



Non-NPT Nuclear-Armed States and the NPT:

Closing the Gap

Sadia Tasleem

Summary

The need to bridge the gap between the NPT and the non-NPT nuclear-armed states is vital for achieving the core objectives of the NPT. A review of the policies and practices adopted by the non-NPT nuclear-armed states reveals that at least three of the four (namely, Israel, India and Pakistan) have made notable progress in cultivating a shared sense of obligations with the international community, particularly in the context of preventing proliferation and ensuring the safety and security of nuclear and radiological materials. Also, Israel, India and Pakistan have shown interest in access to peaceful nuclear technology as well as integration with the nuclear and missile export control regimes. However, no meaningful progress has been made on nuclear disarmament. This Policy Brief examines the status of the non-NPT NAS vis-à-vis the three core objectives of the NPT, that is non-proliferation, access to peaceful nuclear technologies and disarmament. It identifies the areas where meaningful progress has been made and highlights the gaps that continue to exist. It then discusses possible ways to bridge the existing gaps by evaluating two options, that is the 'incremental approach' with a focus on membership of the Nuclear Suppliers Group, and the other which focuses on the nuclear ban treaty. The paper concludes with a set of recommendations for the way forward.

1. The global nuclear order centred on the Nuclear Non-Proliferation Treaty (NPT) is facing multifarious challenges. On the one hand, the non-nuclear weapon states are deeply frustrated with the excruciatingly slow progress on Article VI of the treaty which deals with disarmament. On the other hand, the non-NPT nuclear-armed states (NAS) continue to irk many for being outside any legally binding arrangement to comply with the NPT agenda.

2. From the perspective of the NPT, the need for closing the gap has always been a priority for the obvious reason that the treaty will only become fully effective if it is fully universal.¹ The concern regarding proliferation was probably the most critical at one point in time and it continues to remain both relevant and important. However several arrangements outside the NPT have helped the non-NPT NAS develop a shared interest in preventing the spread of nuclear weapons. Today, the most critical issue for the regime is disarmament.

3. In the contemporary world, the relationships between the nuclear programs, doctrines and postures of the nuclear weapon states (NWS) and non-NPT NAS has become so intricate that

¹ Mohamed ElBaradei, "Treaty on the Non-Proliferation of Nuclear Weapons," at 2005 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons, 2 May 2005, <https://www.iaea.org/newscenter/statements/treaty-non-proliferation-nuclear-weapons>.

meaningful progress on disarmament will remain elusive as long as India, Pakistan, Israel and the Democratic People's Republic of Korea (DPRK) are not under a legally binding framework to achieve this purpose. On the other hand, the non-NPT NAS have an interest in engaging with the non-proliferation regime to establish their credentials as responsible nuclear powers and to seek legitimacy for their nuclear programs. Also, at least three of the four non-NPT NAS have expressed an explicit interest in the global nuclear energy market, as well as the space market, and consequently the membership in nuclear and missile export control regimes, in particular the Nuclear Suppliers Group (NSG).

4. It is important therefore to explore possibilities that could help reduce the gap between the non-NPT NAS and the NPT. The literature on the NPT has dealt with this question for several years now. Dozens of constructive proposals have been put forward from various parts of the world. Some proposals have in fact helped reduce the gap between the non-NPT NAS vis-à-vis specific objectives like preventing proliferation and strengthening the culture of safety and security of nuclear materials and related technologies. However, no meaningful progress has been made on disarmament. At this stage it is important to take stock of the situation and identify the areas where meaningful progress has been made. It is equally important to highlight the gaps that continue to exist and discuss possible ways to bridge those gaps.

Mapping the Trends, Assessing the Gap

5. All the non-NPT NAS are in some ways distinct. Their concerns, interests and worldviews all vary according to their perceptions of their security needs, their energy requirements, their sense of history as well as their experiences at multilateral platforms. In addition, the DPRK is unique in being the only state that has withdrawn from the NPT.

6. However, all the non-NPT NAS have a shared interest in seeking legitimacy from the international community for their nuclear weapons programs. As a result at least three of the nuclear holdout states (India, Pakistan and Israel)

continue to pay lip service to their shared interest in strengthening the health of the non-proliferation regime. However, quite often this interest appears to be restricted to nuclear energy cooperation, safety and security and preventing horizontal proliferation. There is very little political or diplomatic incentive for any of the four holdout states to seek vertical non-proliferation and disarmament.

7. The section below will take stock of the status and stated positions of the non-NPT NAS vis-à-vis the three pillars of the NPT, that is, nuclear energy, non-proliferation and disarmament.

India

Non-Proliferation

8. India has traditionally held a revisionist position vis-à-vis the NPT-centric global nuclear order. However, India's official position has evolved significantly over the last two decades. Today, India claims that it is adhering to the broader principles of the non-proliferation regime including non-proliferation and disarmament. India's representative at the First Committee of the UN General Assembly in October this year explained India's position in these words: "The question of India joining the NPT as a non-nuclear weapon state does not arise. At the same time we support upholding and strengthening global non-proliferation objectives, in particular the full and effective implementation by States of their obligations arising from the relevant agreements and treaties, including the NPT." He further stated that "India is committed to making its contribution to strengthening non-proliferation."²

9. India's commitment to the global non-proliferation agenda is manifested in its measures specifically meant to contain horizontal proliferation by joining export control regimes and strengthening the safety and security of nuclear materials and related technologies. India is party to the Convention on Nucle-

² Statement by Ambassador Amandeep Singh Gill, Permanent Representative of India to the Conference on Disarmament, "At the Thematic Debate on Nuclear Weapons," 72nd First Committee, 12 October 2017.

ar Safety, the Convention on Early Notification of a Nuclear Accident, the Nuclear Terrorism Convention, the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency and the Convention on Physical Protection of Nuclear Materials (CPPNM) and the 2005 CPPNM Amendment. Furthermore, India is also a member of The Hague Code of Conduct against Ballistic Missile Proliferation (HCOG) and the Global Initiative to Combat Nuclear Terrorism (GICNT). India also earnestly implements UN Security Council Resolution 1540.

10. However, India like other non-NPT NAS continues to expand its nuclear arsenal and fissile material stockpiles.

Nuclear Energy

11. Cooperation in the field of nuclear energy had been seen by the non-proliferation pundits as a fertile space to negotiate agreements that could help incentivize non-NPT NAS to take upon themselves at least some of the responsibilities enshrined in the NPT. After the 1998 nuclear tests by India and Pakistan, the Western world in general and the United States in particular grew deeply concerned about the prospects of further proliferation. At the same time, India claimed its 'rightful' place in the comity of nations.

12. Under such circumstances, the diplomatic engagement between India and the United States resulted in what is popularly known as the Indo-US nuclear deal. The Bush administration justified its support for the deal as a contribution to non-proliferation. The Indian government looked at the deal as testimony of India's responsible behaviour, India's recognition as a nuclear power and a huge bargaining success. Manish Tiwari, official spokesman for the ruling Congress Party, said: "Without compromising on our weapons program, without compromising on our fast-breeder reactor program, without signing the NPT, the CTBT [Comprehensive Nuclear Test-Ban Treaty], or the Fissile Material Cut-off Treaty, India has been able to access the entire spectrum of civil

nuclear commerce on very much its own terms."³

13. The deal opened for India access to the global nuclear trade at minimal cost. As a result, today India is better integrated and is actively engaging the global nuclear market and international regimes. India enjoys a special NSG waiver, and membership in both the Missile Technology Control Regime (MTCR) and more recently the Wassenaar Arrangement.⁴ India's integration in the international export control regimes has placed it at a uniquely advantageous position vis-à-vis the other three non-NPT NAS. Conversely, it has created tremendous challenges for opening-up a fair and equitable bargaining process that could help bring all the other non-NPT NAS closer to the NPT without jeopardizing the NPT's agenda.

Disarmament

14. India appears to be relatively more flexible in discussing nuclear disarmament than the other three non-NPT NAS. As a result, the rhetoric on disarmament is fairly loud and vivid. However, India's commitment to disarmament has yet to be credibly established by means of practical steps in favour of disarmament. For instance, despite the fact that there is a reasonable support for CTBT within the Indian intellectual elite⁵— Indian officials maintain their reluctance to sign the treaty. India's massive investment in building new weapons systems is a clear testimony of India's view of a world where nuclear weapons do not appear to be diminishing in their utility.⁶ The way India is

³ Sarah Davidson, "India risks losing its nuclear ally in Washington," *The National*, 29 January 2009, <https://www.thenational.ae/world/asia/india-risks-losing-its-nuclear-ally-in-washington-1.533985>.

⁴ PTI, "Wassenaar Arrangement decides to make India its member," *The Hindu*, 8 December, 2017, <http://www.thehindu.com/news/national/wassenaar-arrangement-decides-to-make-india-its-member/article21293077.ece>.

⁵ R. Rajaraman, "It is time India signs the nuclear test ban treaty," *The Wire*, 6 January 2017, <https://thewire.in/94539/india-nuclear-test-ban-treaty/>; Happymon Jacob, "Rekindling the disarmament momentum," *The Hindu*, 21 September 2015, <http://www.thehindu.com/opinion/op-ed/rekindling-the-disarmament-momentum/article7671223.ece>; C. Raja Mohan, "Towards a CTBT Consensus," *The Hindu*, 9 November 1999.

⁶ Hans M. Kristensen and Robert S. Norris, "Indian Nuclear

being integrated in the global order leaves little reason for the ruling Bharatiya Janata Party (BJP) government to believe otherwise.

Pakistan

Non-Proliferation

15. Pakistan has come a long way in terms of understanding and appreciating the need to engage with the rest of the world on nuclear issues. The long shadow of suspicion regarding the intentions of Western countries and international organizations vis-à-vis Pakistan's nuclear program is slowly receding.⁷ That is not to say that Pakistan is anywhere close to being willing to meet all the objectives set under the NPT. Of course, there are many challenges. However, a close look at the evolving trends suggests that Pakistan has made notable progress on bridging the gap with the international community, particularly on preventing the spread of nuclear weapons, sensitive materials and related technologies.

16. Against the backdrop of the infamous A. Q. Khan affair⁸, Pakistan has pledged to support international efforts to prevent further proliferation. As a result Pakistan adopted a stringent export control act in 2004 and set up an Oversight Board in 2007 to monitor its implementation.

17. At the domestic level, in 2010 Pakistan promulgated the National Command Authority Act which provides the legislative framework to regulate all activities relating to nuclear and radiological components. As far as the multilateral arrangements are concerned, Pakistan is party to the Convention on Nuclear Safety, the

Convention on Early Notification of a Nuclear Accident, the Convention on Assistance in the Case of a Nuclear Accident or Radiological Emergency, the CPPNM, and in March 2016 Pakistan also ratified the Amendment to the CPPNM. It is a member of the GICNT but is not a subscriber to HCOC. Moreover, Pakistan actively participates in the UN General Assembly First Committee meetings; the Conference on Disarmament; the International Atomic Energy Agency (IAEA)-led programs; and implements Security Council Resolution 1540.

Nuclear Energy

18. The sharp increase in the energy requirements of growing economies and the simultaneous worldwide renaissance of nuclear energy has made civil nuclear cooperation extremely attractive for many. Pakistan has also developed a huge interest in nuclear energy partly because of Pakistan's growing energy deficit and partly because of the India-US nuclear deal. As a result Pakistan has been actively involved in seeking support for its bid for NSG membership. However, Pakistan is not ready to give up anything more than what India would for membership. It is therefore hard to anticipate how close NSG membership would bring Pakistan and India to the core objectives of the NPT.

19. Moreover, like the Indo-US nuclear deal, the growing nuclear cooperation between China and Pakistan also raises important questions about the NPT's ability to regulate nuclear energy trade between the NPT signatories and the non-NPT NAS. Also, it raises important questions regarding the provision of access to civil nuclear technology as a quid pro quo to bringing the non-NPT NAS closer to the NPT.

Disarmament

20. Pakistan has a pessimistic view about the prospects of peace and therefore any meaningful progress on disarmament. The most recent quote from the thematic debate on nuclear weapons at the United Nations General Assembly on 13 October 2017 clearly indicates Pakistan's grim view of the future of disarmament. It states: "The international consensus reached at the SSOD-I [first Special Session on Disarmament, 1978] to systematically pursue nu-

Forces, 2017," *Bulletin of the Atomic Scientists*, 4 July 2017, <https://thebulletin.org/2017/july/indian-nuclear-forces-201710907>.

⁷ "Pakistan-EU discuss non-proliferation, peaceful use of nuclear energy," *The Express Tribune*, 22 November 2016, <https://tribune.com.pk/story/1565796/1-pakistan-eu-discuss-non-proliferation-peaceful-use-nuclear-arms/>. Also, the Pakistan US Strategic Dialogue covers a broad range of issues including non-proliferation and disarmament. It is difficult to determine the level of progress made during such dialogues but the fact that Pakistan is willing to engage in such conversations itself is a healthy trend.

⁸ David Albright, *Peddling Peril: How the Secret Nuclear Trade Arms America's Enemies* (New York: Free Press, 2010).

clear disarmament is breaking down. As the international and regional security environment worsens, the goal of nuclear disarmament seems even more elusive.”⁹ Pakistan’s official position couples nuclear disarmament with restrictions on conventional weapons to prevent conventional asymmetry between rival states.

21. Pakistan’s nuclear doctrine, policy and posture also clearly indicate a preference for further armament. It is diversifying its nuclear warheads as well as delivery means.¹⁰ Pakistan is also accused of blocking negotiations on a fissile material cut-off treaty (FMCT) at the Conference on Disarmament. Moreover, Pakistan has clearly sided with all the other nuclear-armed states in refusing to support the Treaty on the Prohibition of Nuclear Weapons (hereafter called the (nuclear) ban treaty). In Pakistan, unlike India, the voices advocating for disarmament are not only few but also often isolated and suppressed. This creates serious obstacles for campaigns like the ‘ban the bomb’ movement to make their voices heard.

Israel

Non-Proliferation

22. Israel poses a unique challenge for any attempt to bridge its gap with the NPT. Because of its opaque nuclear posture (also referred to as *amimut*, the Hebrew word for nuclear opacity or ambiguity and Israel’s one original contribution to the nuclear age), Israel refrains from sharing information about its nuclear weapons. There is very little known about its doctrine and posture. Also, owing to its policy of opacity Israel manages to evade international pressure – a luxury India and Pakistan do not enjoy. Highlighting the challenge posed by

opacity, Avner Cohen writes: “It is nearly impossible to engage Israel on nuclear issues because of the requirements of *amimut*, as for example, with the Fissile Material Cut-Off Treaty (FMCT) in the past, and it is apparent in Israel’s reluctance to accept a regional approach to the Iranian problem. Such a denial of reality is not in the interests of the international community.”¹¹ It is ironic that the policy that was articulated primarily with a “desire not to undermine the non-proliferation regime”¹² itself has in some ways created impediments for the health of the regime.

23. Opacity does not make Israeli nuclear weapons less dangerous, less prone to accidents or less threatening for world peace. The Government of Israel is cognizant of these challenges. Israel actively engages at international forums focusing on issues relating to nuclear safety and security. It is a party to many international treaties and conventions including the CPPNM, 2005 CPPNM Amendment, the Nuclear Terrorism Convention, the Convention on Early Notification of a Nuclear Accident and a partner in the GICNT. Israel has also signed the Convention on Nuclear Safety but has not ratified it.

Nuclear Energy

24. Israel’s interest in seeking nuclear cooperation from the international community has visibly grown as a result of the Indo-US nuclear deal. However, Israel like Pakistan is not willing to make any compromise on what it sees as its vital security interest. Also, unlike India and Pakistan, Israel has not yet formally applied for the NSG membership. However, Israel is believed to be the only state outside the NPT that fully adheres to the NSG guidelines.

Disarmament

25. Israelis consider disarmament to be “wishful thinking.”¹³ Israel holds that regional peace is a precondition for the long-held vision of a

⁹ Statement by Ambassador Farukh Amil, Permanent Representative of Pakistan to the UN and other International Organizations in Geneva, “At The Thematic Debate on Nuclear Weapons,” 13 October 2017, http://reachingcriticalwill.org/images/documents/Disarmament-fora/1com/1com17/statements/13Oct_Pakistan.pdf.

¹⁰ Regular testing of missiles is a prominent feature in the subcontinent. The more recent manifestation of diversifying missile types was the testing by Pakistan of MIRVs in early 2017. Pakistan is also moving towards a sea-based deterrent.

¹¹ Avner Cohen, *The Worst-Kept Secret: Israel’s Bargain With The Bomb* (New York: Columbia University Press, 2010) p. 248.

¹² *Ibid.*

¹³ *Ibid.*, p. 218.

Middle East Zone Free of the Weapons of Mass Destruction. The political interests of major powers in the Middle East place Israel in an advantageous position. Israel, despite evading commitments on disarmament, continues to receive political backing of the states like the US, UK and Canada at major international forums like the UN.¹⁴

26. Israel is opposed to an FMCT.¹⁵ Although the current stalemate on the FMCT at the Conference on Disarmament is caused by Pakistan, Israel makes no effort to advance the negotiation. However, Israel is the only non-NPT state to have signed the CTBT though it has yet to ratify. Israel's nuclear weapons capabilities and posture also make it different from India and Pakistan. Although Israel's nuclear policy is more opaque than any other non-NPT state, it possesses fairly advanced weapons systems and a nuclear triad – land, air and sea launch capability. Israel has reportedly deployed nuclear-tipped cruise missiles on its German built submarines.¹⁶ These trends along with Israel's policy of opacity leave little room for a public debate on nuclear disarmament.¹⁷ In this sense, the chance of the ban treaty making a significant impact on Israel is difficult to envision.

DPRK

27. The gap between the DPRK and the NPT has grown wider than it is with all the other non-NPT NAS. The fact that DPRK remains the only state in the world that withdrew from the NPT and conducted nuclear tests makes it hard to identify ways that could help revive the DPRK's faith in a treaty it decided to leave. Of

all the non-NPT NAS, the DPRK is currently the least integrated in the global nuclear order. Concerning the international legal framework, the DPRK is a signatory only of the Convention on Early Notification of a Nuclear Accident, but it has not ratified the convention.

28. The DPRK is continuing with nuclear testing. The ongoing crisis on the Korean Peninsula has made the region a nuclear flashpoint. Although the DPRK's nuclear arsenal is assumed to be smaller than those of the other states possessing nuclear weapons, the tensions on the peninsula do not offer much hope for the future of non-proliferation in the region.

29. Contrary to the other non-NPT NAS, the DPRK is facing sanctions under several Security Council resolutions. The NSG also upholds the Security Council sanctions. Therefore, currently there is no question of the NSG considering the DPRK for membership.¹⁸

Options

30. The logical question then is what is the way forward? This section will recapitulate the policies of the non-NPT NAS and elaborate on various options that are under consideration to help reduce the gap between them and the NPT. It will also attempt to address what could possibly be the most productive way of addressing the above-mentioned question.

31. An overview of the existing trends among the non-NPT NAS reveals that the core interest of at least three non-NPT NAS (namely Israel, India and Pakistan) exists in seeking legitimacy, getting access to nuclear technology for peaceful purposes and preventing the spread of nuclear weapons. The current policies and development trends do not suggest any sincere and meaningful commitment towards disarmament or containing vertical proliferation. From the standpoint of these non-NPT NAS, their best bet is to stay out of the NPT, avoid making any binding disarmament commitments and find a

¹⁴ For instance, the US, UK and Canada were instrumental in supporting the Israeli position on the Middle East nuclear-weapon-free-zone at the NPT Review Conference 2015 and consequently preventing the adoption of the final document. See, "US blocks nuclear disarmament move over Israel concern," *The Times of Israel*, 23 May 2015; <https://www.timesofisrael.com/us-rejects-nuclear-disarmament-document-over-israel-concerns/>.

¹⁵ "Nuclear Disarmament Israel," *Nuclear Threat Initiative*, 14 July 2017; <http://www.nti.org/analysis/articles/israel-nuclear-disarmament/>.

¹⁶ "Israel's deployment of nuclear missiles on subs from Germany," *Spiegel Online*, 4 June 2012, <http://www.spiegel.de/international/world/israel-deploys-nuclear-weapons-on-german-built-submarines-a-836784.html>.

¹⁷ Cohen, *The Worst-Kept Secret*, p. 218.

¹⁸ "NSG membership: Wait continues for India and Pakistan," *Business Standard*, 24 June 2016, http://www.business-standard.com/article/current-affairs/nsg-membership-wait-continues-for-india-and-pakistan-116062400514_1.html.

way to accrue both legitimacy and access to peaceful nuclear technology by membership of the export control regimes.

32. The Indo-US nuclear deal and subsequent NSG waiver for India have encouraged other non-NPT NAS to foresee possibilities for international recognition and nuclear cooperation outside the NPT regime. On the other hand, renewed nuclear cooperation between Pakistan and China has also opened a window of opportunity for Pakistan to address its energy deficit. However, it does not bring with it the international legitimacy and recognition that Pakistan aspires to gain by NSG membership. The gap between the non-NPT NAS and the core objectives of the NPT is being gradually bridged in non-proliferation but remains wide vis-à-vis disarmament.

33. It is also important to note that the attitude of the non-NPT NAS is inextricably linked to the future of nuclear disarmament under the NPT. The NWS will not give up their nuclear weapons until the non-NPT NAS also agree to do so (or a technological innovation makes the weapon itself obsolete).

34. Many great minds have struggled over the years to find ways to reduce the gap between the NPT and the non-NPT NAS. Dozens of proposals have been put forward in this regard.¹⁹ Given the contemporary political and strategic realities some of these options have clearly become non-starters, for example extending NPT membership to non-NPT NAS as non-NWS or a special amendment in the NPT to accommodate them as NWS. Other options like the regional arrangements outside the NPT that are often proposed by Pakistan as well as by Israel and others have also failed to materialize owing to the ever-increasing complexity in the geopolitical dynamics of the relevant regions, South Asia, Middle East and the Korean Peninsula.

35. Under such circumstances, two approaches have emerged as the most popular in the contemporary policy debates. The first is the NPT-centric, status quo oriented incremental approach to disarmament that advocates a step-by-step approach through multilateral and bilateral engagements. This approach considers it crucial to achieve a ban on nuclear testing and on fissile material production and stockpiling, and envisages doctrinal adjustments like the adoption of a 'no first use' commitment and transparency in nuclear doctrine and posture. In this context, the idea of using the benefits of NSG membership as a bargaining chip to bring the non-NPT NAS closer to the NPT objectives has received a lot of traction over the years. The second approach, now gaining in popularity, is centred on the nuclear ban treaty that calls for outlawing nuclear weapons without further delay. Both options offer opportunities but also face serious constraints.

The Incremental Approach and the NSG Option

36. As stated earlier the non-NPT NAS are willing to cooperate with the international community on containing the spread of nuclear weapons but they have so far shown varying degrees of resistance to the idea of reducing the role of nuclear weapons in their respective doctrines. Also, while Pakistan has taken centre stage in blocking the negotiations on the FMCT, both it and India continue to show reluctance to sign the CTBT. Meanwhile Israel, although a signatory of the CTBT, is neither supportive of the FMCT nor willing to become transparent about its nuclear program or doctrine.

37. Under these circumstances, some analysts propose that NSG membership be made conditional on concrete commitments that could help further the core objectives of the NPT. However, there is a high degree of scepticism regarding the possibility of the non-NPT NAS agreeing to such a bargain. If measured against the NPT agenda, the much-criticized Indo-US deal²⁰ and the subsequent NSG waiver granted

¹⁹ For a comprehensive review of the proposals and the reasons that explain why some of these proposals could not deliver, see Jenny Nielsen, "Engaging India, Israel and Pakistan in the Nuclear Non-Proliferation Regime," *Disarmament Diplomacy*, No. 86 (Autumn 2007), <http://www.acronym.org.uk/old/dd/dd86/86jn.htm>.

²⁰ For a detailed critique of the Indo-US nuclear deal see, Sharon Squassoni, "The U.S.-Indian Deal and Its Impact," *Arms Control Today* (2 July 2010), https://www.armscontrol.org/act/2010_07-08/squassoni;

to India have drastically reduced the value of NSG membership as a bargaining tool.

38. It appears that the negotiation criteria for NSG membership might include as the bare minimum the measures that India took to negotiate the Hyde Act (the US law that facilitates nuclear cooperation with India), including the signing of the Additional Protocol to IAEA INFCIRC 153 safeguards agreements, the separation of civil and military nuclear fuel cycle facilities and signing of the CTBT. Pakistan and Israel might also be expected to sign other nuclear security-related treaties and conventions that India has already signed.

39. Pakistan may need to reconsider signing the Nuclear Terrorism Convention. Pakistan and Israel can also seek to subscribe to the Hague Code of Conduct against Ballistic Missile Proliferation. India, Pakistan and Israel should also consider signing the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management.

40. Such a bargain would increase the effectiveness of NSG not only by bringing the potential future suppliers of nuclear technology under its export control framework, thereby reducing chances of proliferation, but also bringing Pakistan–China nuclear cooperation under its ambit. However, the current arrangement that potentially allows India nuclear trade with all the NSG members through the NSG waiver has undermined the bargaining leverage of the NSG by giving it a political outlook. Instead of evaluating membership applications based on transparent and objective criteria, India's NSG

waiver was approved largely based on the state of relations with India and its growing geopolitical weight as a country that matters in regional and world affairs. As a result the debate on membership has become a battlefield in South Asia's regional dynamics.

41. NSG member states also reportedly debated the issue of establishing ties with Israel on several occasions in the past but failed to reach consensus on opening the NSG's door to Israel. The issue is considered "sensitive and difficult" since Israel is the only state in the Middle East that possesses nuclear weapons and remains outside the NPT.²¹ Also, currently it does not appear likely that the NSG would be willing to accommodate the DPRK, even if the later applies for membership. Besides, the ultimate value of NSG membership (under the above-mentioned bargain) for the larger cause of disarmament remains debatable. The measures mentioned above may help contain proliferation, but the actual impact of such measures for disarmament remains unclear.²²

The Nuclear Ban Treaty Option

42. In comparison, the ban treaty looks likely to have greater impact on disarmament than the incremental approach. The treaty has opened a window of opportunity for disarmament with its one-size-fits-all approach. The NPT had created a binary divide between nuclear haves and have-nots by defining who is entitled to have the bomb and who is not. The nuclear ban treaty undermines such binaries by delegitimizing nuclear deterrence as a security policy. The nuclear ban treaty's non-discriminatory approach strengthens its moral authority.

Subrata Ghoshroy, "Taking Stock: The US–India nuclear deal 10 years later," *Bulletin of the Atomic Scientists*, 16 February 2016, <https://thebulletin.org/taking-stock-us-india-nuclear-deal-10-years-later9165>; Amitai Etzioni, "The darker side of the US–India nuclear deal," *The Diplomat*, 13 February 2015, <https://thediplomat.com/2015/02/the-darker-side-of-the-u-s-india-nuclear-deal/>; John Carlson, "Nuclear Cooperation with India – Non-Proliferation Success or Failure," 15 February 2015, http://carnegieendowment.org/files/India_nuclear_cooperation_15_Feb_15_2.pdf; Kalman A. Robertson and John Carlson, "The Three Overlapping Streams of India's Nuclear Programs" (Cambridge MA: Belfer Center for Science and International Affairs, April 2016), <https://www.belfercenter.org/sites/default/files/legacy/files/thethreeoverlappingstreamsofindiasnuclearpowerprograms.pdf>.

²¹ Fredrik Dahl, "Nuclear export group debates ties with Israel: document," *Reuters*, 14 April 2014; <https://www.reuters.com/article/us-nuclear-trade-israel/nuclear-export-group-debates-ties-with-israel-document-idUSBREA3DOT320140414>.

²² Mark Hibbs argues that there is a need to carefully examine the "tangible benefits of admitting non-NPT NAS to the NSG" vis-à-vis "the risk and potential damage to the nuclear non-proliferation regime." Mark Hibbs, "Toward a Nuclear Suppliers Group Policy For States Not Party To The NPT," Carnegie Endowment For International Peace, 12 February 2016, <http://carnegieendowment.org/2016/02/12/toward-nuclear-suppliers-group-policy-for-states-not-party-to-npt-pub-62758>.

43. I have argued elsewhere that the ban treaty itself may not guarantee disarmament.²³ However, it represents a paradigmatic shift from the deterrence discourse rooted in narrow strategic parameters shaped by national security considerations, to a more humane and moral discourse rooted in a cosmopolitan view. This shift has the ability to change the mindsets of those who consider nuclear weapons inevitable for security and survival. In that sense it is a necessary precursor to the more practical step-by-step approach that advocates verifiable disarmament.

44. However, the nuclear ban treaty also faces many challenges. All the nuclear weapons possessor states have rejected it. In the cases of India, Pakistan, Israel and the DPRK, the challenge is further compounded by their respective positions vis-à-vis the idea of disarmament. An even greater challenge in states like Pakistan is to override nuclear nationalism that has been constructed by the state through a concerted effort that spans decades. This challenge is to a lesser degree shared by India particularly under the current BJP government. In Israel there is no public debate on disarmament given that Israel neither acknowledges nor denies the existence of its nuclear weapons. Little is known about the space for nuclear disarmament debate in the DPRK.

45. Bridging the divide between the advocates of the incremental approach and the supporters of the ban treaty will require sincere efforts to achieve practical disarmament steps. A sustained effort by proponents of the ban treaty, international non-governmental organizations (NGOs) and disarmament advocates worldwide can help animate meaningful discussions on disarmament in the non-NPT NAS. Disarmament education is crucial in this regard. Inviting non-NPT NAS to the NPT Review Conference and its preparatory committee meetings as observers may help the non-NPT NAS understand how so many other states in the world have learned to live without the bomb. It may also help non-NPT NAS develop a more cosmopolitan worldview by exposing them to

the nuclear thinking of the vast majority of states that are non-NWS and subordinate any possible national security gains from nuclear weapons possession to the demonstrably greater international security risks and threats from each additional NAS.

46. Likewise, the naming and shaming of the five NWS as well as the non-NPT NAS at the hands of the non-NWS might persuade the non-NPT NAS to revisit their view of nuclear weapons. And in the area of disarmament education, we can imagine barriers to getting the message across being overcome by effectively using social media.

47. Creating awareness about the achievements of groups like the International Campaign to Abolish Nuclear Weapons (ICAN) may help create a more favourable view for disarmament amongst intellectual elites but also more widely amongst people at large in the non-NPT NAS. Also, extending the work of transnational movements working on disarmament by building coalitions with like-minded groups in the non-NPT NAS may help create greater awareness and support for the need to push their respective governments to take disarmament seriously. These attempts at paradigmatic shifts will eventually come in handy regardless of whether these states decide to join the ban treaty or stay aligned on this issue with the five NWS.

48. It is important to note that the opening for signature of the nuclear ban treaty has made it almost impossible for the non-NPT NAS to ignore the vital issue of disarmament. These states are now sandwiched between NPT-led status quo approach and a ban treaty-led revisionist approach. In all likelihood and given the stated positions on the ban treaty, the non-NPT NAS will continue to align themselves with the five NWS. Although the dismal trends of the recent past do not offer much hope for any major new disarmament commitment, the upcoming NPT Review Conference in 2020 might bring some hope by stimulating NWS action.

49. The supporters of the nuclear ban treaty will have the high moral ground when seeking to hold the NWS accountable for their slow progress on disarmament. As a result, the NWS

²³ Sadia Tasleem, "Between Prague Agenda and the Ban Treaty: Is Disarmament a Distant Dream in South Asia?" Manuscript submitted to *New Perspectives* for publication,.

would be under tremendous pressure to show concrete performance to ensure the survival of the NPT regime. If they fail to address the concerns of the proponents of ban treaty – all of them also members of the NPT – the survival of the NPT would be at stake. Such an outcome is not desirable for the NPT member states including the NWS. Consequently, the five may find it imperative to actively pursue vertical non-proliferation and disarmament in and outside the NPT.

50. Nonetheless, the survival and the health of the NPT-based non-proliferation regime would also require cooperation of the non-NPT NAS. Only a combination of the NPT-centric incremental approach and the revisionist ban treaty would help create conducive conditions to reduce the gap between the NPT NWS and non-NWS, on the one hand, and the non-NPT NAS on the other.

Recommendations

Supporters of the Nuclear Ban Treaty

51. States and NGOs supporting the ban treaty should actively promote disarmament education in the non-NPT NAS. Social media can be effectively utilized for this purpose. Short videos containing information on humanitarian consequences of the use of the atomic bomb should be actively promoted through like-minded groups in India, Pakistan and Israel. This will help change mindsets and may reduce nuclear nationalism that is rampant in Pakistan and significantly visible in India.

From the NPT Platform

52. Integrating the non-NPT NAS into the non-proliferation architecture by persuading them to become party to the conventions and treaties designed to strengthen non-proliferation norms will help reduce the dangers of the spread of nuclear material and related technologies. Also, inviting the non-NPT NAS to attend the NPT Review Conference and preparatory meetings would help the non-NPT NAS socialize with the non-NWS parties to the NPT. This interaction may help the non-NPT NAS understand how the NNWS have learned to live without the bomb. These lessons could be in-

strumental in changing their perspectives on disarmament.

The NSG

53. The existing stalemate in the NSG also needs to be resolved by an agreed mechanism that brings existing civil nuclear cooperation agreements under its fold. The criteria for NSG membership should include concrete commitments in favour of disarmament. All the aspirant candidates for NSG membership should be expected to earnestly pursue all the NPT obligations that are applicable to these states.²⁴

Non-NPT States

54. The non-NPT NAS need to strengthen their credentials by pursuing the following steps unconditionally:

- a. Transparency in nuclear doctrines and postures;
- b. The DPRK should immediately call off further nuclear testing and consider signing the CTBT along with India and Pakistan;
- c. India and Pakistan may consider declaring an upper limit for the number of warheads each state aims to develop in order to prevent an arms race;
- d. Also, like Israel, India and Pakistan too should fully implement the NSG guidelines regardless of membership;
- e. All four of the non-NPT NAS should adopt policies and follow best practices to prevent further proliferation;
- f. Transparency in civil nuclear cooperation would also help non-NPT NAS strengthen their credibility.

²⁴ APLN Member John Carlson offered a comprehensive list of the relevant obligations in Carlson, "Nuclear Cooperation with India."

The Author

SADIA TASLEEM is an APLN Member and a lecturer in Quaid-i-Azam University's Department of Defence and Strategic Studies in Islamabad, Pakistan. She has previously worked as a senior research scholar at the Institute for Strategic Studies, Research and Analysis of the National Defence University in Islamabad, and been a Copeland Memorial Fellow for Nonproliferation. She has done extensive research on various aspects of strategic stability, nuclear learning and the implications of knowledge diffusion.

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APLN and CNND

The **Centre for Nuclear Non-Proliferation and Disarmament (CNND)** contributes to worldwide efforts to minimize the risk of nuclear-weapons use, stop their spread and ultimately achieve their complete elimination. The director of the Centre is Professor Ramesh Thakur. See further <http://cnnd.anu.edu.au>.

The **Asia Pacific Leadership Network (APLN)** comprises more than ninety former senior political, diplomatic, military and other opinion leaders from fifteen countries around the region, including nuclear-weapons possessing states China, India and Pakistan. The objective of the group, founded by former Australian Foreign Minister and President Emeritus of the International Crisis Group Gareth Evans, is to inform and energize public opinion, and especially high level policy-makers, to take seriously the very real threats posed by nuclear weapons, and do everything possible to achieve a world in which they are contained, diminished and ultimately eliminated. The co-Convenors are Professors Chung-in Moon and Ramesh Thakur. The Secretariat is located at the East Asia Foundation in Seoul, Republic of Korea. See further www.a-pln.org.

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Contact Us

APLN, East Asia Foundation
4F, 116 Pirundae-ro
Jongno-gu, Seoul 03535
Republic of Korea
Email: apl@keaf.org
Tel: +82 2 325 2604-6