



Third follow-up on briefing paper number 3: Moving beyond the stalemate: addressing the nuclear challenge by supranational means¹

Ruud Lubbers, October 2008²

In CIEP Briefing Paper Number 3, published in August 2005, Ruud Lubbers argued that the problems surrounding nuclear weapons proliferation needed to be addressed by the IAEA—upgraded to a supranational organisation—with the accompanying competences to oversee the nuclear sectors in the world. In subsequent follow-ups, Mr. Lubbers has further elaborated on the future of the non-proliferation regime through supranational means.³ This follow-up starts with Mr. Lubbers' intercession at the IAEA Scientific Forum 2008, providing an overview of recent developments including the 20/20 Vision for the Future of Director General Mohamed ElBaradei and the subsequent Report of the Commission of Eminent Persons. The article continues by mapping-out how a "re-enforced global nuclear order" could be achieved by strengthening the IAEA's role and upgrading it to a supranational organization.

For me it is a great pleasure to chair this 2008 Scientific Forum on the future role of the IAEA. Allow me to begin by thanking Director General Dr. Mohamed ElBaradei for inviting me. Inviting me again, while – as you may have read in my second follow up (October 2006) of “Moving beyond the Stalemate. Addressing the nuclear challenge by supranational means” – I was here on his invitation also in 2006. Since then many things happened :

1. The Iran-issue is, after now 6 years of discussions and investigations, still ongoing.
2. The United States obviously have accepted the fact that India has become a de facto nuclear weapon state and decided to push for a decision that would enable nuclear suppliers to work together with India while it remains outside the NPT. In a way they recognized India beyond the P5 as a relevant nuclear country; and they urged the

¹ The original briefing paper can be found on the CIEP website:

http://www.clingendael.nl/publications/2005/20050830_ciep_briefing_lubbers_nuclearchallenge.pdf

² The views expressed in this article are those of the author and not necessarily those of the Clingendael International Energy Programme.

³ Follow-up I:

http://www.clingendael.nl/publications/2006/20060421_CIEP_BriefingPaper_Lubbers_NuclearChallenge_FollowUp.pdf

Follow-up II:

http://www.clingendael.nl/publications/2006/20061000_ciep_briefingpaper_lubbers_2ndfollowup_b.pdf

IAEA to align to this approach even when many countries and others aired their concerns on the undermining effects this might have on the NPT.

3. The North-Korea issue developed into a new chapter but is still not solved, and unfortunately cooperation with the IAEA is now suspended again;
4. Initiatives from those who possess and practice enrichment technologies to supply and guarantee the supply of nuclear fuel “mushroomed” in an impressive way. However, we did not hear from the countries that could benefit from such guaranteed supplies. Obviously they have their doubts, given their rights to enrich themselves in line with the NPT.
5. No news – not really – from the Middle East. A long term perspective to become all nuclear-free – nuclear arms free with a supranational IAEA to support “Atoms for Peace and Development”- continues to be behind the horizon. First peace and then address the nuclear issue continues to be the conventional wisdom instead of a common Middle-East ambition to agree first on the nuclear issue, including a supranational IAEA; and to use this as a common base and incentive for peace.
6. On the other hand we have seen more articulated concerns about the ongoing NPT-failure, both in terms of non-proliferation as in terms of “reducing and ultimately banning nuclear arms”.
7. No news from the composition and role of the Security Council with its 60 years old P5. Even no news while the economic dimensions urge more and more for a multi-polar world.
8. And last but not least, from 2006 to 2008 the global awareness of the Climate Change challenge, with its invitation to expend “Atoms for Peace”, generating CO2-free electricity, has increased enormously.

Against this background it is gratifying to see the efforts of the IAEA and its Director General Mohamed ElBaradei. Here I do not only refer to the day-to-day hard work, but also to the strategic efforts concerning the long term perspective of the Agency. We all know the 20/20 Vision for the Future, the background report by the Director General for the Commission of Eminent Persons. And now we have since mid 2008 before us the report of that Commission “To the Future of the “Future of the Agency”.

The report of the Commission of Eminent Persons addresses in chapter 2 “A reinforced global nuclear order”, for which “four strong partnerships are needed”. This call for partnerships concurs with the (multi stakeholders) complementary governance as practised these days; and the Commission is of the view that a strengthened IAEA is needed in this respect, for which recommendations – with financial consequences - have been offered in chapter 9. In chapter 3 one can read a plethora of initiatives to square the circle of promoting “atoms for peace”, while “reducing the need to construct proliferation-sensitive facilities themselves”.

I am aware that member states have their own thoughts on the scope and on the process of how to follow-up all these “eminent” recommendations; in particular the cost dimensions. I simply

hope that in this Scientific forum, we can reach some conclusions on possible common denominators, that could enable the IAEA and the member states to work together with the goal of strengthening the competence of this Agency.

As a relative outsider and only former prime minister I allow myself not to be distracted by the political aspects of this subject. I do so even more while I am convinced that fundamental steps are needed to overcome the “Stalemate” which has paralyzed the implementation of the NPT; a NPT really implementing “Atoms for Peace and Development” in a responsible way including the mitigation of Climate Change and really reducing and ultimately banning nuclear arms. In other words, for me the key continues to be: will the reinforced global nuclear order emerge; respectively will the promise/hope of 1953, when the IAEA was conceived, be fulfilled? Or will the growing non-proliferation concerns continue to hamper Atoms for Peace and Prosperity, while at the same time the promise of NPT article 6, reducing and ultimately banning of nuclear arms, continues to fade away?

The last year we have seen remarkable developments, in particular the publication of “Towards a Nuclear Free World” and the announcement of nuclear cooperation between the USA and India, which has now been endorsed by the Nuclear Suppliers Group last month. But the key question remains: are the steps forward bold enough or do we continue with failing NPT review conferences and an IAEA handicapped to fulfil its mission; handicapped because it lacks supranational authority.

How to overcome this Stalemate? Allow me to offer some personal thoughts; in line with the documentation on my Stalemate approach, which was distributed in “the folder” you received. I have seen that in “The Report of the Commission of Eminent Persons” one can find important elements like monitoring progress in disarmament by the IAEA as determined in article 6 of the NPT (in chapter 5) and bolder steps from the Security Council aimed at a reduced demand for nuclear weapons (in chapter 6), but the Commission obviously accepts the “Stalemate”; or do they really believe that this recommendation in itself will bring “the emerging reinforced global nuclear order”? All this is understandable, because they rightly state that the IAEA is not “the lead agency or forum for nuclear disarmament” and that stronger enforcement to prevent nuclear proliferation “pertains to the UN Security Council”. But precisely this makes the question “how to overcome the stalemate” more pertinent.

If you had the opportunity to read my “Stalemate” you know that I do think the bold step forward requires an initiative of the five permanent members of the Security Council complemented with Brazil, South Africa, India, Japan and the European Union. Together – as a Security Council plus – they can take the lead to realize a “reinforced global nuclear order”; they would be a representative group of countries from North and South with sufficient collective power.

This would require a commitment from all ten of the “Security Council plus for nuclear issues”:

- to upgrade the IAEA with a mandate like Euratom, as the legal owner of all fissile material to practice “Atoms for Peace”;
- to assign the IAEA a role in monitoring (and reporting) of the reducing and ultimately banning of nuclear weapons in conformity with article 6 of the NPT;

- to settle a practice by which the Security Council supports with “blue helmets” inspections by the IAEA when and where needed;
- to promote when and where possible “nuclear free zones”.

This “Security Council plus-package” is not in any way contradictory to the recommendations of the Eminent Persons, however it could give more dynamics to the implementation.

Epilogue; Observations during Scientific Forum IAEA 2008.

1. The need to provide the Agency with better legal and practical tools in order to enable inspectors to verify that there is no undeclared material in a country was again highlighted. The Additional Protocol (which allows for unexpected inspections when and where deemed necessary) is pleaded for in this Stalemate approach. The measures under an Additional Protocol would indeed make the IAEA’s verification work more effective, since by guaranteeing that no nuclear material is being diverted to nuclear weapons programmes, a spill over from Atoms for Peace and Prosperity (for human security needs) to nuclear arms is prevented. Those who refuse to implement the Additional Protocol do so for a mixture of reasons:
 - o to keep their national options open;
 - o to protest against the “unbalanced” interpretation and implementation of the NPT (of “the haves” in relation to “the rest of the world”). More specifically: the five official Nuclear Weapon States are perceived by some as unwilling to commit to disarmament obligations, while some non-Nuclear Weapon States feel that they are more strongly forced to comply with non-proliferation obligations.
2. The Agency had already asked Sam Nunn to participate in a Panel of Eminent Persons, who were asked to reflect on the long-term perspective of the Agency. By inviting Sam Nunn as a keynote speaker in the Scientific Forum, the IAEA (in particular Director-General Mohamed ElBaradei) confirmed its sympathy for the Nuclear Threat Initiative and for its able Director. At the same time, N.T.I.’s proposed fuel bank, for which it has pledged 50 mln. US dollar and which has been topped up with another 50 mln. from the US Government, has not yet led to the necessary additional funding. This demonstrates hesitations on whether assured fuel supplies from fuel banks (as complementary to the existing commercial market) are the right way forward.
3. More in general, in my opening address I spoke about a plethora of similar initiatives. These initiatives are in line with this stalemate approach to the extent that they strengthen the role of the IAEA (from multinational to supranational). At the same time they are seen as “unbalanced” by potential consumer states (the “have not’s”), since in their perception this undermines their inalienable right to develop and produce their own indigenous fuel cycle activities, while serious (nuclear) disarmament steps by the “haves” are lacking progress.
4. It was highlighted that public acceptance of nuclear technology requires a more convincing handling of the fuel cycle including the challenge on how to manage the so-called nuclear waste. “Atoms for Peace and Prosperity” and the increasing interest in nuclear energy (the so-called Nuclear Renaissance) provide many opportunities, such

as generating climate-change-friendly electricity, and the use of nuclear technology for Human Security dimensions like water, food/agriculture and medical care. However, challenges on the back end of the fuel cycle should not be neglected.

5. A lot of attention was given to the use of - in a safe and secure way - nuclear technology even if it takes a ten year's learning curve and a substantial financial investment; and hence the need to intensify "cross border nuclear partnerships " under IAEA leadership.
6. During this Forum it became also clear that the second Preparatory Commission to the upcoming (2010) NPT-review conference indicated that there was a substantial risk for another failure. Political tensions between the nuclear Haves and Have Not's seemed to have only deepened.
7. Although the Organisation for the Test Ban Treaty (CTBTO) has been successful in installing a world wide network of monitoring stations, the Treaty itself has not yet entered into force and the CTBT-stalemate is still a painful reality. Nine countries whose ratification is needed for the entry into force have not yet ratified and/or signed the Treaty: the US, China, India, Indonesia, Pakistan, Iran, Egypt, North Korea and Israel. This (together with the "deficit" in lacking progress on the negotiations for a Fissile Material Cut-off Treaty) justify in my opinion an effort of - in particular - Brazil, South Africa, India, Japan and the European Union to sit down with the Permanent Members of the Security Council in order to discuss how to overcome the stalemate. I have advocated such a forum in my opening address during the Scientific Forum

Vienna, September 30, 2008.