then the pressing question is, what are the potential nuclear capabilities of international terrorism?

As reliable public information about the nuclear capabilities of terrorist organisations is scarce, it is hard to make a good assessment. However, it is not possible that a terrorist organisation would itself be capable of producing the basic elements for a nuclear weapon, such as enriched uranium or plutonium. But even if the requisite raw materials could be obtained illegally, the production of a nuclear weapon would still require a large and well-organised infrastructure, and not a loose organisation of separate cells which have little if any contact with one another. In addition, there are major investments involved. Such a project would thus have a greater chance of being discovered at an early stage by security services. Most nuclear weapons experts doubt whether Al-Qaeda already has the knowledge and means to make its own nuclear bomb.[59]

From the terrorist point of view it would be preferable to acquire a ready-made nuclear weapon. Russia in particular seems vulnerable in this respect. It is therefore of the utmost importance to cut off this route, for example by implementing the G8's Global Partnership Against the Spread of Weapons and Materials of Mass Destruction.

59 Paul Wilkinson, *International terrorism: the changing threat and the EU's response*, Chaillot Paper, No. 84, October 2005.

Measures must be taken to ensure that terrorists can never acquire a nuclear weapon or credibly pretend to have done so.

The conclusion in the annual report of the Dutch General Intelligence and Security Service (AIVD) for 2004 that investigation into the proliferation of weapons of mass destruction had been limited owing to limited capacity is regarded by the AIV as being unacceptable in the light of the threat.[60] It is therefore a significant improvement that the Prime Minister, the Minister of the Interior and Kingdom Relations and the Minister of Defence recorded in a voluntary agreement in July 2005 that the two Dutch security services – the AIVD and the Military Intelligence and Security Service (MIVD) – would cooperate more closely in the fields of proliferation and terrorism, in which each of these services has its own distinct responsibilities.[61]

*Radiological or dirty bombs*

Strictly speaking, radiological or dirty bombs fall outside the scope of this question since they do not constitute nuclear weapons or technology. A dirty bomb is a conventional explosive, potentially quite simple, to which radiological material has been attached. This advisory report does, however, deal with this subject because the psychological effect on society could be great if an incident were to occur.[62] For example, in publications that use the well-known abbreviation NBC (Nuclear, Biological, Chemical) the abbreviation NBCR (in which the 'R' stands for Radiological) may also be used.

As radiological substances are universally present in research centres, hospitals, industry and so forth and as dirty bombs are relatively easy to make, the HLP concludes that there is 'a high degree of probability that such a weapon will actually be used'.[63] The radioactive material required for this purpose can be obtained relatively easily on the black market.

In view of previous attempts to commit terrorist attacks using WMD and given terrorists' intentions, it must be assumed that terrorists learn from previous attempts and that new attacks will be ever better prepared. As regards radiological attacks:

- terrorists are more likely to try to make a radiological bomb than a nuclear weapon, even if it were only a crude device;

60 AIVD Annual Report 2004, dated 28 April 2005.

61 Letter to parliament from the Prime Minister/Minister of General Affairs, the Minister of the Interior and Kingdom Relations and the Minister of Defence dated 8 July 2005 (*Parliamentary Papers, House of Representatives, 2004/05*, 30 070, no. 6).

62 Rather than mass destruction, the term used is mass disruption. For a description of the possible consequences, see for example *Protecting Against the Spread of Nuclear, Biological, and Chemical Weapons. An Action Agenda for the Global Partnership*, Center for Strategic and International Studies, Volume I: Agenda for Action, January 2003.

63 See, for example, also Fareed Zakaria, *The Future of Freedom*. New York: W.W. Norton 2004, 'The democratization of technology and information means that most anyone can get his hands on anything. […] These same open sources [the Internet and a good search engine] will, unfortunately, soon help someone build a dirty bomb'.

- in using a radiological bomb (or even a nuclear weapon[64]) terrorists are more likely to choose a simple means of delivery which is within their capability, such as containers, cars, trucks, human carriers and so forth, rather than specifically military means of delivery such as grenades and rockets;
- terrorists are likely to focus or continue focusing any attacks on civilian (i.e. soft) targets, although a pattern of attacks on guarded and/or protected targets (hard targets) can be seen in Iraq.[65]

The government stated in December 2005 that the intelligence and security services consider the probability of an NBCR attack in the Netherlands to be low.[66] Yet even if the actual probability is small, the Netherlands must nonetheless take serious account of the nature and extent of the expected consequences.

### III.3 Strengthening the nuclear non-proliferation regime *(question 2: In the opinion of the AIV, what should be the elements of a comprehensive, effective strategy to halt the proliferation of nuclear materials and technology?)*

*Comprehensive approach*

To effectively halt the proliferation of nuclear materials the strategy must indeed be comprehensive (i.e. integrated). The strength of the non-proliferation regime lies in the combination of its components, none of which could individually prevent proliferation. In this advisory report on a strategy to halt the proliferation of nuclear materials the AIV endorses the non-proliferation model used by the HLP in its 2004 report.[67] This model identifies four levels: demand, supply, enforcement and defence.[68] The model underlines the importance of a comprehensive approach in tackling proliferation and its consequences successfully and also classifies the different instruments. This section follows this classification: demand (III.3.1), supply (III.3.2), enforcement (III.3.3) and defence (III.3.4).

64 AIV, *An analysis of the US missile defence plans: pros and cons of striving for invulnerability*, Advisory Report no. 28, The Hague, August 2002.

65 A soft target is an unprotected and hence easy target such as public transport, shopping centres and places of entertainment, where there is a large chance of civilian victims. The opposite is a hard target, such as a guarded person, building or installation, where there is a much greater risk of early discovery and failure. For example: the conventional attacks in New York, Bali, Madrid and London were against soft targets.

66 Letter to parliament of 5 December 2005 from the Minister of Justice and the Minister of the Interior and Kingdom Relations (*Parliamentary Papers, House of Representatives, 2005/06*, 29 754, no. 60). This letter to parliament in fact uses the term 'CBRN terrorism'.

67 The HLP also proposed counter-proliferation measures within this context. In the end nothing, however, was done with this part of the HLP report at the UN summit in September 2005 for the reasons explained in chapter II.

68 The Carnegie Endowment for International Peace produced a similar classification in a recent publication, namely demand, supply and enforcement. See G. Perkovich et al., *Universal Compliance: A Strategy for Nuclear Security*, Washington D.C., March 2005.

### *III.3.1 Reducing demand for nuclear weapons*

*The NPT and disarmament*

All states that have concluded the NPT, with the exception of the nuclear-weapon states, have agreed that they will not try (or no longer try) to obtain nuclear weapons, in exchange for disarmament on the part of the nuclear-weapon states and the right of access to civil nuclear technology. As explained in chapter II, however, the normative effect of the NPT is now under serious threat.

In order for the NPT to retain its credibility, both the nuclear haves and the nuclear have-nots will have to use the available instruments constructively and flexibly, and the haves will have to show understanding for the objections and criticisms of the have-nots. The AIV agrees with the HLP and with UN Secretary-General Kofi Annan, who have stated that the nuclear-weapon states must play an important role here since they have a unique status and the accompanying responsibility. The key state is undoubtedly the United States.

Irreversible steps towards disarmament by the nuclear-weapon states are a first prerequisite for restoring the credibility of the non-proliferation regime. The bilateral disarmament agreements between the United States and Russia described in II.3 do not fulfil this requirement. The 1,700-2,000 operational nuclear weapons which will remain in 2012 (quite apart from the tactical nuclear weapons and non-operational nuclear weapons which are not counted) still far exceed what is necessary for deterrence. Moreover, nothing has been arranged for the period after 2012. The number of strategic nuclear weapons could quickly be expanded again if the need should arise. As both states have by far and away the largest nuclear arsenals, they play a decisive role in the disarmament negotiations. Furthermore, without transparent and unambiguous steps on the part of both countries the bilateral agreements will not have a multilateral follow-up. China, France and the United Kingdom have so far remained outside these consultations. That too must change.

However, Washington no longer recognises that the link that lies in the NPT between non-proliferation and nuclear disarmament. The American policy of blocking any reference to disarmament agreements previously made and at the same time continuing to press for non-proliferation is not open to any other interpretation. As long ago as 2002 the AIV stated: 'In this light [i.e. the light of the successes of the multilateral non-proliferation regime] the tendency of the US to reject treaties and international agreements with regard to arms control when they are inconvenient in the short term is a cause for great concern'.[69] This view has not changed in the intervening period; quite the reverse, in fact.

The AIV recommends conveying to the United States, on all suitable occasions, in all relevant forums and with as many like-minded countries as possible, that in order for the international community to achieve success in combating proliferation a multilateral approach must continue to form the core of the strategy. The cornerstone of this strategy is a strong NPT, but for the credibility of this treaty the United States and Russia must make substantial disarmament efforts. Such a plea need not necessarily be in vain. After all, there are more parties and groups active in Washington than are

69 AIV, *An analysis of the US missile defence plans: pros and cons of striving for invulnerability*, Advisory Report no. 28, The Hague, August 2002.

currently represented in the administration. The possibility can certainly not be excluded that a new American administration, whether Republican or Democrat, would once again adopt a more multilateral approach towards non-proliferation.

Although the goal of complete disarmament is probably an illusion, a clear and irreversible reduction in the size of the existing arsenals is certainly possible. The Netherlands, if possible in cooperation with like-minded countries, should impress this on the EU member states France and the United Kingdom as well. However, they can be expected to take real steps only if the big two – the United States and Russia – have set a good example in the form of a significant reduction. The United States and Russia should also lead the way in taking their nuclear weapons off hair-trigger alert through additional verifiable bilateral agreements, for example to physically separate the nuclear warheads from the means of delivery. This would reduce the chance of accidents and misunderstandings.

As regards the three non-NPT nuclear-weapon states – India, Pakistan and Israel – the relevance of the policy hitherto pursued in relation to them (i.e. the policy of urging them to disarm and then join the NPT as a non-nuclear-weapon state) has been seriously compromised by the United States' offer to cooperate with India in the nuclear field. For a more detailed consideration of India's position, see section III.3.2.

*Give priority to the CTBT*
The CTBT also forms an important part of the multilateral treaty structure. It should be noted that although the CTBT has not yet officially entered into force, it already serves as an important international norm. Before the treaty enters into force, however, it must be ratified by a further 11 states, including the United States. President Clinton tried to arrange for ratification of the treaty in 1999, but did not obtain the requisite majority in the Senate. President Bush, who is opposed to the treaty, has never attempted to secure ratification.

Just as in the case of the NPT, the Dutch government must continue to convey the message to all parties and groups in Washington that the CTBT is a very important part of the non-proliferation regime. Of the 191 UN member states, 176 have signed the treaty and 127 have ratified it. Once the United States has ratified the treaty, it should be capable of bringing the last few recalcitrant countries to the negotiating table.

As far as the FMCT is concerned, the future looks less hopeful. No progress has made on this front since 1993, except that a number of states have announced a non-verifiable moratorium on the production of fissile material. Although the FMCT remains as important as ever, it seems advisable to focus diplomatic efforts first and foremost on the CTBT.

*Iran*
As explained in the previous chapter, there is the danger of a stalemate between the Western countries and Iran concerning Iran's disputed right to develop its own enrichment capacity. The West is afraid that Iran will seize this opportunity to develop its own nuclear bomb. A major factor in this assessment is that Iraq has never recognised Israel as a state. Moreover, the recently elected Iranian president Mahmoud Ahmadinejad attracted the wrath of the Western world at the end of 2005 by successively declaring in a short space of time that Israel should be wiped from the map and that the Holocaust was a myth. In addition, Iran is a state sponsor of regional terrorist organisations.

The possibility cannot be excluded that Iran will nonetheless itself start enriching nuclear material inside or outside the framework of the NPT. In any event, Iran's announcement on 10 January 2006 that it would resume its research activities into uranium enrichment was not a good sign. If Iran should actually start enriching uranium the consequences are hard to predict, but they could vary from acceptance as an international fait accompli through referral to the UN Security Council to preventive bombing by any power that considers this necessary.

As a result of the firm statements of the E3/EU of 12 January 2006 – with the support of the United States – concerning referral of Iran to the Security Council on account of 'Natanz', this possibility has undeniably come closer. Nonetheless, this would still only be a first step. A general declaration by the Security Council that Iran has violated the IAEA Safeguards Agreement in the past, in accordance with the previous IAEA Resolution of 24 September 2005, certainly seems feasible. But this would still by no means constitute a far-reaching condemnation by the Security Council. And even less should be expected of the possibility of economic sanctions. The geopolitical interests of the various countries are too divergent to allow such sanctions, particularly in the area of energy policy.[70] The enormous oil and gas reserves make it difficult to achieve consensus on hard, clear measures. Since Russia turned off the gas supply to the Ukraine on New Year's Day 2006, there has been a realisation in Europe too that Iran has the second-largest gas reserves in the world. 'Will the Europeans, America, Russia and others call Iran to account, or will they have their own bluff called instead?' is how the relevant issue of The Economist summed up the proposal to refer Iran to the Security Council.[71]

The option of preventive bombing would be very undesirable since this could have new and unforeseeable political consequences. In addition, the possibility cannot be excluded that military intervention would not be sufficiently effective and that Iran would simply resume uranium enrichment. It would then be entirely unclear how to proceed.[72] A land war is hardly a realistic option, particularly in view of the situation in Iraq.

Dutch policy can therefore only continue to be aimed at finding solutions to the divisions between the West and Iran by diplomatic means in a broader international

70 The AIV, together with the Energy Council, finalised an advisory report on the energy policy of the Netherlands in December 2005. The main recommendation was that the promotion of energy supply security should be a separate and new chief aim of Dutch foreign policy. General Energy Council and AIV, *Energetic foreign policy: security of energy supply as the new key objective*, Advisory Report no. 46, December 2005, <www.aiv-advies.nl>.

71 *When the soft talk has to stop*, The Economist, 14 January 2006.

72 For the military limitations of a preventive attack on Iranian nuclear installations, see for example Henry Sokolski & Patrick Clawson (ed.), *Getting Ready for a Nuclear-Ready Iran*, October 2005, <www.strategicstudiesinstitute.army.mil>. Part III of this publication, entitled *Is There a Simple Military or Sanctions Fix?* examines this possibility in chapter 6, *Is the Begin Doctrine Still a Viable Option for Israel?* by Shlomo Brom (a retired Israeli general) and in chapter 7, *Strategy for a Nuclear Iran*, by Thomas Donnelly (fellow of the American Enterprise Institute, AEI, a neoconservative think tank). According to those two authors, an attack on Iran's nuclear facilities today could not be compared to the previous Israeli preventive attack on the Iraqi nuclear power station in Osirak in 1981.

context. Since the E3/EU declared on 12 January 2006 that 'their' negotiations with Iran had 'come to a dead end', it will be necessary to wait and see what precise form this diplomacy takes. Probably the diplomatic efforts will continue in fits and starts for the time being, while signs of internal divisions within the Iranian leadership deserve attention. What is of possible interest in this connection is that the proposal made by Russia in November 2005 to allow uranium enrichment to take place in Russia has still not been finally removed from the negotiating table, although it has already been rejected by Iran on various occasions.[73] In making this proposal Russia has endorsed the previous proposals of the E3/EU, with the support of the United States, to offer Iran a form of the multilateral nuclear approach discussed above. In 2005 ElBaradei repeatedly drew attention to the potential of MNAs, not only during his Nobel lecture but also, for example, during the failed NPT review conference in 2005.[74]

An example of a more far-reaching proposal is that of Bennet Ramberg, an expert who served in the US State Department during the administration of President George H.W. Bush. He has proposed that Iran be allowed a trial period during which it may develop enrichment capacity, but only subject to strict constraints such as permanent on-site supervision. If Iran were not to comply with these constraints, this would trigger immediate and clear measures.[75] In making this proposal Ramberg is recognising the reality that Iran is bent on acquiring its own enrichment capacity. In this way he hopes to prevent Iran from going its own way and thus ignoring the NPT.

Perhaps there are other possibilities too, but what all these ideas have in common is the search for a diplomatic solution. In the opinion of the AIV all efforts should continue to be directed to this end. For this purpose, as much joint international pressure as possible must be brought to bear on the unpredictable regime in Iran.

If this succeeds, this will also influence the outcome of the North Korea problem. Although the EU is not directly involved in the six country negotiations,[76] it should be noted that the EU provided financial support for the policy of the Clinton administration ten years ago.[77] The EU should consider doing something similar again, if it would bring a solution closer. The Netherlands should promote this.

73 Proposals to this effect were first made during a visit of Russian Security Council Secretary Igor Ivanov to Teheran in early November 2005. He evidently proposed the establishment of a Russian-Iranian joint venture in the field of uranium enrichment, under which the actual enrichment would take place in Russia.

74 Mohamed ElBaradei, *Treaty on the Non-Proliferation of Nuclear Weapons*, New York, 2 May 2005, <www.iaea.org>.

75 Bennett Ramberg, *Put the mullahs on probation*, International Herald Tribune, 4 November 2005.

76 The six countries are China, Japan, North Korea, South Korea, Russia and the United States.

77 Under the agreements in the 1990s the EU paid for the construction of a light water reactor in North Korea (Korean Peninsula Energy Development Organization or KEDO). At the end of 2005 it was decided to terminate the KEDO programme permanently after the payments had been frozen since North Korea withdrew from the NPT in 2003.

*Nuclear-weapon-free zones in both the Middle East and the Gulf region*
It would also be advisable to support the existing initiatives to create nuclear-weapon-free zones (NWFZs) in both the Middle East and the Gulf region. Large parts of the world are already nuclear-weapon-free zones.[78] Arab countries are pressing for the creation of a nuclear-free Middle East, which would naturally also (ultimately) include Israel. The fact that Iran, an NPT member, is being put under great international pressure while Israel, a non-NPT-member and nuclear-weapon state, is left in peace strengthens the view that the West is applying double standards. This hardly enhances the credibility of the NPT. One form of action would be to encourage second-track diplomacy, which could do the preparatory work needed to sustain the possibility of a political breakthrough.[79]

Whereas a nuclear-weapon-free Middle East would seem to be a possibility only in the distant future, the initiatives to turn the Gulf region into an NWFZ would seem to have a greater chance of success. Such an initiative is supported by various Gulf states.[80] As Iran and Iraq would also be part of a Gulf NWFZ, and Israel would not be involved, this initiative is seen as a possible precursor of a nuclear-weapon-free Middle East. All of this is naturally still just theoretical. However, it is important to acknowledge that it is not only the West which is concerned about further proliferation, and that the neighbours of possible 'threshold states' also feel threatened.

More generally, the AIV would point out that a background factor in reducing demand for nuclear weapons is always the mitigation and prevention of regional and other tensions. For example, despite the focus on the course chosen by Iran it should not be forgotten that there are real tensions in the region which must be addressed politically and diplomatically. Supporting serious regional initiatives is all the more important in such cases because it removes the impression of Western pressure and a patronising attitude.

### *III.3.2 Reducing the supply of nuclear weapons*

*Multilateral Nuclear Approaches*
Western states would generally prefer countries that build up their own civil nuclear industry to refrain from developing their own enrichment capability and instead use MNAs. This is a logical way of reducing the risk of break-out scenarios. Partly as a result of the troubles in connection with Iran, the potential of MNAs has attracted great interest. But despite their theoretical advantages, the situation in practice is less straightforward. For example, when the EU formulated its common position on the 2005 NPT review conference, it got no further than the following phrase: 'noting the

78 Including Latin America (the Treaty of Tlatelolco - 1967); the South Pacific (the Treaty of Rarotonga - 1985); Southeast Asia (Treaty of Bangkok - 1995); and Africa (Treaty of Pelindaba - 1996, which has not yet been ratified by all participating countries).

79 For example by means of seminars where academics and government representatives discuss political problems and propose solutions, which can then form the basis of a more official policy process and negotiations. This informal exploratory process, out of the media spotlight, is very important in relation to the idea of NWFZs.

80 See 'Gulf leader urges Iran to make region nuclear free', *Agence France-Press*, 18 December 2005. The relevant leader was the Secretary-General of the Gulf Cooperation Council, who was speaking on this occasion in his personal capacity.

report of the IAEA's expert group on multinational approaches to the nuclear fuel cycle and promoting an early start to its scrutiny by the IAEA' (see annexe VII).

The AIV therefore recommends that the Netherlands press, within the EU, for multilateral solutions to the proliferation-sensitive parts of the nuclear fuel cycle.

However, states should know for sure that they will be better off if they refrain from developing their own enrichment capability. The importance of encouragement and/or confidence-building should not be underestimated in this connection; threats of sanctions are not sufficient. This is in keeping with the attempts of the international community (admittedly hitherto unsuccessful) to induce Iran and North Korea to renounce their nuclear weapons programmes in exchange for economic benefits and security guarantees.[81]

*Brokering*

The supply of nuclear weapons also includes the supply of nuclear expertise and technology. Export controls in these fields are increasingly being evaded, for example by non-state brokers.[82] It is debatable whether the existing multilateral institutions are capable of meeting this new challenge. This advisory report therefore recommends that attention be paid to the role of brokering in proliferation-sensitive goods. As a transit country, for example for goods involved in proliferation, the Netherlands has proved vulnerable in this respect. This topic is already being discussed within the EU.

The AIV advises the Dutch government to take active steps to combat brokering and to propose measures to this end within the EU. The potential and limitations of UN Security Council Resolution 1540 can also be examined in this connection. This is a new instrument whose scope is not yet entirely clear. The fact that the 15 members of the UN Security Council acted in this matter as an international legislator is controversial. Many NAM states therefore question resolution 1540; although they do report on their progress in implementing the resolution, they do not do so wholeheartedly.

The AIV wonders whether the division of responsibilities in the Netherlands with regard to export control regimes, for example for brokering, is sufficiently clearly regulated. According to a recent analysis of these responsibilities by a committee established by the Ministry of Economic Affairs and chaired by Professor Scheltema, which was sent by the government to parliament on 20 September 2005, the division of responsibilities between the ministries directly involved is still skewed in this respect. The committee states that 'the ministry of Foreign Affairs decides, the ministry of Economic Affairs is responsible and the customs authorities implement'. It therefore recommends that a single contact point be established for the entire policy on export control regimes. As the body that makes decisions would then also have responsibility for them (both politically and in law), the committee argues that this would promote administrative

81 See the offer of the E3/EU to Iran of 5 August 2005, INFCIRC/651, <www.iaea.com>. See also the analysis *European Union: Arms policy prefers carrot to stick*, Oxford Analytica, 23 November 2005.

82 AIV Annual Report 2003, 5 March 2004.

clarity.[83] The government has not yet commented on this recommendation.

In view of the importance of the export controls the AIV advises the government to determine its position in the near future on the Scheltema Committee's recommendation to establish a single contact point for the entire Dutch policy on export control regimes.

*Proliferation Security Initiative (PSI)*
The PSI could be a useful addition to the existing multilateral frameworks for strengthening export controls. Because so little is known about the interdictions, it is hard to form an opinion on this. As one of the 17 core countries, the Netherlands is investing in this initiative, for example by participating in and organising PSI exercises. But how worthwhile and effective is this instrument in practice? The AIV would observe in this connection that the limits of the PSI are reached when it threatens to interfere with other treaties and international agreements.

The AIV recommends to coordinate action taken on the PSI within the EU as far as possible and arrange for a joint evaluation of this initiative.

*India and the Nuclear Suppliers Group*
The intention of the US administration to help India develop its civil nuclear industry is at odds with the existing non-proliferation regime. The Nuclear Suppliers Group too was completely taken by surprise by this proposal. The NSG is divided between countries that support such an agreement with India (including the United States, the United Kingdom, Russia and France) and countries that are critical of it (including Germany and the Netherlands). Although the US Under Secretary of State for Political Affairs, Nicholas Burns, is still negotiating the final terms of the agreement with India, the Senate hearings on the subject have already started. The Senate is expected to make a decision on this in 2006.

As a member of the NSG the Netherlands should involve itself in formulating the conditions to be met by India and in cooperation, with like-minded countries, urge maximum conformity with the non-proliferation regime. The conditions which should be imposed on India include:

1. civilian and military nuclear facilities and programmes should be kept separate and notified to the IAEA;
2. civilian facilities should be placed under the IAEA Safeguards;
3. India should sign and ratify the Additional Protocol;
4. India should sign and ratify the CTBT;
5. India should institute a moratorium on the production of highly-enriched, weapons-grade uranium, in the spirit of the yet-to-be-drafted FMCT, and;
6. cooperation may in no way promote India's nuclear weapons programme.

83 See the report of the Scheltema Committee, which was sent by the Minister of Economic Affairs to parliament on 20 September 2005 as an annexe to the final report on the analysis of the division of responsibilities of the Ministry of Economic Affairs, as part of the Changing Government programme (*Parliamentary Papers, House of Representatives*, 2005/06, 29 362, no. 55).

The AIV would point out that if the first three conditions were observed this would in fact mean that India was subjecting itself to the NPT as though it were a recognised nuclear-weapon state. But this is also precisely why by no means everyone in India is happy with this deal. Although such sentiments in India are undoubtedly influencing the current discussions between New Delhi and Washington, it is nonetheless the case that the stricter the conditions imposed on India, the smaller will be the chance that this situation sets a precedent and thus leads to a negative spiral. In this way the damage can still be limited.

### *III.3.3 Strengthening enforcement capacity*

The third level of a comprehensive approach involves strengthening the capacity to enforce the non-proliferation regime. In the first place this is a matter of whether the UN Security Council (the body primarily responsible for enforcing international peace and security) is willing and able to use its powers and compel observance of the IAEA Safeguards. But the Security Council is not succeeding in this. For instance, the UN summit in September 2005 (see above) failed in relation to non-proliferation and disarmament partly owing to disagreement in the Security Council on this point. In a previous advisory report in May 2005 the AIV concluded that the UN would have to be drastically reformed in order to respond effectively and vigorously to present-day threats, since it would otherwise lose credibility.[84] For a more detailed discussion of this topic, the reader is referred to that report.

#### *Timely and reliable intelligence*

This section addresses the pressing need for timely and reliable intelligence at all levels in order to strengthen enforcement capacity. For example, the IAEA needs information in order to check compliance with the NPT and its Safeguards and the CTBT organisation needs information for its worldwide warning system. But the quality of intelligence will also determine whether the battle against international terrorism is won or lost. Here, however, there is a paradox: although it was noted previously in this report that a multilateral approach is essential for a successful non-proliferation strategy, the gathering of intelligence is and will remain essentially a matter for national intelligence services. Despite political pledges to improve the situation, this is a persistent problem and little seems likely to change for the time being.

Enhancement of the European intelligence capacity and cooperation between intelligence services is one of the strategic objectives of the EU Plan of Action on Combating Terrorism, which was adopted in March 2004 after the terrorist attacks in Madrid.[85] Now, however, after the attacks in London in July 2005, it must be noted that this European Plan of Action has still not been fully implemented.[86] An advisory

84 AIV, *Reforming the United Nations, a closer look at the Annan report*, Advisory Report no. 41, The Hague, May 2005.

85 Council of the European Union, Declaration on Combating Terrorism, Annex I: *European Union Strategic Objectives to Combat Terrorism*, Brussels, 25 March 2004.

86 Paul Wilkinson, *International terrorism, the changing threat and the EU´s response*, Chaillot Paper, No. 84, October 2005. This is illustrated by the comments in the media after the attacks in London that the EU should not devise new anti-terrorism measures, but should first implement the existing measures. See, for example, Mark Kranenburg, *'EU werkt samen tegen terreur, zeker op papier'* (EU works together to combat terrorism, at least on paper), *NRC Handelsblad*, 12 July 2005.

report on combating terrorism from a European and international perspective is currently being prepared by the AIV and will be completed in the course of 2006.[87]

Even prior to its publication, the AIV recommends that the government urge all EU member states to honour their commitments under the Plan of Action without delay. One of the measures which has not yet been fully implemented is the proposal to monitor suspect banking transactions in real time. Stuart Levey, US Under Secretary for Terrorism and Financial Intelligence, emphasises once again the importance of such measures in a recent article: 'Indeed, the very prospect of such targeted sanctions [financially isolating proliferators of WMD] can serve as a strong deterrent to dangerous activity'.[88]

Another possible measure, which has been proposed by the EU's High Representative Javier Solana and builds on established intelligence cooperation in the EU Joint Situation Centre (SITCEN), is to arrange for the heads of the intelligence services of the 25 EU member states to meet regularly on an unofficial basis in the framework of the existing EU Counter-Terrorism Group (CTG). The work of the CTG could encourage the intelligence services to work more closely together in intelligence analysis (i.e. not in the field of crude source data, which would remain the domain of the national intelligence services). This should lead to a situation in which the EU SITCEN produces intelligence analyses that support EU policy-making processes.[89]

As regards cooperation between the Dutch intelligence services, the AIV recommends that, in view of the level of threat, the proliferation of weapons of mass destruction and their means of delivery continue to be treated as an area for strategic attention and that sufficient capacity be allocated to this. Special importance should be attached to gathering human intelligence ('humint') and acquiring sufficient translation capacity.

#### *III.3.4 Defence against the consequences of NBCR attacks*

A comprehensive approach towards combating proliferation should include defence against the consequences of an NBCR attack, since a society that is well prepared is better able to cope with the worst conceivable scenarios involving the consequences of a terrorist attack. The Brinkman Committee concludes in its September 2005 report that improvement in this respect too is certainly both possible and necessary.[90]

87 See the government's request to the AIV for advice on combating terrorism from a European and international perspective, sent by the Minister of Foreign Affairs on 15 July 2005, <www.aiv-advies.nl>.

88 Stuart Levey, *Where it Hurts: Starve WMD Proliferators of Financing*, International Herald Tribune, 24 November 2005.

89 Javier Solana during the presentation of his report on terrorism and intelligence cooperation, 8 June 2004.

90 *Veiligheid: Meer samenhang en slagkracht, betere informatie, minder beleidsdrukte. Tussenrapportage van de gemengde commissie veiligheid en rechtsorde* (Security: greater coherence and effectiveness, better information and less policy pressure. Interim report of the cross-ministerial committee on security and the legal order), The Hague, 6 September 2005.

The pledges made in the letter to Parliament of 22 April 2005 by the Minister of the Interior and Kingdom Relations and the Minister of Defence on the contribution of the Ministry of Defence to national security can be regarded as a first step in this direction, but the AIV considers that they do not yet go far enough.[91] The two ministries are now consulting together on implementation of these pledges. The role of Defence is shifting in this connection from the provision of fairly general assistance (a safety-net arrangement) to the provision of support in the form of specialist capabilities which the civil authorities do not yet possess or sufficiently possess. For example, Defence is to play a greater role in combating the consequences of NBC contamination by enhancing its counter-NBC capabilities and reducing response times.

The AIV endorses the importance of these measures and recommends that, in view of the threat assessment, vigorous steps be taken to implement them quickly.

The AIV also recommends that all the authorities concerned (i.e. the police, fire service, ambulance service and armed forces) hold regular joint exercises on dealing with the consequences of attacks involving NBC weapons so that cooperation is assured, and that this should not be put off until all intensification measures have been completed.

### III.4 Policy implications for the EU and NATO *(question 3: In the opinion of the AIV, what effects will the proliferation of nuclear resources have on current Dutch security policy and that of NATO and the EU?)*

The effects of the proliferation of nuclear resources on Dutch security policy are dealt with above in section III.3. This section will concentrate on the effects on the security policy of the EU and NATO.

It can be inferred from the final declarations of summit meetings between heads of government and from the threat assessments of the EU, NATO and the HLP that combating nuclear proliferation is one of the chief priorities of international policy. But, as the UN Secretary-General recently aptly noted, '[…] on the security side, despite a heightened sense of threat among many we lack even a basic consensus and implementation, where it occurs, is all too often contested'.[92]

Proliferation of weapons of mass destruction is a prime example of a subject that can only be dealt with properly in a multilateral context. This is of even greater importance for a small country such as the Netherlands. The Netherlands must therefore continue to press in the international forums for a multilateral approach to the proliferation problem; it has no choice but to work within the EU, NATO and the UN to meet international challenges.[93]

91 Letter to parliament from the Minister of the Interior and Kingdom Relations and the Minister of Defence of 22 April 2005, ('Defensie en nationale veiligheid') 'Defence and national security' (Parliamentary Papers, House of Representatives, 2005/06, 29 800 X, no. 84).

92 See Kofi Annan, *Note of the Secretary-General transmitting the report of the High-Level Panel on threats, challenges and change*, New York, 2 December 2004 (UN Doc. A/59/565).

93 See also AIV, *The Netherlands in a changing EU, NATO and UN*, Advisory Report no. 45, July 2005.

### *III.4.1 The role of the European Union*

The EU adopted a strategy against the proliferation of weapons of mass destruction in Thessaloniki in December 2003. In it the EU states that an effective multilateral approach is the best way of achieving non-proliferation.[94] The secretariat of the European Council sends a biannual progress report on the implementation of this non-proliferation strategy every six months to the EU member states.[95]

The AIV recommends that the government send this report to the Dutch parliament from now on.

The AIV also advises the House of Representatives to hold a regular exchange of views with the government on its policy of nuclear non-proliferation, for example on the basis of the relevant EU reports.

The EU supports the rapid introduction of the CTBT, the IAEA Additional Protocol and the PSI. These initiatives were also emphasised in the Common Position which the EU member states drew up on 25 April 2005 prior to the 2005 NPT review conference, as referred to above (see annexe VII). This document enables the EU to speak with one voice and display unity, for example in its dealings with the United States.

The AIV therefore recommends that the government urge the EU to draw the attention of the United States more frequently and more clearly to its non-proliferation positions, such as rapid ratification of the CTBT. Silence sends the wrong signal.

The strength of the EU, namely its multinational approach, also enables it to act as an intermediary between the United States and the NAM countries. But its strength is also its weakness, because the EU can only speak about this subject on behalf of its member states if all 25 agree. The EU reconciles within it widely differing nuclear interests of nuclear-weapon states, non-nuclear-weapon states, NATO member states and neutral countries. However, individual member states such as the Netherlands can appeal to the nuclear-weapon states France and the United Kingdom to accept their shared responsibility for nuclear disarmament strategy as contained in the 13-step plan of action for disarmament adopted in 2000.

In view of the far-reaching consequences of an attack involving WMD, the importance of prevention cannot be sufficiently emphasised. But prevention costs money. As noted previously, the United States spends €2 billion annually on counter-proliferation measures, whereas the EU in its entirety does not even pay one eighth of this amount.

The AIV recommends that the EU member states and/or the EU release extra funds to strengthen the non-proliferation regime, for example in support of the G8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, which has recently been expanded to potentially include countries outside the former Soviet Union.

94 See also Burkard Schmitt (ed.), *Effective non-proliferation, the European Union and the 2005 NPT Review Conference*, Chaillot Paper, No. 77, April 2005.

95 The High Representative of the EU, Javier Solana, has on his staff a Personal Representative on non-proliferation of weapons of mass destruction, Annalisa Giannella. She is responsible for the implementation of the EU's non-proliferation strategy.

Because the implementation of this initiative is encountering 'administrative problems' in the Russian Federation as a consequence of the resurgent self-confidence of this immense country, the AIV recommends that the Netherlands endeavour to contribute to solutions to the problem, if possible within the framework of the EU.

*III.4.2 The role of NATO*

To an even greater extent than the EU, NATO is faced with the divergent political interests of its member states. For example, some of the points in the EU common position adopted prior to the NPT review conference are not endorsed by the United States. The threat of the proliferation of weapons of mass destruction has been on NATO's agenda since 1994, but internal divisions have prevented the organisation from coming up with a clear answer to the question of how it can contribute to non-proliferation politically and diplomatically. It has proved impossible for NATO to adopt a strategic vision on the use of force to pre-empt possible WMD threats. This prompted NATO Secretary General Jaap de Hoop Scheffer to lament that even the best military capabilities are not useful in the absence of the political will and consensus to use them.[96] In this respect it is strange that NATO's military capabilities continue to be transformed, for example by the establishment and operationalisation of the NATO Response Force, while the strategic concept dating from 1999 remains unchanged. Ideally, proliferation, including nuclear proliferation, should be permanently on the agenda of the NATO Council, in keeping with article 4 of the North Atlantic Treaty.[97] Although there are many reasons why this is not under serious consideration at present, the AIV believes that it continues to be worth advocating.

In the absence of a political and diplomatic role in relation to the proliferation of WMD, NATO is focusing mainly on force protection in order to be as well prepared as possible for the consequences of an NBCR attack. One of the topics being discussed by NATO in this connection is theatre missile defence.

The AIV notes that cooperation between the EU and NATO in the field of non-proliferation is virtually non-existent owing to the major differences of opinion between the two organisations and within NATO.[98] For example, the United States does not regard NATO as the most appropriate organisation for combating proliferation, and France too is being difficult. For the time being there is little prospect of any change in this situation.

96 Quotation from Eric R. Terzuolo, *Combating WMD proliferation*, NATO Review, autumn 2005.

97 Article 4 reads: 'The Parties will consult together whenever, in the opinion of any of them, the territorial integrity, political independence or security of any of the Parties is threatened.' For the text of the NATO Treaty see <www.nato.int>.

98 See also the remarks by Jamie P. Shea (NATO Director of Policy Planning) during a meeting entitled *Towards a more political NATO*, The Hague, 26 September 2005, at which he was one of the speakers.

# IV Recommendations

## IV.1 Introduction

The previous three chapters dealt successively with the nuclear non-proliferation regime (chapter I), the current state of this regime (chapter II) and the first three questions asked by the government in its request for advice (chapter III). This chapter lists all the recommendations together and thus provides an answer to the government's last question.

## IV.2 The Dutch contribution *(question 4: What can the Netherlands do, nationally and internationally, to counter the proliferation of nuclear weapons?)*

Proliferation of WMD is one of the main threats to international peace and security. It is of the utmost importance that this threat be actively addressed. The government rightly devoted separate attention to this in its budget for 2006.[99] The government has also asked the AIV for advice on a strategy for preventing the proliferation of nuclear materials and technology.

The nuclear non-proliferation regime has been defined in this report as an integral system of treaties, agreements, practices, organisations and norms which are together intended to prevent proliferation, or at least make it a good deal more difficult. The regime and views on the regime are in a continual state of flux, with states endeavouring to ensure that their national interests and views are reflected as well as possible.

Recently the conflicting positions on the operation and interpretation of the various non-proliferation instruments have come clearly to the fore. For example, the NPT Review Conference in May 2005 was a complete failure, as was the UN summit of heads of government on the aspect of non-proliferation in September 2005. Nor have permanent solutions yet been found to the problems posed by Iran and North Korea.

As a result, the credibility of the nuclear non-proliferation regime and particularly of the NPT (which is its normative cornerstone) has been seriously compromised. But despite this gloomy picture, there is no real alternative. The proliferation of WMD can be tackled effectively only in an international context. The Netherlands must therefore continue to press in international forums for a multilateral approach to this problem. In tackling proliferation the Netherlands has no choice but to operate within the EU, NATO and the UN. Given the present disagreements, however, the only way of strengthening the non-proliferation regime is one small step at a time.

The AIV advises the government:

1. to adopt an integrated and multilateral approach as the basis for national and international non-proliferation policy;

99 Adoption of the budget statements of the Ministry of Foreign Affairs (V) for 2006: policy article 2, *Greater security and stability, effective humanitarian assistance* and good governance and, on this basis, operational objective 3, *Combating the proliferation of weapons of mass destruction and their means of delivery and promoting disarmamen*t.

2. to send the biannual EU reports on non-proliferation to the Dutch parliament from now on (see section III.4.1);

3. to use the available instruments constructively and flexibly in order for the NPT to retain its credibility, while showing understanding for the objections and criticisms of the have-nots (see section III.3.1);

4. to convey to the United States, on all suitable occasions, in all relevant forums and with as many like-minded countries as possible, that in order for the international community to achieve success in combating proliferation, a multilateral approach must continue to form the core of the strategy. The cornerstone of this strategy is a strong NPT, but for the credibility of this treaty the United States and Russia must make substantial disarmament efforts. Afterwards, the attention of the EU member states France and the United Kingdom should also be drawn to their responsibility for disarmament (see section III.3.1);

5. to convey to all parties and groups in Washington on all suitable occasions, just as in the case of the NPT, that the CTBT is a very important and integral part of the non-proliferation regime (see section III.3.1);

6. to urge the EU to clearly draw the attention of the United States on all suitable occasions to its positions on non-proliferation and disarmament (see section III.4.1);

7. with regard to the crisis concerning Iran, to help in the search for a diplomatic solution, for which purpose as much joint international pressure as possible must be brought to bear on the unpredictable regime in Iran (see section III.3.1);

8. to support the existing initiatives to create nuclear-weapon-free zones in both the Middle East and the Gulf region (see section III.3.1);

9. to encourage the EU to support, financially and otherwise, the negotiations on the North Korea issue, as it did in the mid-1990s, if this would bring a solution closer (see section III.3.1);

10. to press, within the EU, for multilateral solutions to the proliferation-sensitive parts of the nuclear fuel cycle (see section III.3.2);

11. to take active steps to combat brokering and to propose measures to this end within the EU (see section III.3.2);

12. to take a position on the Scheltema Committee's recommendation to establish a single contact point for the entire Dutch policy on export control regimes (see section III.3.2);

13. to coordinate, as far as possible, action taken on the PSI within the EU and arrange for a joint evaluation of this initiative (see section III.3.2);

14. to involve itself, as a member of the NSG, in formulating the conditions to be met by India and, in cooperation, with like-minded countries, urge maximum conformity with the non-proliferation regime (see section III.3.2);

15. to press for the EU member states and/or the EU to release extra funds to strengthen the non-proliferation regime, for example in order to support the G8 Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, which focuses primarily on clearing dangerous stockpiles of nuclear and chemical weapons and materials in the former Soviet Union (see section III.4.1);

16. to contribute, if possible within the framework of the EU, to solutions to the 'administrative problems' which are an increasing factor in the implementation of the G8 initiative in the Russian Federation (see section III.4.1);

17. to urge all EU member states to honour their commitments under the EU Action Plan against Terrorism adopted in March 2004 (see section III.3.3);

18. to continue treating the proliferation of weapons of mass destruction and their means of delivery as an area for joint strategic attention from the Dutch intelligence services and to allocate sufficient capacity to this (see section III.3.3);

19. vigorously to implement the planned expansion of the counter-NBC capabilities of the armed forces (see section III.3.4);

20. to arrange for all the authorities concerned to hold regular joint exercises on dealing with the consequences of attacks involving NBC weapons, so as to ensure the quality of the cooperation and the response (see section III.3.4);

21. to continue pressing for the inclusion of proliferation as a permanent item on the agenda of the NATO Council (see section III.4.2).

Finally, the AIV advises the House of Representatives:

22. to hold a regular exchange of views with the government on its policy regarding nuclear non-proliferation (and non-proliferation in general), for example on the basis of the relevant EU reports (see recommendation 2 and section III.4.1).

**Annexe I**

**Request for advice**

**Ministry of Foreign Affairs**

Postbus 20061
2500 EB 's-Gravenhage
Telephone: +31 (0) 70 348 6486

**Ministry of Defence**

Postbus 20701
2500 ES 's-Gravenhage
Telephone: +31 (0) 70 318 8188

Chairman of the Advisory Council
on International Affairs
Mr F. Korthals Altes
Postbus 20061
2500 EB Den Haag

| Your letter of | Your reference | Our reference | Date |
|---|---|---|---|
| | DVB/NN-076/05 | | 28 February 2005 |

Re: Strategy for preventing the proliferation of nuclear materials and technology

Dear Mr Korthals Altes,

**Introduction**

The continued proliferation of nuclear, biological and chemical weapons remains a subject of concern for the government. Despite international commitments and international monitoring, the proliferation of these weapons and missile technology has become a major threat to our security. The government is particularly concerned because further proliferation means a greater chance that these weapons will fall into the hands of states of concern or terrorist groups.

On 2 December 2004 the High-level Panel on Threats, Challenges and Change (HLP), established by UN Secretary-General Kofi Annan, released a report containing recommendations on improving the system of collective security. According to the Panel, stopping the proliferation of weapons of mass destruction is an 'urgent priority', and the report makes a number of recommendations on how this can be achieved. One particularly alarming conclusion is that there is a very real chance that terrorists will have the capacity to bring about nuclear explosions in the future. The Panel is also deeply concerned about the future of the nuclear non-proliferation regime. Against this backdrop, the report proposes additional powers for the International Atomic Energy Agency (IAEA), advocates the negotiation of a fissile material cut-off treaty and calls for broader participation in the Proliferation Security Initiative (PSI). The Panel also urges the Security Council to take a considerably more active role in the event of alleged or proven violations of the non-proliferation regime. The Panel feels that the Security Council should take collective measures in response to a nuclear attack – or the threat of one – on a non-nuclear-weapon state.

In March, partly on the basis of the HLP's recommendation, Secretary-General Annan will present his own recommendations for the UN Summit, which will take place from 14 to 16 September. The Secretary-General's recommendations are also important with a view to the Non-Proliferation Treaty (NPT) Review Conference coming up this May.

There are other reasons that the proliferation of nuclear weapons deserves the government's consideration. In February 2004, the Director-General of the IAEA, Mohammed ElBaradei, asked that higher priority be given to the mounting danger of nuclear proliferation, warning, 'If the world does not change course, we risk self-destruction.' The imminent spread of nuclear weapons to states of concern is another pressing issue.

**Questions**
Against this background we would put the following questions to the Advisory Council:

1. **In the opinion of the Advisory Council, how much of a threat does the proliferation of nuclear weapons and technology pose to international peace and security and Dutch society?** Obviously, the Advisory Council should devote particular attention to the possibility that high-risk countries and terrorist groups could come to possess nuclear materials and technology. North Korea claims to have nuclear weapons already and maintains that it has denounced the treaty. Iran's intentions remain unclear, though the Iranians have suspended their enrichment activities following diplomatic talks with the United Kingdom, France and Germany. One positive development is Libya's decision to renounce its aspirations to possess weapons of mass destruction (although it is questionable how far along Libya actually was in acquiring nuclear technology). What is the Advisory Council's assessment of these developments?

2. **In the opinion of the Advisory Council, what elements are needed for a comprehensive, effective strategy to halt the proliferation of nuclear materials and technology?** These could include measures to curb the spread of nuclear materials and technology and know-how (non-proliferation) and passive and active measures to protect and defend the Netherlands, as well as military units in the field and densely populated areas (counter-proliferation). In that connection, the government would be interested in hearing the Advisory Council's views on the HLP's recommendations and the outcome of the NPT Review Conference in May.

   The Advisory Council will obviously have to address the question of whether the strategies that the European Union and the United States have developed to stop the spread of weapons of mass destruction are adequate. Would it be advisable to explore new approaches to strengthening the nuclear non-proliferation regime in the broadest sense of the term? How can states of concern be kept from developing or acquiring nuclear weapons? What is the connection between the pursuit of non-proliferation and counter-proliferation measures? How can we ensure that nuclear materials and technology do not fall into the hands of terrorists? Is it useful to map out the various stages of nuclear proliferation and developing diplomatic, economic, legal and military countermeasures for each stage? In the opinion of the Advisory Council, what should be the main priorities of a comprehensive strategy?

3. **In the opinion of the Advisory Council, what effects will the proliferation of nuclear resource have on current Dutch security policy and that of NATO and the EU?** Two areas to concentrate on are NATO's nuclear deterrent policy and the question of how to protect European territory from long-range nuclear missiles in the hands of states of concern. Should current policy be modified?

4. **What can the Netherlands do, nationally and internationally, to counter the proliferation of nuclear weapons?**

**Conclusion**
The government is aware of the fact that this is not the first time the Advisory Council has been asked to advise the government on related topics. The relevant reports are 'An Analysis of the US Missile Defence Plans: Pros and Cons of Striving for Invulnerability' (no. 28, August 2002) and 'Pre-emptive Action' (no. 36, July 2004). The government would appreciate it if the Advisory Council would frame its advice in the context of the above developments and these earlier reports.

We would ask that the Advisory Council complete its report before the summer, with a view to the government's response to the recommendations that the UN Secretary-General will be presenting in March for the UN Summit in September and the outcome of the NPT Review Conference in May.

[signed]
MINISTER OF FOREIGN AFFAIRS

[signed]
MINISTER OF DEFENCE

## List of abbreviations

| | |
|---|---|
| **AIV** | Dutch Advisory Council on International Affairs |
| **AIVD** | Dutch General Intelligence and Security Service |
| **CBRN** | Chemical, Biological, Radiological and Nuclear |
| **CTBT** | Comprehensive Nuclear Test Ban Treaty |
| **CTG** | Counter-Terrorist Group |
| **CVV** | Peace and Security Committee (of the AIV) |
| **E3** | France, Germany and the United Kingdom (EU3) |
| **EU** | European Union |
| **FMCT** | Fissile Material Cut-off Treaty |
| **G8** | The seven richest industrial countries (Canada, France, Germany, Italy, Japan, the United Kingdom and the United States) plus Russia |
| **HLP** | High-Level Panel |
| **IAEA** | International Atomic Energy Agency |
| **IMS** | International Monitoring System |
| **KEDO** | Korean Peninsula Energy Development Organisation |
| **MIVD** | Dutch Military Intelligence and Security Service |
| **MNAs** | Multilateral Nuclear Approaches |
| **NAM** | Non-Aligned Movement |
| **NATO** | North Atlantic Treaty Organisation |
| **NBC** | Nuclear, Biological and Chemical |
| **NBCR** | Nuclear, Biological, Chemical and Radiological |
| **NPT** | Non-Proliferation Treaty |
| **NSG** | Nuclear Suppliers Group |
| **NWFZ** | Nuclear-weapon-free-zones |
| **PSI** | Proliferation Security Initiative |
| **PVVN** | Dutch Permanent Mission to the United Nations |
| **SC** | Security Council |
| **SG** | Secretary-General |
| **SUA** | Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA Convention) |
| **UK** | United Kingdom |
| **UN** | United Nations |
| **UNSG** | Secretary-General of the United Nations |
| **US** | United States |
| **WMD** | Weapons of Mass Destruction |

International Atomic Energy Agency
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# TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

Notification of the entry into force

1. By letters addressed to the Director General on 5, 6 and 20 March 1970 respectively, the Governments of the United Kingdom of Great Britain and Northern Ireland, the United States of America and the Union of Soviet Socialist Republics, which are designated as the Depositary Governments in Article IX. 2 of the Treaty on the Non-Proliferation of Nuclear Weapons, informed the Agency that the Treaty had entered into force on 5 March 1970.

2. The text of the Treaty, taken from a certified true copy provided by one of the Depositary Governments, is reproduced below for the convenience of all Members.

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## TREATY

## ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS

The States concluding this Treaty, hereinafter referred to as the "Parties to the Treaty",

Considering the devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples,

Believing that the proliferation of nuclear weapons would seriously enhance the danger of nuclear war,

In conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons,

Undertaking to co-operate in facilitating the application of International Atomic Energy Agency safeguards on peaceful nuclear activities,

Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points,

Affirming the principle that the benefits of peaceful applications of nuclear technology, including any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices, should be available for peaceful purposes to all Parties to the Treaty, whether nuclear-weapon or non-nuclear-weapon States,

Convinced that, in furtherance of this principle, all Parties to the Treaty are entitled to participate in the fullest possible exchange of scientific information for, and to contribute alone or in co-operation with other States to, the further development of the applications of atomic energy for peaceful purposes,

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in the direction of nuclear disarmament,

Urging the co-operation of all States in the attainment of this objective,

Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapon tests in the atmosphere, in outer space and under water in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end,

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a Treaty on general and complete disarmament under strict and effective international control,

Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world's human and economic resources,

Have agreed as follows:

## ARTICLE I

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

## ARTICLE II

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

## ARTICLE III

1. Each Non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfilment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this Article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this Article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

2. Each State Party to the Treaty undertakes not to provide: *(a)* source or special fissionable material, or *(b)* equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this Article.

3. The safeguards required by this Article shall be implemented in a manner designed to comply with Article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this Article and the principle of safeguarding set forth in the Preamble of the Treaty.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this Article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

## ARTICLE IV

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in. the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also co-operate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

## ARTICLE V

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations on this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

## ARTICLE VI

Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

## ARTICLE VII

Nothing in this Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

## ARTICLE VIII

1. Any Party to the Treaty may propose amendments to this Treaty. The text of any proposed amendment shall be submitted to the Depositary Governments which shall circulate it to all Parties to the Treaty. Thereupon, if requested to do so by one-third or more of the Parties to the Treaty, the Depositary Governments shall convene a conference, to which they shall invite all the Parties to the Treaty, to consider such an amendment.

2. Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to the Treaty, including the votes of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. The amendment shall enter into force for each Party that deposits its instrument of ratification of the amendment upon the deposit of such instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Party to the Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency. Thereafter, it shall enter into force for any other Party upon the deposit of its instrument of ratification of the amendment.

3. Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realised. At intervals of five years thereafter. a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

## ARTICLE IX

1. This Treaty shall be open to all States for signature. Any State which does not sign the Treaty before its entry into force in accordance with paragraph 3 of this Article may accede to it at any time.

2. This Treaty shall be subject to ratification by signatory States. Instruments of ratification and instruments of accession shall be deposited with the Governments of the United Kingdom of Great Britain and Northern Ireland, the Union of Soviet Socialist Republics and the United States of America, which are hereby designated the Depositary Governments.

3. This Treaty shall enter into force after its ratification by the States, the Governments of which are designated Depositaries of the Treaty, and forty other States signatory to this Treaty and the deposit of their instruments of ratification. For the purposes of this Treaty, a nuclear-weapon State is one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January, 1967.

4. For States whose instruments of ratification or accession are deposited subsequent to the entry into force of this Treaty, it shall enter into force on the date of the deposit of their instruments of ratification or accession.

5. The Depositary Governments shall promptly inform all signatory and acceding States of the date of each signature, the date of deposit of each instrument of ratification or of accession, the date of the entry into force of this Treaty, and the date of receipt of any requests for convening a conference or other notices.

6. This Treaty shall be registered by the Depositary Governments pursuant to Article 102 of the Charter of the United Nations.

## ARTICLE X

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

2. Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.

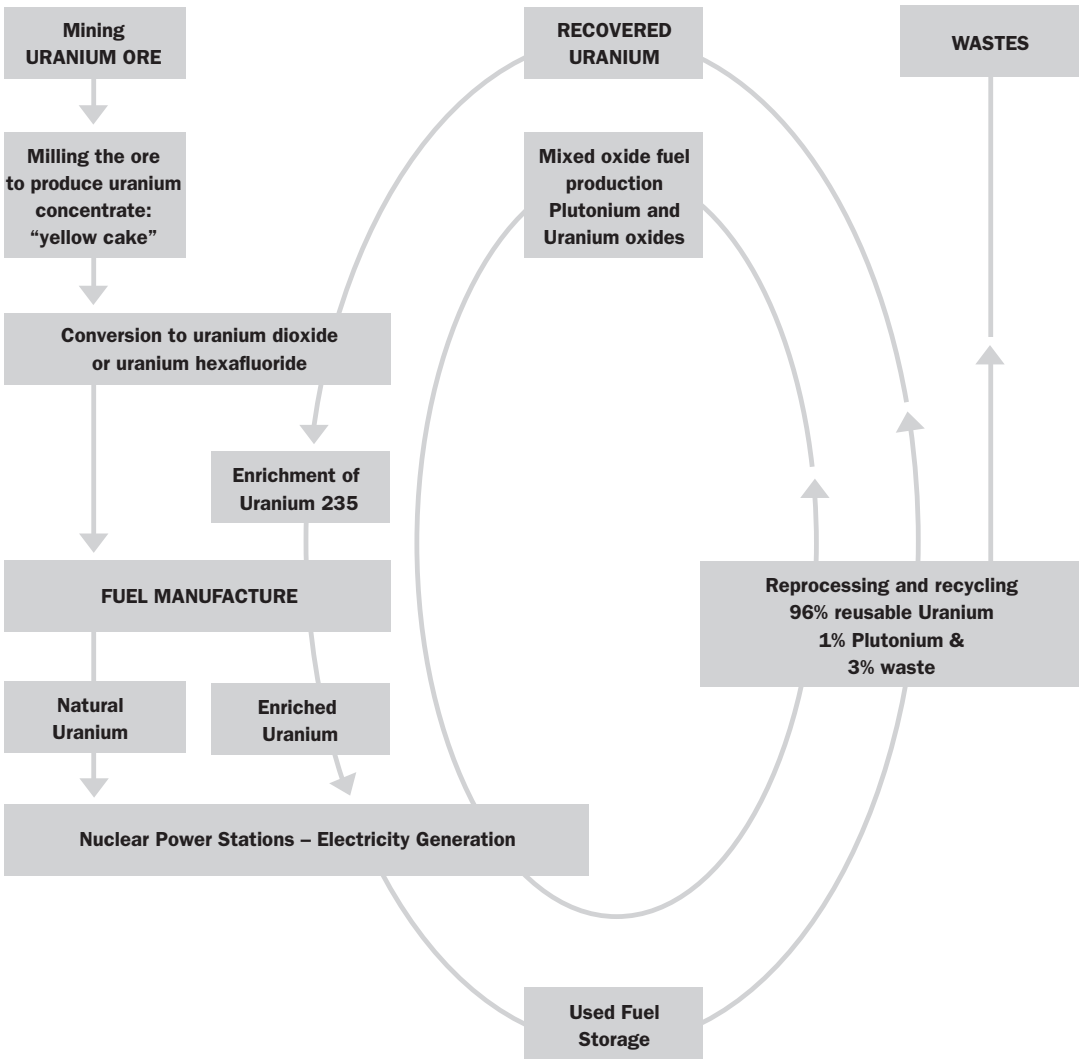
## ARTICLE XI

This Treaty, the English, Russian, French, Spanish and Chinese texts of which are equally authentic, shall be deposited in the archives of the Depositary Governments. Duly certified copies of this Treaty shall be transmitted by the Depositary Governments to the Governments of the signatory and acceding States.

IN WITNESS WHEREOF the undersigned, duly authorised, have signed this Treaty.

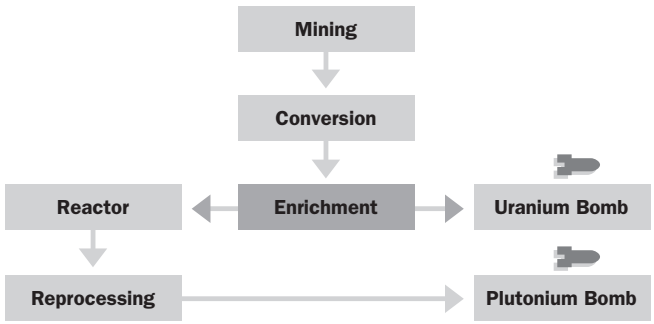
DONE in triplicate, at the cities of London, Moscow and Washington, the first day of July, one thousand nine hundred and sixty-eight.

## The nuclear fuel cycle




*Source: The Institution of Electrical Engineers, The Nuclear Fuel Cycle Fact Sheet, January 2003,* <www.iee.org/Policy/Areas/EnvEnergy/nucfuelcycl.pdf>.

## The proliferation risk explained:




*Source: BBC News, In-Depth Nuclear Fuel Cycle, 2003,*
(http://news.bbc.co.uk/1/hi/in_depth/world/2003/nuclear_fuel_cycle/enrichment/default.stm)

## Important terms from the nuclear fuel cycle defined

**Nuclear fuel cycle**
All steps in the use of nuclear fuel, from uranium mining to the storage of radioactive waste.

**Yellow cake**
The ores that contain uranium are concentrated to obtain a powder known as yellow cake, over 60% of which consists of uranium. Some 99% of the mined ore is waste.

**Uranium hexafluoride**
As yellow cake is not suitable for use in nuclear power stations, it is converted into gaseous uranium hexafluoride (or into uranium dioxide for nuclear power stations that do not use enriched uranium). Uranium hexafluoride is not suitable for use in nuclear power stations, it has to be enriched first.

**Enrichment**
Only 0.7% of natural uranium, mainly uranium-235, is suitable for nuclear fusion. A higher concentration is used in most nuclear power stations. For this purpose uranium hexafluoride must be enriched to about 5% (low-enriched uranium), for example by ultracentrifuge or gas diffusion. Weapons-grade uranium (suitable for a uranium bomb) is enriched to 90% (highly enriched uranium).

**Reprocessing**
Spent fuel rods consist of uranium (96%), plutonium (1%) and waste (3%). Reprocessing separates the radioactive waste, which must then be stored safely. If the spent fuel were not reprocessed, it would all have to be stored as waste. The uranium and plutonium can be used in new fuel rods. The plutonium can also be used for a plutonium bomb.

**The 13 practical disarmament steps agreed at the 2000 NPT Review Conference**

*Quotation from the final document*
[…]
The Conference agrees on the following practical steps for the systematic and progressive efforts to implement article VI of the Treaty on the Non-Proliferation of Nuclear Weapons and paragraphs 3 and 4 (c) of the 1995 Decision on "Principles and Objectives for Nuclear Non-Proliferation and Disarmament":

1. The importance and urgency of signatures and ratifications, without delay and without conditions and in accordance with constitutional processes, to achieve the early entry into force of the Comprehensive Nuclear-Test-Ban Treaty.
2. A moratorium on nuclear-weapon-test explosions or any other nuclear explosions pending entry into force of that Treaty.
3. The necessity of negotiations in the Conference on Disarmament on a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices in accordance with the statement of the Special Coordinator in 1995 and the mandate contained therein, taking into consideration both nuclear disarmament and nuclear non-proliferation objectives. The Conference on Disarmament is urged to agree on a programme of work which includes the immediate commencement of negotiations on such a treaty with a view to their conclusion within five years.
4. The necessity of establishing in the Conference on Disarmament an appropriate subsidiary body with a mandate to deal with nuclear disarmament. The Conference on Disarmament is urged to agree on a programme of work which includes the immediate establishment of such a body.
5. The principle of irreversibility to apply to nuclear disarmament, nuclear and other related arms control and reduction measures.
6. An unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament to which all States parties are committed under article VI.
7. The early entry into force and full implementation of START II and the conclusion of START III as soon as possible while preserving and strengthening the Treaty on the Limitation of Anti-Ballistic Missile Systems as a cornerstone of strategic stability and as a basis for further reductions of strategic offensive weapons, in accordance with its provisions.
8. The completion and implementation of the Trilateral Initiative between the United States of America, the Russian Federation and the International Atomic Energy Agency.
9. Steps by all the nuclear-weapon States leading to nuclear disarmament in a way that promotes international stability, and based on the principle of undiminished security for all:
   – Further efforts by the nuclear-weapon States to reduce their nuclear arsenals unilaterally;
   – Increased transparency by the nuclear-weapon States with regard to the nuclear weapons capabilities and the implementation of agreements pursuant to article VI and as a voluntary confidence-building measure to support further progress on nuclear disarmament;
   – The further reduction of non-strategic nuclear weapons, based on unilateral initiatives and as an integral part of the nuclear arms reduction and disarmament process;

- Concrete agreed measures to further reduce the operational status of nuclear weapons systems;
- A diminishing role for nuclear weapons in security policies to minimize the risk that these weapons will ever be used and to facilitate the process of their total elimination;
- The engagement as soon as appropriate of all the nuclear-weapon States in the process leading to the total elimination of their nuclear weapons.

10. Arrangements by all nuclear-weapon States to place, as soon as practicable, fissile material designated by each of them as no longer required for military purposes under IAEA or other relevant international verification and arrangements for the disposition of such material for peaceful purposes, to ensure that such material remains permanently outside of military programmes.
11. Reaffirmation that the ultimate objective of the efforts of States in the disarmament process is general and complete disarmament under effective international control.
12. Regular reports, within the framework of the strengthened review process for the Non-Proliferation Treaty, by all States parties on the implementation of article VI and paragraph 4 (c) of the 1995 Decision on "Principles and Objectives for Nuclear Non-Proliferation and Disarmament", and recalling the advisory opinion of the International Court of Justice of 8 July 1996.
13. The further development of the verification capabilities that will be required to provide assurance of compliance with nuclear disarmament agreements for the achievement and maintenance of a nuclear-weapon-free world.

[…]

*(NPT/CONF.2000/28)*

**Annexe VI**

**States thought capable of quickly developing a crude nuclear weapon**

1. Algeria
2. Argentina
3. Australia
4. Austria
5. Belgium
6. Brazil
7. Bulgaria
8. Canada
9. Chile
10. Egypt
11. Finland
12. Germany
13. Hungary
14. Indonesia
15. Italy
16. Japan
17. Mexico
18. Netherlands
19. Norway
20. Poland
21. Romania
22. Slovakia
23. South Africa
24. South Korea
25. Spain
26. Sweden
27. Switzerland
28. Taiwan
29. Turkey
30. Ukraine

*Source: Carnegie Endowment for International Peace 2005, <www.ProliferationNews.org>*

## Council Common Position of 25 April 2005 relating to the 2005 Review Conference

L 106/32 EN Official Journal of the European Union 27.4.2005

*(Acts adopted under Title V of the Treaty on European Union)*

### 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**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on European Union, and in particular Article 15 thereof,

Whereas:

(1) The European Union continues to regard the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) as the cornerstone of the global nuclear non-proliferation regime, the essential foundation for the pursuit of nuclear disarmament in accordance with Article VI of the NPT and an important element in the further development of nuclear energy applications for peaceful purposes.

(2) On 17 November 2003 the Council adopted Common Position 2003/805/CFSP on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery [1]. On 12 December 2003 the European Council adopted a Strategy against proliferation of Weapons of Mass Destruction.

(3) The United Nations Security Council unanimously adopted Resolution 1540 (2004), describing the proliferation of weapons of mass destruction and their means of delivery as a threat to international peace and security.

(4) The 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons with the task of examining the Treaty and the question of its extension adopted decisions on the indefinite extension of the Treaty on the Non-Proliferation of Nuclear Weapons, on principles and objectives for nuclear non proliferation and disarmament and on strengthening the review process for that Treaty and a resolution on the Middle East.

(5) On 13 April 2000 the Council adopted Common Position 2000/297/CFSP relating to the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons [2].

(6) The 2000 NPT Review Conference adopted a final document.

(7) The Preparatory Committee for the 2005 NPT Review Conference held three sessions, from 8 to 19 April 2002 in New York, 28 April to 9 May 2003 in Geneva and 26 April to 7 May 2004 in New York.

(8) On 29 April 1997 the Council adopted Joint Action 97/288/CFSP on the European Union's contribution to the promotion of transparency in nuclear-related export controls [3].

(9) On 17 May 2004 the Council adopted Joint Action 2004/495/CFSP on support for IAEA activities under its Nuclear Security Programme and in the framework of the implementation of the EU Strategy against Proliferation of Weapons of Mass Destruction [4].

(10) On 1 June 2004 the Council adopted a statement of support for the Proliferation Security Initiative on Weapons of Mass Destruction.

(11) The Additional Protocol to the Verification Agreement between the Non-Nuclear-Weapon States of the European Atomic Energy Community (EURATOM), EURATOM and the International Atomic Energy Agency (IAEA), the Additional Protocol to the Safeguards Agreement between France, EURATOM and the IAEA, and the Additional Protocol to the Safeguards Agreement between the United Kingdom, EURATOM and the IAEA have been signed and entered into force on 30 April 2004.

(12) In the light of the outcome of the 2000 Review Conference and of the discussions at the three sessions of the Preparatory Committee for the NPT 2005 Review Conference, and bearing in mind the current situation, it is appropriate to update and develop further the objectives set out in Common Position 2000/297/CFSP, and the initiatives carried out under its terms,

[1] OJ L 302, 20.11.2003, p. 34.
[2] OJ L 97, 19.4.2000, p. 1.
[3] OJ L 120, 12.5.1997, p. 1.
[4] OJ L 182, 19.5.2004, p. 46.

HAS ADOPTED THIS COMMON POSITION:

*Article 1*

The objective of the European Union shall be to strengthen the international nuclear non proliferation regime by promoting the successful outcome of the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).

*Article 2*

For the purposes of the objective laid down in Article 1, the European Union shall:

(a) contribute to a structured and balanced review of the operation of the NPT at the 2005 Review Conference, including the implementation of undertakings of the States Parties under the said Treaty, as well as the identification of areas in which, and of means through which, further progress should be sought in future;

(b) help build a consensus on the basis of the framework established by the NPT by supporting the Decisions and the Resolution adopted at the 1995 Review and Extension Conference and the final document of the 2000 NPT Review Conference, and shall bear in mind the current situation and shall promote *inter alia* the following essential issues, including:

1. undertaking efforts to preserve the integrity of the NPT and strengthen its implementation;

2. recognising that the NPT is a unique and irreplaceable multilateral instrument for maintaining and reinforcing international peace, security and stability, in that it establishes a legal framework for preventing increased proliferation of nuclear weapons and for developing further a verification system guaranteeing that non-nuclear-weapons States use nuclear energy solely for peaceful purposes, and that it represents the essential foundation for the pursuit of nuclear disarmament in accordance with Article VI thereof;

3. working towards universal accession to the NPT;

4. stressing the absolute necessity of full compliance with all the provisions of the NPT by all States Parties;

5. calling on all States not party to the NPT to pledge commitments to non-proliferation and disarmament and calling on those States to become States Parties to the NPT as non nuclear weapon States.

6. recognising that serious nuclear proliferation events have occurred since the end of the 2000 Review Conference;

7. stressing the need to strengthen the role of the UN Security Council, as final arbiter, in order that it can take appropriate action in the event of non-compliance with NPT obligations, in keeping with the Statute of the International Atomic Energy Agency (IAEA), including the application of safeguards;

8. drawing attention to the potential implications for international peace and security of withdrawal from the NPT. Urging the adoption of measures to discourage withdrawal from the said Treaty;

9. calling for nuclear cooperation to be suspended where the IAEA is not able to provide adequate assurances that a State's nuclear programme is designed exclusively for peaceful purposes, until such time as the Agency is able to provide such assurances;

10. calling on all States in the region to make the Middle East into an effectively verifiable zone free of nuclear weapons and other weapons of mass destruction and their delivery systems, in keeping with the Resolution on the Middle East adopted at the 1995 Review and Extension Conference;

11. since security in Europe is linked to security in the Mediterranean, giving top priority to implementation of the nuclear non-proliferation regime in that region;

12. acknowledging the importance of nuclear-weapon-free zones for peace and security, on the basis of arrangements freely entered into between the States of the region concerned;

13. stressing the need to do everything possible to prevent the risk of nuclear terrorism, linked to possible terrorist access to nuclear weapons or materials that could be used in the manufacture of radiological dispersal devices and, in this context, stressing the need for compliance with obligations under Security Council Resolution 1540 (2004). Calling for tighter security for high activity radioactive sources. Supporting G8 and IAEA action in this regard;

14. recognising that, in the light of the increased threat of nuclear proliferation and terrorism, the Proliferation Security Initiative, the Global Threat Reduction Initiative and the G8 Global Partnership Initiative should be approved;

15. calling for universal accession to the Comprehensive Safeguards Agreements and Additional Protocols;

16. recognising that Comprehensive Safeguards Agreements and Additional Protocols have a deterrent effect on nuclear proliferation and form today's verification standard, and continuing to work for increased detectability of any violations of Treaty obligations;

17. working for recognition by the IAEA Board of Governors that the conclusion of a Comprehensive Safeguards Agreement and an Additional Protocol is today's verification standard;

18. highlighting the IAEA's unique role in verifying States' compliance with their nuclear Non-proliferation commitments and helping them, on request, to tighten up the security of nuclear materials and installations, and calling on States to support the Agency;

19. recognising the importance of appropriate effective export controls, in compliance with Security Council Resolution 1540 (2004) and in accordance with Article III.2 of the NPT;

20. implementing, at national level, effective export, transit, transhipment and re-export controls, including appropriate laws and regulations for that purpose;

21. enacting effective criminal sanctions to deter illegal export, transit, brokering, trafficking and related financing, in compliance with UNSC Resolution 1540 (2004);

22. urging the Zangger Committee and the Nuclear Suppliers Group to share their experience on export controls, so that all States can draw on the arrangements of the Zangger Committee and the Nuclear Suppliers Group (NSG) guidelines;

23. pointing up the need to strengthen the (NSG) Guidelines at an early date, to adapt them to new non-proliferation challenges;

24. calling on the States Parties to the Convention on the Physical Protection of Nuclear Material to work for rapid conclusion of an amended Convention;

25. recognising the right of States Parties to the NPT to nuclear energy for peaceful purposes, in accordance with Article IV thereof, with due regard for Articles I, II and III of the Treaty;

26. underlining the importance of continuing international cooperation in order to strengthen nuclear safety, safe waste management and radiological protection and calling upon States that have not yet done so to accede to all the relevant conventions as soon as possible and to implement fully the ensuing commitments;

27. noting that the States Parties to the NPT, may, pursuant to Article IV thereof, have resort to peaceful uses of nuclear energy, *inter alia* in the area of production of electricity, industry, health and agriculture;

28. urging the formulation of guarantees of access to nuclear fuel services, or to fuel itself, subject to appropriate conditions;

29. noting the report of the IAEA's expert group on multinational approaches to the nuclear fuel cycle and promoting an early start to its scrutiny by the IAEA;

30. stressing, while acknowledging the nuclear arms reductions which have taken place since the end of the cold war, the need for an overall reduction in nuclear arsenals in the pursuit of gradual, systematic nuclear disarmament under Article VI of the NPT and welcoming, in this context, the ratification of the Moscow Treaty by the Russian Federation and the United States of America in 2002, while stressing the need for more progress in reducing their arsenals;

31. stressing the need to implement the declarations made by the Presidents of Russia and America in 1991 and 1992 on unilateral reductions in their stocks of non-strategic nuclear weapons and calling on all States with non-strategic nuclear weapons to include them in their general arms control and disarmament processes, with a view to their reduction and elimination;

32. recognising application of the principle of irreversibility to guide all measures in the field of nuclear disarmament and arms control, as a contribution to the maintenance and reinforcement of international peace, security and stability, taking these conditions into account;

33. recognising the importance, from the point of view of nuclear disarmament, of the programmes for the destruction and elimination of nuclear weapons and the elimination of fissile material as defined under the G8 World Partnership;

34. pursuing efforts to secure transparency, as a voluntary Confidence Building Measure to support further progress in disarmament;

35. since the Comprehensive Nuclear Test Ban Treaty (CTBT) forms an essential part of the nuclear disarmament and non-proliferation regime and with a view to its entry into force as soon as possible, without conditions, calling on States, particularly those listed in Annex II, to sign and ratify the said Treaty without delay and without conditions and, pending the entry into force of the said Treaty, calling on all States to abide by a moratorium and to refrain from any action contrary to the obligations and provisions of the said Treaty. Highlighting the importance of the work of the CTBT Organisation Preparatory Commission and actively supporting the work of the Special Representative of the States which have ratified the Treaty charged with promoting universal accession to the Treaty;

36. appealing again to the Disarmament Conference for the immediate commencement and early conclusion of a non-discriminatory, universally applicable Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices, without pre-conditions, and bearing in mind the special coordinator's report and the mandate included therein and, pending entry into force of the said Treaty, calling on all States to declare and uphold a moratorium on the production of fissile material for nuclear weapons or other nuclear explosive devices. The EU welcomes the action of those of the five nuclear-weapon States which have decreed the relevant moratorium;

37. calling on all States concerned to take appropriate practical measures in order to reduce the risk of accidental nuclear war;

38. pursuing consideration of the issue of security assurances to the non-nuclear-weapon States Parties to the NPT;

39. calling on nuclear-weapon States to reaffirm existing security assurances noted by the United Nations Security Council in Resolution 984(1995) and to sign and ratify the relevant protocols on nuclear-weapon-free zones, drawn up following the requisite consultations, recognising that Treaty-based security assurances are available to such zones;

40. stressing the need for general disarmament;

41. highlighting the importance of universal accession and implementation of the Biological and Toxins Weapons Convention (BTWC), the Chemical Weapons Convention (CWC) and the conventions, measures and initiatives contributing to conventional arms control;

42. calling for universal accession to and effective implementation of the Hague Code of Conduct against Ballistic Missile Proliferation;

43. working for the resolution of the problems of regional instability and insecurity and of the conflict situations which are often at the root of armament programmes.

*Article 3*

Action taken by the European Union for the purposes of Article 2 shall comprise:

(a) where appropriate, demarches by the Presidency, pursuant to Article 18 of the Treaty on European Union, with a view to promoting the universality of the NPT;

(b) demarches by the Presidency, pursuant to Article 18 of the Treaty on European Union, with regard to States Parties to the NPT, in order to urge their support for the objectives set out in Article 2 of this Common Position;

(c) the pursuit of agreement by Member States on draft proposals on substantive issues for submission on behalf of the European Union for consideration by States Parties to the NPT which may form the basis for decisions of the NPT 2005 Review Conference;

(d) Statements by the European Union delivered by the Presidency in the General Debate and in the debates in the three Main Committees.

*Article 4*

This Common Position shall take effect on the date of its adoption.

*Article 5*

This Common Position shall be published in the *Official Journal of the European Union*.

Done at Luxembourg, 25 April 2005.

*For the Council*

*The President*

J. ASSELBORN

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