
The NPT Regime and the Non-Party States

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The Non-Proliferation Treaty or NPT, is an international Treaty signed in 1968 with the aim to prevent the uncontrolled proliferation of nuclear weapon and its technology; to promote co-operations in the peaceful uses of nuclear energy; and to further the goal of achieving nuclear disarmament and general and complete disarmament. It was opened for signature in 1968, and entered into force in 1970. Initially, 43 states, including 5 nuclear states, USA, Russia, China, UK and France. However, by now, the Treaty has more than 190 member states which in other words means, with the exception of India, Pakistan and Israel, all members of international community are parties to the treaty. On the other hand, India, Pakistan and Israel had never joint the Treaty for reasons best known to them. As of August, 2016, 191 states have adhered to NPT. North-Korea, though became a party to the Treaty in 1985, had never adheres to the terms of the Treaty; it consequently withdraws from the membership in 2003. In addition to these, a newly born nation of Africa, South Sudan had not join the Treaty till date.

The Treaty defines nuclear states as those states that have nuclear explosive devices before January, 1967; those are USA, China, Russia, France and the United Kingdoms. The four non-party States; India, Pakistan, Israel and North-Korea are believed to have possessed nuclear weapons, though they are not recognized by NPT as nuclear weapon states. As per the terms of the Treaty, non-nuclear weapon states pledge not to ever acquire nuclear weapons and the NPT nuclear weapon states in exchange agree to share the benefits of peaceful uses of nuclear technology, and to pursue nuclear disarmament aimed at the ultimate elimination of their nuclear arsenals. Though the Treaty was initially planned for a period of 25 years, considering its successful working, it was eventually extended indefinitely.

Inspite of its successful operation during 49 years of its existence, NPT is not without having its own problems. The withdrawal of North-Korea from the Treaty in 2003 posed a serious and dangerous challenge to NPT. As per the term of the treaty, under Article X, states, parties to the Treaty could withdraw from the Treaty by giving notice about their withdrawal in advance. Since then, there are controversies relating to the legality or non-legality of North-Korea's withdrawal from the Treaty. Experts are divided on the issue; and while North-Korea has been maintaining that it is no more bound by the treaty. On the other hand, parties to the Treaty maintain that North-Korea is still legally bounded by the pledge it had made at the time of joining the Treaty. It is therefore, a controversies that had not been solved. UNO, particularly the Security Council still considered North-Korea as a party to the Treaty and consider it to be still bound by the pledge it had made at the time of joining the Treaty.

1. The case of India.

Not being a party to the treaty, India is free to do what it wanted to do as far as nuclear weapons are concerned. Accordingly, India has detonated nuclear weapon devices in 1974, and again in 1998. Consequent upon, thought India is not a recognized nuclear weapons state, it is an open secret that India possesses the weapons. However, India follows a policy of no-first use and non-use against non-nuclear states. But there was a policy-shift in India nuclear doctrine when the former National

Security Adviser, Shivsharkar Menon signaled significant shift from no-first use to no first use against non-nuclear weapon states in a speech on the occasion of Golden Jubilee celebration of the National Defence College in New Delhi on 21 October 2010. Following this, the former External Affairs Minister, Pranab Mukherjee, while on a visit to Japan justified India's position saying, "If India did not sign the Treaty (NPT), it is not because of its lack of commitment to non-Proliferation, but because we considers NPT as a flawed treaty and it (India) did recognize the need for universal, non-discriminatory verification and treatments. Although, there have been unofficial discussions on creating South Asia a Nuclear weapons free zone, including India and Pakistan, but this is considered to be highly unlikely during the foreseeable future.

Amidst strong criticism within and outside of the two countries, India and US, finalized an agreement to restart co-operation on civilian nuclear technology. Under the agreement, India has made a commitment to classify 14 of its 22 nuclear power plants as being for civilian uses, and to place them under IAEA safe-guards. Mohamad El-Baradei, the Director General of IAEA welcomed the deal by calling India, " an important partner in the non-proliferation regime". On the other side, the United States Congress approved and ratified the United States-India Peaceful Atomic Energy Cooperation Act, enduring a deal that was forged during Prime Minister's visit to the United States in July, 2005 and cemented during President Bush's visit to India in the early 2006. The deal was made to legalise the transfer of civilian nuclear materials to India. Though India was not a party to NPT, because of its clean non-proliferation records and India's need for energy fueled by its rapid industrialization, it was allowed to have a cooperation with nuclear weapon states of NPT. Eventually, IAEA approved the Indian Safe-guards Agreement, and on September 2008, India was granted the waiver at the Nuclear Supplier Group (NSG) meeting held in Vienna in Austria. However, when China announced nuclear cooperation with Pakistan, proponents of arms control denounced not only China-Pakistan nuclear deal, but they also denounced the deal between USA and India saying that the two deals in nuclear cooperation with non-parties of the NPT, would eventually weakens NPT by facilitating nuclear programs in the states which are not parties to the Treaty (NPT). Australia, the largest supplier of uranium which had earlier suspended its supply of uranium to India, following India's nuclear test in 1998, signaled its willingness to restart its supply of uranium to India. Australia, considering India trust worthiness in the areas decided resumption of uranium supply to India on December 4,2014.

India, while remaining outside NTP regime, is committed to the prevention of nuclear proliferation, and it was committed to universal proliferation of nuclear weapons. There may be many reasons which make India not to sign the treaty out of which the following two are important:-

(i). India believe that the Treaty was discriminatory as it divides parties to the Treaty into groups, nuclear weapon haves and nuclear weapons have nots As per the terms of the Treaty under the pillar I, only 5 states are allowed to have and keep nuclear arsenals while more than 185 party states are not allowed to manufacture or possess nuclear weapons in any manner. This contention of India seems to be sound and reasonable.

(ii). Since China, its northern neighbor, and with which it is not in good terms, particularly on border issue, is a nuclear weapon state, it naturally feels insecure without the weapons. Moreover, India believed that Pakistan, its permanent enemy, is seeking to procure the weapon; and policy makers in India were convinced that Pakistan, sooner or later would acquire nuclear weapons. Under such possible eventuality, India would be left bared handed in national defence.

These are, perhaps, the two important reasons as to why India did not signed the treaty; and instead, pursue its weapons programme.

2. The case of Pakistan

Pakistan conducted two sets of nuclear tests, Changai I and Changai II in May, 1998, i.e. following India's nuclear weapon test earlier in the same year. Since then, Pakistan is believed to be continuously pursuing its weapon programme; and now, it is believed to be in possession of more than 120 nuclear warheads. However, as per report of Carnegies Endowment for International Peace and Stimson Center, it is believed to be having enough fissile materials sufficient for producing some 350 nuclear warheads. Regarding the question of joining the Treaty (NPT), Pakistan, like India, said that it is a discriminatory Treaty and would not sign the Treaty. It further maintained that Pakistan will never sign and become a part to the Treaty so long as India does not do the same. However, by now, Pakistan changed its position saying that it would join NPT only as a declared nuclear weapon state.

The Guidelines of NSG, as of now, rule-out nuclear export by Nuclear Supplier Group to Pakistan since Pakistan does not have full scope IAEA safe-guards i.e. safe-guard on all its nuclear activities. Though Pakistan made a futile attempt to strike a nuclear deal with USA, similar to a deal with India, USA and Nuclear Supplier Group refused the deal as Pakistan's track of proliferation records could not sufficiently support the proposal.

However, though USA rejected a nuclear deals with Pakistan, China came to its rescue and signed Civil Nuclear Agreement with Pakistan, saying the deal was for peaceful purposes. Britain, criticizing the deal maintained that time is not yet riped for concluding civil nuclear deal with Pakistan, be it peaceful or otherwise. However, the deal between China and Pakistan for civilian nuclear co-operation was made without the approval of NSG. As such, many member states of NSG had reservation on the issue.

It is, Therefore, to be noted that, though Pakistan possessed nuclear weapon, it remained non-nuclear weapon state in the record of NPT.

3. The Case of Israel

Israel, believed to be having nuclear weapon, has been having a long standing policy of deliberate ambiguity regarding nuclear program. It has been developing nuclear technology at its Dimona site in Negrev since 1958 Some Proliferation experts established that Israel may have between 100 and 200 stockpile of nuclear warheads using reprocessed platinum. Israel's position on NPT is explained interms of exceptionality as a term coined by Professor, Gerald M Stenberg, to reference to the perception that the country's small size overall vulnerability as well as the history of deep hostility and large scale attacks by neighbouring states, require a deterrent capability.

The Government of Israel, on its part, neither denies nor confirms its position on nuclear weapons. However, it has now becoming an open, secret as Mordechai Vamunu, subsequently arrested and sentenced for treason by Israel- published evidence about the programme to the British Sunday Times in 1986. On 18 September, 2009 the General Conference of Inter Nation Atomic Energy Agency called on Israel to open its Nuclear activities for inspection and adhere to non-proliferation treaty as a part of a resolution on Israel nuclear capabilities which was passed by a narrow margin of 49-45 with 16 abstentions. The chief Israeli delegate stated that "Israel will not cooperate in any matter with this resolution". Similar resolutions were defeated in 2010, 2013 and 2014.

It is Therefore clear from the preceding discussion that, Israel is having nuclear weapons, though never was officially declared, as nuclear weapon state. Considering the security environment of the country, many members states agree with the contention that Israel requires deterrent capability in the midst of enemies surrounding it. In other words, Israel's security environment furthered the need for the weapons.

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