



SCIENTIFIC AND TECHNICAL CENTER
ON EXPORT AND IMPORT OF SPECIAL TECHNOLOGIES,
HARDWARE AND MATERIALS

SECURITY AND NONPROLIFERATION

ISSUE 3 (9) 2005

KYIV 2005

Dear Reader,

This issue of our journal is dedicated to an extraordinary event for the nuclear weapons non-proliferation regime - VII Nuclear Non-Proliferation Treaty Review Conference.

The creators of the NPT being the basis for the non-proliferation regime factored in the need to respond to challenges and problems that form proliferation threats and established for that purpose a five-year period to consummate in a Review Conference. The main purpose of the Conference is to monitor NPT efficiency on a phased basis and follow up on the implementation of decisions made at previous Review Conferences. The previous Conference was held in 2000.

The current VII Review Conference is being convened at a hard time experienced by the Treaty. New threats to the non-proliferation regime that emerged after the breakup of the bipolar world and have been growing over recent years are a quite tangible challenge to the survival of both the NPT itself, and the regime in general. One should clearly understand that a single nuclear-weapon proliferation event is able to make a crack in the dam preventing nuclear weapons from creeping throughout the planet and put the whole dam at risk of being rapidly washed out. It will result in a less stable and predictable world, in which all countries will feel less secure.

North Korea's and Iran's problems have reached a climax of intensity. All attempts at reaching agreements that would secure non-proliferation nuclear weapons by those countries while meeting their legitimate national interests, have failed.

Unfortunately, there seems to be no unanimity even among the key players in solving this and other pressing non-proliferation problems.

The imperative need for certain countries to rise above bickerings, mercenary and selfish interests, and look for consensus on this vital issue must unite all countries party to the NPT in their efforts to maintain and strengthen the regime and assure security and stability worldwide.

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STATEMENT
BY H.E. MR. IHOR DOLHOV
DEPUTY MINISTER FOR FOREIGN AFFAIRS OF UKRAINE
AT THE 2005 NPT REVIEW CONFERENCE

Mr. President,

May I start by congratulating you, Ambassador Duarte, on your election as a President of this Conference. Let me assure you that the delegation of Ukraine will work constructively with other delegations to achieve the successful outcome of this important international forum.

Mr. President,

Ukraine shares widely the views expressed by the distinguished representative of Luxemburg on behalf of the European Union. We commend the EU for presenting a well-elaborated paper on main aspects of the Conference.

For thirty-five years the Nuclear Non-Proliferation Treaty (NPT) has been the mainstay of international efforts to contain the spread of nuclear weapons. Regrettably, the past years have revealed some significant gaps in the nuclear non-proliferation regime that have put the NPT under stress and questioned its credibility.

This troubling state of affairs adds crucial importance to the current Conference. We should grasp the opportunity to chart the course of action on how to improve the implementation of the NPT, how to make it more adequate to the present challenges and, finally, how to close the loopholes in the Treaty-based regime.

In this context the delegation of Ukraine stresses the need to build upon the results of the history 1995 and 2000 NPT Review Conferences and work strenuously towards reaching specific decisions aimed at addressing numerous challenges the NPT faces today. It is our strong-held view that a failure to do so will result in the further erosion of the nuclear non-proliferation regime and thus can have serious repercussions on the world's security and stability.

Mr. President,

Ukraine has repeatedly stated that the NPT is the cornerstone of the global nuclear nonproliferation regime and the essential foundation for the pursuit of nuclear disarmament under Article VI of the Treaty. We continue to attach great importance to achieving the universality of and strict compliance with the NPT.

Last year marked the 10-th anniversary since Ukraine had acceded to the NPT and when the START I Treaty entered into force.

This fact is particularly worth reminding since Ukraine's landmark decision to forswear its world third largest nuclear arsenal. Our decision has been crucial for the progress in the nuclear disarmament. We believe that the move Ukraine had made was among the factors that led to the successful outcome of the 1995 NPT Review Conference.

Responsibility and cooperation are the key elements of Ukraine's new Government position in handling our remaining obligations under the relevant international agreements. We count on the world community support in our endeavors.

Mr. President,



We believe that to meet the current challenges faced by the NPT-based regime the world community should fully employ existing legal and institutional mechanisms, first of all the UN machinery and explore new ways to inhibit the spread of nuclear weapons, related materials, equipment and technology.

Much has already been done and is currently being undertaken in this direction. Adoption of the UN Security Council Resolution 1540 has marked a more active involvement of the United Nations in addressing the WMD non-proliferation problem. The Resolution 1540 is, undoubtedly, vital to combating the ever more formidable threat of terrorists acquiring nuclear weapons.

Ukraine is committed to the strict implementation of the Resolution provisions and calls upon other States to follow a suit.

It is our pleasure to state the progress in strengthening the Convention on Physical Protection of Nuclear Material (CPPNM) – the instrument, which has gained special importance in view of the risk of illicit trafficking in nuclear material and of the nuclear terrorism. Ukraine was among the states, which requested last summer the IAEA Director General to convene a diplomatic conference to amend the CPPNM. We strongly hope that the conference will be a success.

A slow but steady progress has been made in the universalization of the IAEA Additional Protocol. As an inalienable part of the strengthened safeguards system, it serves as an extremely important tool for sustaining an environment of peaceful use of nuclear energy without the threat of proliferation. In this connection we strongly support the need to enhance the IAEA verification role. We also take the view that the universal adoption and full implementation of the strengthened safeguards system is a prerequisite of an effective and credible nuclear non-proliferation regime.

As of today Ukraine is in the process of completing domestic legal procedures necessary to bring the Additional Protocol into force.

Mr. President,

Ukraine actively participates in all major multilateral export control regimes. We strictly abide by the basic guidelines set out by those regimes and believe that they should be further enhanced.

Concerning new measures undertaken by the world community to prevent the nuclear proliferation, Ukraine notes with satisfaction the Global Threat Reduction Initiative launched last year and the Proliferation Security Initiative. Both have demonstrated a high efficiency. We participate in PSI and currently are exploring the ways to broaden our operational activity in it.

In this context we would also like to stress the importance of the G-8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction. From our point of view, the GP carries a great potential in terms of addressing current negative tendencies in the field of nuclear nonproliferation and disarmament. We welcome the progress in the implementation of the program reported by the G-8 members at their Sea Island summit in June of last year. Ukraine on its part is ready to contribute to further development of the Global Partnership based on the experience gained in the CTR implementation process.

Mr. President,



Tens of thousands of nuclear weapons persist to exist. In view of this fact we urge the nuclear weapon States to demonstrate in practice their determination to pursue nuclear disarmament process under Article VI. Ukraine, as a State that has contributed essentially to the cause of nuclear disarmament within the START I framework, believes that the reductions in nuclear arsenals, in particular under the Moscow Treaty, should be irreversible.

Ukraine continues to call upon the two nuclear weapon States to pursue reduction of non-strategic nuclear weapons in accordance with the 1991/1992 Presidential Nuclear Initiatives.

In view of the increased attention to the implementation of the non-proliferation commitments we especially emphasize the need for a balanced treatment of the Treaty – problems and progress in implementing both – the non-proliferation and disarmament clauses – should be equally reviewed and addressed. There can be no progress in combating nuclear proliferation scourge without tangible steps in nuclear disarmament and vice versa.

At the 1995 NPT Review Conference, the reaffirmation of the nuclear weapon States' disarmament obligations was essential to the indefinite extension of the Treaty. At the 2000 Review Conference, States-parties went even further having agreed to a 13-point action plan, including the bringing into force of the CTBT, making future nuclear arms reductions irreversible and verifiable, and concluding a verifiable treaty to ban fissile material production for weapons within five years.

Unfortunately, many of those obligations remain fulfilled incompletely. The prospects of the CTBT entry into force still look gloomy. Ukraine continues to underscore the importance and urgency of an early entry into force of the Treaty and calls upon all States who have not yet done so to adhere to the Treaty without delay and unconditionally, especially those on the list of 44 States whose ratification is indispensable.

As the regional facilitator in accordance with the Final Declaration of the 2003 Conference Ukraine will continue to promote the early entry into force of the CTBT. Pending its entry into force, we urge all States with nuclear capabilities to abide by the global nuclear weapon test moratorium and refrain from any actions, which may undermine the CTBT objectives.

We stress the necessity to spare no effort in order to sui niount protracted political impasse in the Conference on Disarmament and to commence negotiations on the Fissile Material Cut-off Treaty (FMCT).

The situation on the Korean peninsular continues to cause concern. Ukraine shares a deep conviction that the DPRK should relinquish its nuclear ambitions and resume its cooperation with the IAEA. This country should return into compliance with its obligations under the NPT and the IAEA Safeguards agreement without delay. Ukraine calls upon the DPRK and the States that seek to play a leading role in the settlement of the crisis on the Korean peninsular to do their best to resume the six-party talks with an aim to settle the crisis in accordance with the rules of international law.

Mr. President,

Ukraine believes that legally binding security assurances by the nuclear weapon States to the non-nuclear weapon States-parties to the NPT will significantly strengthen

the nuclear nonproliferation regime by eliminating plausible incentives for pursuing nuclear capabilities. We strongly encourage nuclear weapon States to reconfirm their commitments laid down in the relevant UNSC Resolutions and the decisions of the 1995 and 2000 NPT Review Conferences.

Ukraine proceeds from the understanding that the establishment of zones free of nuclear weapons and other weapons of mass destruction essentially facilitates the maintenance of peace and security at both – global and regional levels. We note that the establishment of nuclear-weapon free zones all over the globe has been a major contribution towards enhancing international nuclear non-proliferation regime and reaching nuclear disarmament goals. Ukraine welcomes the efforts made by the five States in Central Asia with a view to establishing a NWFZ in that region.

Mr. President,

Enhanced participation by civil society in the work of the NPT is a remarkable event. Ukraine supports the working paper submitted by Egypt, Hungary, Japan, Mexico, New Zealand, Peru, Poland and Sweden on disarmament and non-proliferation education. We call upon the Conference to encourage States to undertake concrete activities to implement the relevant UN study recommendations in this sphere.

Distinguished delegates,

Given the current context of proliferation crisis, success of this Review Conference will depend on our ability to agree on substantive measures to meet the pressing challenges. The Conference needs first and foremost to confirm the credibility of the NPT as one of the main elements of international peace and security and to demonstrate the efficiency of the review process.

In conclusion let me express a strong hope for the constructive work during the Conference in order to achieve fruitful results.

Thank you, Mr. President.



Sergiy Galaka,

Assistant Professor, Institute of International Relations, Taras Shevchenko National University

STATUS OF THE NUCLEAR WEAPON NON-PROLIFERATION REGIME ON THE EVE OF THE VII NPT REVIEW CONFERENCE IN NEW YORK

The state of uncertainty in which the nuclear-weapon non-proliferation regime – one of the world security bulwarks – finds itself causes an ever increasing concern around the world.

Unwillingness on the part of most officially recognized nuclear weapon states (with the sole exception of the People's Republic of China that made a relevant statement back in 1964, following the first nuclear weapon test) to forswear the first-use of nuclear weapons against a state that does not possess nuclear weapons, enhances the argumentation basis of those who criticize nuclear-weapon states for pursuing double standards and unwillingness to fulfill their obligations under NPT Article VI. Indeed, no tangible steps in nuclear disarmament have been made over the last decade. However, as to negotiations on total nuclear disarmament envisioned in the same NPT article, they are not even mentioned in the official documents of the nuclear weapons states. This altogether deepens the skepticism of non-nuclear states party to NPT and undermines their desire to take heed of nuclear-weapon states' arguments.

A separate issue concerns the failure to implement the decisions made at the previous, 2000 Review Conference, known as "13 steps". They include a concern about the diminished role of nuclear weapons in security policy and fastest possible involvement of all nuclear-weapon states in the process leading to full elimination of their nuclear weapons as it was envisaged by the NPT. Naturally, this situation is unsatisfactory for states that do not possess nuclear weapons[1].

Another point of tension in the non-proliferation regime is the unwillingness of nuclear-weapon states to strengthen security safeguards extended to non-nuclear states – up to providing legally binding security assurances. This privilege was denied even to Ukraine, Kazakhstan and Belarus that demonstrated a high degree of responsibility before the world community by voluntarily ridding themselves of nuclear weapons and making with that step an invaluable contribution to the preservation of the nuclear-weapon non-proliferation regime and indefinite NPT extension at the New York 1995 Conference.

Actual recognition de facto by the West and Russia of the nuclear status of states that created nuclear weapons not being party to the NPT – Israel, India and Pakistan – is a thing working contrary to consolidation of positions by the NPT member states on issues that call for immediate resolution.

The hardest nut to crack about the NPT and all Treaty-based non-proliferation regime is associated with NPT Article IV that grants non-nuclear-weapon states an inalienable right of nuclear energy development for peaceful purposes and acquisition of related technologies and material. It was a critical component to the compromise that made it possible to sign the NPT in 1968, allowing the five officially recognized

nuclear-weapon states to consolidate their privileged status in the system of international relations.

Attempts by the U.S. and its allies to limit the number of countries that would possess technologies necessary for the production of nuclear fuel and use of nuclear energy for other peaceful purposes, force one to revisit the original basis for the Treaty. Washington's reasoning about the inability of the IAEA and other institutions to strictly control compliance with the NPT (and the Iraq and North Korea examples are convincingly indicative that those charges are not groundless) along with the Treaty's shortcomings allowing legal acquisition of dual-use nuclear technologies, is far from being widely accepted. Those non-nuclear-weapon states party to the NPT that thoroughly fulfill their NPT obligations perceive in such approaches not only an attempt to make the discriminative character of the Treaty everlasting and further expanded, but also a desire to stifle potential competition at the nuclear material and technology market, an attempt by certain nuclear states to dictate their will in not just undermining the spirit of the Treaty, but attempting a frontal assault on its letter.

The IAEA's attempts to offer a compromise that will consist in implementing a five-year moratorium against building up new enrichment capacities in exchange for guaranteed nuclear fuel supplies to certified users have yet to find wide support [2].

The VII NPT Review Conference held in New York in May 2005 proved a sort of a "litmus paper" indicator of the current status of the nuclear-weapon non-proliferation regime. Preparatory to and in the course of the Conference, there emerged different, often diametrically opposite approaches to the existing NPT problems. In addition to the discord between nuclear-weapon states and a significant group of non-nuclear-weapon ones, a long-standing history throughout conferences such as this one, new differences were added that manifested a considerable variance in viewing the regime's problems by the United States and their allies.

The Iran and North Korea cases proved a test for possible harmonization of the U.S., other nuclear-weapon states and their allies' approaches to pursuing regime improvement ways. It was those issues that, as in a drop of water, reflected all variance of approaches to the NPT and the non-proliferation regime in general. The U.S. challenged the Conference to emphatically condemn Teheran and Pyongyang's actions aimed, as the U.S. believed, at creating nuclear weapons in by-passing the Treaty, taking advantage of its weak spots.

Other states, developing countries above all, reiterated their inherent NPT-established rights to use nuclear energy for peaceful purposes, attributing the Treaty-related problems primarily to the unwillingness of the nuclear-weapon states to fulfill their nuclear disarmament obligations under Article VI.

Especially critical is the Iran issue. Once Washington's charges that Teheran has bypassed key NPT provisions are deemed to be fair, it is "the Iran case" that may in a few years not only become a pattern for taking advantage of the Treaty's gaps to create nuclear weapons, but also deal a lethal blow to this document fundamental to the non-proliferation regime.

Conceptual variance occurs between the U.S. and some of their allies whether it makes sense to encourage non-nuclear countries party to the NPT, which voluntarily forswear creating a fuel cycle. While European Union countries seek to demonstrate to

Iran that it is in its long-term interests to forswear the production of its own nuclear fuel and strictly comply with all non-proliferation regime requirements in exchange for guaranteed nuclear fuel supplies from abroad along with trade preferences, the U.S. are talking about pressure and raising the issue of Iran's non-proliferation regime violations for consideration by the United Nations Security Council.

The Iran problem that started growing critical following the G. Bush, Jr. Administration's listing of this country with the "axis of evil" is of a complicated nature. Suspicions regarding the end purpose of Teheran's nuclear program are intensified by the character of the Iran regime led by Shiite fundamentalist clergy and its open hostility towards Israel. Once the nuclear factor is there, it threatens to destabilize an oil-bearing region of strategic importance for the world economy – spanning from the Mediterranean to the Arabian Sea. Iran's development of medium-range ballistic missiles indicates that, once nuclear weapons are made available to Iran; Russia, Ukraine, and a large number of EU countries will find themselves within striking distance of its nuclear-headed missiles.

Attempts by the Great Britain, France, and Germany on behalf of the EU over many a month's worth of negotiations since November 2004, to reach an agreement with Iran to suspend its uranium enrichment activities capable of not only creating its own nuclear fuel cycle, but also of availing Teheran with the potential to create nuclear weapons, have been fruitless. Tension has recently been growing between the parties to these negotiations. After Iran announced the possibility of resuming uranium enrichment activities, the Great Britain, France, and Germany sent the Teheran negotiator, Secretary General of Iran's National Security Council Hasan Rouhani a letter warning that resuming nuclear activities would suspend the negotiations. And on 12 May 2005 Great Britain's Premier Minister Tony Blair warned Teheran that his country would be ready to support the United States in raising the issue of Iran's nuclear program for discussion at the UN Security Council with a view to imposing stringent sanctions against Teheran. Procedurally, an appeal to the Security Council should be preceded by an IAEA discussion of the issue. A letter from EU negotiation team member countries suggested that Iran enter into negotiations at the foreign minister level within two weeks. The letter had been signed by J. Solana as well[3].

Such rhetoric may indicate both a rise in consolidated Western pressure on Teheran and a beginning of the European Union's departure from the Iran issue treatment with emphasis on encouragement rather than intimidation in stark contrast to the stance upheld by the U.S. Since all these events have been unfolding in a setting of the New York Review Conference debates, they can be viewed both as a maneuvering attempt on the eve of a time runout and as staking higher in a game where neither party can win. It rides on the fact that weakening of the NPT-based non-proliferation regime is capable of making negative impacts on stability and security worldwide.

Of wide circulation in the expert environment is the belief that the streamlining of North Korea and Iran's nuclear programs results from the U.S. military operation in Iraq. Teheran and Pyongyang are believed to assume that the very availability of nuclear weapons in Saddam Hussein's arsenals could have stopped that undertaking of Washington's. Therefore, they should as soon as possible create nuclear weapons as a guarantee against a similar action designed to overthrow, under the pretext of

suppressing weapons of mass destruction, the ruling regimes existing in these countries. As was indicated by Editor of the *Disarmament Diplomacy* journal Rebecca Johnson, "Nuclear weapons are viewed as the currency necessary for being taken seriously by the United States." Such a view, she believes, questions Washington's being serious about the need to prevent proliferation as it is hard to harmonize challenging others to forswear their nuclear material enrichment and reprocessing capacity with wishing to reserve such capacity for itself[4].

At the same time, one should clearly realize that without the key role of the United States, all the more - against Washington's will, any non-proliferation steps are doomed to fail. For it was predominantly the U.S. efforts, in signing a framework agreement with North Korea in 1994, that saw to it that Pyongyang's military program was suspended. And it was due to the position held by the United States that referred North Korea to the "axis of evil", that the Korean nuclear problem began to grow critical. In 2003 Pyongyang announced its departure from under the NPT, and in February 2005 it declared itself a nuclear-weapon state. The North Korean insistence on direct bilateral negotiations with the U.S. and demand to extend American safeguards to the North Korean regime demonstrates that the U.S. role is duly accounted for in Pyongyang as well.

A new crisis obviously designed to affect the Conference findings, is occurring today. Following a few months' worth of haggles about its participation in nuclear talks, Pyongyang timed a short-range missile test to the opening of the New York Conference. The United States, in turn, accused North Korea of preparing for nuclear tests allegedly to happen in June 2005 [5]. Recently, serious divergence has been looming between participants of the six-party talks on the North Korean nuclear problem. Beijing, called upon by the United States to exercise its influence for putting pressure on Pyongyang, stands for a purely diplomatic resolution of the problem in seeking to avoid the regional nuclear race while at the same time unwilling to aggravate its relations with the neighbor. The North Korean nuclear problem appears to be conceived by the People's Republic of China as part of a big diplomatic game, in which Beijing seeks to exploit Pyongyang's radicalism to its own ends.

Nor does Seoul seek to aggravate the Pyongyang problem in any dimension, joining Beijing's opposition to the enforcement of economic sanctions as suggested by Washington and Tokyo. Japan's Foreign Minister Nobutaka Machimura even stated that his government was contemplating five-party talks leaving North Korea out with a view to building up pressure on Pyongyang [6].

This variance makes an impression that the general revision by the G. Bush Jr. Administration of strategies including non-proliferation not only disparages the NPT and other international security agreements, but also includes taking less heed of the findings of conferences such as the New York Conference, relying more on its own capacities in suppressing nuclear-weapon proliferation.

Another stumbling block is represented by the IAEA's initiative regarding a moratorium against uranium enrichment and plutonium processing as a measure to reduce the nuclear proliferation risk. The United States developing new generations of nuclear weapons including miniature nuclear charges takes no interest in

implementing these measures, paradoxically approximating its treatment of this issue to Iran's. [7].

With all the uncertainty of forecasts, we shall limit ourselves to one noteworthy projection. If the current U.S. policy continues, which is very likely to devalue and dismiss the NPT and to strike a deal between a narrow group of nations with developed nuclear complexes, Ukraine's minimum objective would be to join that group and continue to play a role in that important area.

As to the New York Conference proper, its findings will comprehensively affect the status of the nuclear non-proliferation regime and chances to resolve the most critical non-proliferation problems.

1. *Tisdall Simon*. Nuclear Double Standards // The Guardian. - 2005. - May 4.
2. *Ibid*.
3. *Cowell Alan*. Blair Backs Possible UN Action on Iran // The New York Times. - 2005. - May 13.
4. *Tisdall Simon*. Nuclear Double Standards // The Guardian. - 2005. - May 4.
5. *La Franchi Howard*. A Tough Road in Curbing Spread of Nuclear Arms // The Christian Science Monitor. - 2005. - May 3.
6. *Choe Sang-Hun*. U.S. and South Korea to Focus on Diplomacy // International Herald Tribune. - 2005. - May 14.
7. *Howard La Franchi*. A Tough Road in Curbing Spread of Nuclear Arms // The Christian Science Monitor. - 2005. - May 3.



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IS THERE A RATIONAL ALTERNATIVE TO THE UKRAINE'S RATIFICATION OF THE ADDITIONAL PROTOCOL?

On 12 June 2005 Supreme Council of Ukraine (Verkhovna Rada) did not pass the bill of Additional Protocol's ratification (further referred to as AP). Only 125 people deputies voted for the ratification, summing up, I believe, only preliminarily result of the sluggish preparation process for the Treaty ratification, signed on behalf of our country as recently as in August 2000. What does refusal to ratify AP mean for Ukraine? Was there enough information provided to the deputies? The Author gives a try in this article to compensate possible gap of information about the issues backgrounds and potential consequences of one or another decision of Ukrainian representatives to the Parliament.

Additional Protocols as an important component of the measures, aimed at prevention of nuclear proliferation

NPT is the legal base for international nuclear nonproliferation regime. In Ukraine AP entered into force on 16 November 1994 through the Law of Ukraine "On alignment to the Nuclear Nonproliferation Treaty as of 1 July 1968" (№ 248/94-VR).

According to the NPT's Article III items 3 and 4 between Ukraine and the International Atomic Energy Agency was signed an Agreement for the Application of Safeguards in connection with Nuclear Nonproliferation Treaty and was ratified by Verkhovna Rada of Ukraine on 17 December 1997 (№737/97-VR). With the purpose to provide implementation of the commitments stipulated in the Agreement, State system of record-keeping and control over nuclear materials was established; within this system organization of operation and record keeping of nuclear materials was entrusted to the National control organ of nuclear and radiation security (since 2001 - State Committee on Nuclear Regulation of Ukraine).

Treaties similar to the one Ukraine concluded with the IAEA represent the base of traditional approach to ensuring safeguards, when State on voluntary basis provides information about location and quantity of nuclear materials which fall into its competence; exactly alleged nuclear materials subject to safeguards and verification by IAEA inspectors.

For quite a long time this approach considered to be appropriate to the goals of international nuclear nonproliferation regime. However, in 1991 after military operation in Persian Gulf it clear up that Iraq succeeded to hide the fact of nuclear weapon creation program in spite of application of IAEA safeguards to all Iraqi nuclear facilities and nuclear materials, and thus rose a need to develop and bring to life system of additional measures for substantial enhancement of opportunities to uncover illegal and hidden nuclear activities.



Developed measures are reflected in Model Additional Protocol INFCIRC/540 (corrected)¹, approved by the IAEA Board of Governors in May 1997 provide Agency with additional authorities and tools for strengthening the effectiveness of the safeguards. Conditions of the AP bind State to provide the IAEA with broader range of information covers all aspects of activity related to the nuclear fuel cycle including related research and development activities and production of uranium. In addition to that State must provide Agency with broader rights of access as well as ability to utilize modern scientific and technical achievements for the aims of control.

In relation to the states signed the Safeguards Agreement and ratified Additional Protocol, the IAEA may make enough reliable conclusions on absence of not only nuclear materials diversion form declared nuclear activity but still on undeclared nuclear materials and nuclear activity as a whole.

Issue of ratification of AP in the context of expanding world society's battle against international terrorism and proliferation of WMD

Under escalation of battle against international terrorism nuclear nonproliferation regime takes on special significance. Initiatives in this sphere come mainly from countries in the vanguard of this battle and first of all from the United States of America. This way, performing a speech at the National Defense University, Washington D.C., President George Bush has offered [1] seven new measures, aimed at strengthening the battle against proliferation of WMD.

Among them Initiatives are directly related to the discussed topic, and measures aimed at enhancement of AP role in provision of nuclear nonproliferation regime²:

«... The world must create a safe, orderly system to field civilian nuclear plants without adding to the danger of weapons proliferation. The world's leading nuclear exporters should ensure that states have reliable access at reasonable cost to fuel for civilian reactors, so long as those states renounce enrichment and reprocessing. Enrichment and reprocessing are not necessary for nations seeking to harness nuclear energy for peaceful purposes.

The 40 nations³ of the Nuclear Suppliers Group should refuse to sell enrichment and reprocessing equipment and technologies to any state that does not already possess full-scale, functioning enrichment and reprocessing plants. This step will prevent new states from developing the means to produce fissile material for nuclear bombs. Proliferators must not be allowed to cynically manipulate the NPT to acquire the material and infrastructure necessary for manufacturing illegal weapons.

For international norms to be effective, they must be enforced. It is the charge of the International Atomic Energy Agency to uncover banned nuclear activity around the world and reports those violations to the U.N. Security Council. We must ensure that the IAEA has all the tools it needs to fulfill its essential mandate. America and other nations support what is called the Additional Protocol, which requires states to declare

¹ Model Protocol Additional to the Agreement(s) between State(s) and the International Atomic Energy Agency for the application of Safeguards, INFCIRC/540 (corrected), November 1998.

² Quoted in the author's translation

³ Since the date of USA President's statement NSG extended its participants number up to 44.



a broad range of nuclear activities and facilities, and allow the IAEA to inspect those facilities.

As a fifth step, I propose that by next year, only states that have signed the Additional Protocol be allowed to import equipment for their civilian nuclear programs. Nations that are serious about fighting proliferation will approve and implement the Additional Protocol. I've submitted the Additional Protocol to the Senate. I urge the Senate to consent immediately to its ratification».

These proposals met support among the leaders of leading countries of the world. Thus, in June 2004 upon the results of Group of Eight Summit held in Sea Island was announced Action Plan on Nonproliferation [2], which included all précised main provisions mentioned in US President's speech.

In that way, in Section "Nuclear Nonproliferation" was declared that before the next G-8 Summit NSG Guidelines will be added with a necessary changes in order not to allow export of respective goods to the countries able to use them for production of arms or assist to transfer of such goods into the terrorist hands.

Leaders of G-8 States come to the agreement not to let new Initiatives develop if they foresee transfer of technologies and equipment for enrichment and processing nuclear materials to states which do not use such technologies at the moment. Except that, it was declared that member states will insist on common adherence to principles, included into Safeguards Treaties and Protocol Additional and call upon all the states to ratify and implement mentioned treaties. At the same time stresses that "AP must become important new standard in the sphere of agreements for nuclear materials. We will work to strengthen the NSG Guidelines in respectful manner. We are planning to rich this objective by the end of 2005."

Status of the AP's signing and ratification.

According to the information of IAEA, posted on the website www.iaea.org, AP already entered into force in 65 countries.

AP entered into force in the countries of the Europe except the following: Albania, Andorra, Byelorussia, Bosnia and Hercogovina, Estonia, Lichtenstein, Malta, Moldova, Russian Federation, Serbia and Monte Negro, Slovakia and Ukraine.

In case if we exclude Russia out of this list, who is the Representative of nuclear suppliers states, which the IAEA signs "special Treaties" (including the AP) then among the said European countries Ukraine and Slovakia only have developed nuclear energy programs and, accordingly, developed nuclear field. At the same time we may freely forecast that taking into account near entry of Estonia and Slovakia into the European Union (it can be witnessed, in particular, by entry AP into force in 15 EU member countries on 30 April 2004 and its ratification by Switzerland on 1 January 2005), these two countries will nearly ratify AP.

Regarding the nuclear states de-jure, i.e. five states possess nuclear weapon in accordance to the NPT, while three states - Great Britain, China and France have already brought AP into force, the United States and Russian Federation have it signed (on 12 June 1998 and 22 March 2000 accordingly), but still Agreement with the IAEA about entry AP into force not ratified.



Three nuclear states de-facto (states possess nuclear weapon, but are not a State parties of NPT) – India, Israel, Pakistan – concluded Agreement with the IAEA for the safeguards and AP was never signed.

Among the non-nuclear state, possess a significant nuclear energy programs, but for some reasons do not sign and/or do not bring into force the, should be mentioned Argentina, Brazil, DPRK (Mexico signed the AP on 29 March 2004).

Prospects of universalization of the Additional Protocol in the context of NPT Review Conference, May 2005

Battle of the international community against proliferation of WMD and terrorism is a many-sided and various in its forms. One of the most effective tools of this battle acknowledged Additional Protocols. That can be proved by the NPT RC of 2-27 May 2005 in New York. At the time when article this article was in the process, only part of the member states presented speeches on the Additional Protocols, even short presentations of the State and organizations on the Additional Protocol demonstrates almost unified support of the leading states.

Let us quote some of them.

Kofi Anan, UN Secretary General's position: *"... It is been a long time we should universalize AP. It must become a new standard for verification of compliance."*

Director General of the IAEA Muhammad El Baradei marked out the need to *"raise lath of a standard of verifications by means of approval AP as a norm for verification of compliance to the NPT. Without extended authorities provided by Protocol, IAEA is having limited rights to conducts inspections"*.

Deputy Minister for Foreign Affairs of Russian Federation: *"For the last five years a progress in development of the safeguards system of IAEA has occurred, that is implementation of the Conference decision on 1995 and 2000 NPT review. One of the main directions was the extension of the AP to the Agreement on the IAEA Safeguards use, which is advanced tool to provide transparency of the national nuclear program... Russia is going to finalize its ratification as earlier as within the nearest time"*.

Assistant to the State Secretary of the United States on the issues of control over arms S. Redmaker has confirmed that the country pursues a course to continue implementation of realization of the Plan of Action elements, proposed by the President Bush, in particular, with the purpose of *"...universalization of the AP worship and its acknowledgement as a condition of nuclear supply that provides strengthening of NPT compliance verification means"*.

Minister for Foreign Affairs of Australia, A. Dawner: *"IAEA Safeguards must be strengthened. Combination of the Treaty on Comprehensive Safeguards and AP – is a standard, which might guarantee at the best the long-term efficiency of the NPT. Australia has an intention to make Additional Protocol a condition for supply of uranium to such countries (which brought AP into force – Sergiy Kondratov) and will consult with other countries, exporters and importers regarding synchronous application of such measure."*

Minister for Foreign Affairs of Japan, N. Machimura has stressed *"importance to universalize AP as the most realistic and effective mean to strengthen modern international regime of nonproliferation."*

Minister for Foreign Affairs of FRG, Yoshka Fisher: *"For the best determination of violations, our modern abilities regarding verifications must be improved. First of all, we must universalize IAEA AP and make it a new standard of verifications regarding NPT."*

J. Right Deputy Minister for Foreign Affairs of Canada: *"... Canada calls participants of the Conference to acknowledge that Treaty on Comprehensive Safeguards together with AP make standard of safeguards regarding the NPT agreeably to the implementation of Agreement's Article III"*.

At active support of distinguished countries of the world we may forecast with a high probability energetic progress of AP universalization as an effective tool of verifications of compliance of responsibilities of the countries in respect to the NPT.

Problems relating AP ratification and implementation in Ukraine

In Ukraine an issue of AP ratification has been reviewed for more than five years. Such considerable period of time can be grounded only through the presence of the problems, which must be solved in order our country not only ratify this document but also provide exact implementation of its all provisions. Analysis of these problems taking into consideration declared by both previous and current leadership of the State priority of the measures related to the realization of Euro Atlantic direction of Ukraine, shows that mentioned problems must be so to say "technical" character. Shortly we will stop at the problems, which specialists [3] in this field have determined as main.

1. Need to provide IAEA with a certain data which embodies state secret

The fact that at the time of Soviet Union almost all nuclear branch this way or another was connected with the military-industrial complex, was unavoidably leaving a mark on volume and category of the information, which were subject to the classification. After Ukraine received an independency, it refused from nuclear weapon, however there still left in normative and legal base of the country some "rudiments" of former approaches to the classified information. Such approaches already were not responding neither to the non-nuclear status of our country nor to the current requirements of transparency of nuclear activity in connection with the provision of nuclear nonproliferation regime and counteraction to the threat of nuclear terrorism.

Modern normative and legal base foresees certain procedures to review the data, related to the state secret, i.e. this problem totally can be solved in a stated by legislation way. Revision, unconditionally, must be conducted in a weighted manner, without harming to the national security.

2. Drafting list of enterprises subject to AP requirements

According to the requirements of AP substantially broadens the circle of enterprises and organizations on which activity information must be submitted to the IAEA. To such organizations are also related organizations producing dual-use goods, conducting scientific research and research designing activity related to the nuclear fuel cycle but not to the nuclear materials, etc.

3. *Drafting normative and legal documents to provide AP implementation*

In the process of measures implementation and AP provisions realization will be involved a raw of central organs of executive power, enterprises, scientific research, design-construction bureaus and other organizations of different forms of property. In case of ratification of this document it will be necessary to work out and adopt normative and legal acts, which will define order and procedures of transfer of necessary information first of all to the State Committee on Nuclear Regulation of Ukraine (competent national organ on the issues of safeguards) and after relevant processing to the IAEA.

Besides, changes to the normative and legal base must reflect substantial extension of IAEA inspector rights, in particular, right to pay visits without notification, to any kind of buildings at the nuclear sites, and possibility to take samples behind the boundaries of applied places of nuclear materials remaining.

On the condition of provision additional authorities to the IAEA inspectors, normative and legal base should clearly regulate measures, aimed at prevention of information declassification regarding the nuclear proliferation, at the implementation of physical security and safety requirements, protection of commercial secret, and information being in the private property.

4. *Need of additional expenditures and resources*

Evaluation of AP ratification results from the point of view of expenses and resources provision demands taking into account lots of factors, indisputable is the only one – ratification process needs allocation of certain funds and resources, indirect confirmation to what is mentioning about increasing of funding of activity on Additional Protocols implementation in IAEA headquarter and at places (implementation of AP in Member States) in one of the speeches of IAEA Director General [4].

Instead of Summary

Summarizing the given information, let us pay attention to the following:

1. *To the principle opponents of the NPT*, as well as Agreements and Treaties running out of it, and AP, *can be referred de-facto nuclear states*, i.e. India, Israel and Pakistan which keep the policy of deterrence during the long-term regional conflicts, which they can be Parties in it.

2. *To the States, which did not bring into force AP, a prevailing majority of the third world countries can be referred*. To that list can be also added insignificant number of states with developed nuclear branch.

3. Among the EU members only Slovakia and Estonia did not ratify AP. At the same time *all 4 official candidates for access to the EU – Bulgaria, Croatia, Romania and Turkey – already ratified AP several years ago* (first three in 2000, Turkey in 2001).

4. *States, which keep not bringing into force AP for the reason or the other, for the future, obviously, will become an object of increasing pressure on behalf of leading states of the world* (first of all Group of Eight) and that will reveal itself through the

different forms (political, economic, diplomatic, etc.). As an illustration to above said can be used situation around nuclear program of Iran, taking into consideration that Iran gave serious grounds for suspects concerning the absolutely peaceful aims of its nuclear program.

5. *Development of the IAEA safeguards system, probably, will be conducted in the direction of the Comprehensive Safeguards Treaty and Additional Protocol adoption as a generally acknowledged standard concerning verifications of states activity compliance to its commitments according to the NPT.*

6. *Ratification of the AP may cause certain increasing of expenditures for the operation of state nuclear materials control and record keeping system, corresponding subdivisions of central organs of executive power, enterprises and organizations as well as for the development of necessary normative and legal base for AP implementation. However, foreseen financial expenditures will be significantly less then those losses that our country can achieve in case of sanctions if we refuse to ratify AP.*

7. *Ukraine's ratification of the AP will prove succession of its peaceful policy and inclination towards principles of provision of the world nuclear non-proliferation regime and counteraction to the nuclear terrorism threat, which is especially important on the background of some domestic politician's calls to review Ukraine's non-nuclear status.*

Wrap ups

Taking into consideration the declared strategic aim of external policy, which is to integrate into European Union as well as considering that new Ukraine's political leadership puts Ukraine into position of potential candidate to enter EU, continuation of non-cooperation policy with IAEA, Group of Eight and world community in the area of nuclear non-proliferation and combat against the nuclear terrorism will be received as, to put it mildly, illogical. It is impossible to conduct integration of the state into the European and Atlantic structures only according to the chosen directions.

Extension of the course, started on 12 January 2005, unavoidably will throw our country to the camp of principle opponents of the AP, which position regarding the availability of nuclear weapon is dictated by its participation in recent regional wars and armed conflicts as well as by tension which remains in relevant regions of the world. If Ukraine is not aiming to leave NPT and create nuclear weapon, then it's very difficult to find rational reasons for refusal to ratify the Treaty.

Finally, I would like to compare preparation of the country or the other to join the EU to creation of the mosaic portrait of Candidate State. And even though such portrait is consist of many elements, and some of them will be defining general impression of it. So, exactly to such elements can be referred inclination towards aims of combat against nuclear proliferation and nuclear terrorism, for efficiency enhancement of which is been introducing the AP. Hence, an answer to the questions stated in title of the article will be the following: if Ukraine is eager to enter EU then there is no rational alternative to ratification of the Treaty.

Author's view point may not coincide with official position of the Institute of national security problems.



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REVIEW PROCESS WITHIN THE NPT: 1995 – 2000 CONFERENCES, CURRENT TENDENCIES.

According to the article VIII(3) of the NPT as well as to the relevant decision reached during the Review Conference of NPT country-members in 1995, next NPT Review Conference must be held this year in New York from 2 till 27 of May.

Situation in the sphere of control over arms and nuclear weapons nonproliferation is extremely unstable. That was caused by the number of factors, in particular, by reiterated statements of DPRK on leaving the NPT (in 1993 and 2003), by determination of advanced illegal network of nuclear materials proliferation and correspondent equipment headed by the Pakistani scientist Abdul Qadir Khan (in 2004), ambiguity regarding to the nature of nuclear program of Iran, by the efforts of nuclear countries to develop new types of nuclear weapons, by the threat of WMD utilization by the terrorists, etc.

Under such circumstances, NPT, which since the date of coming into force has been playing for thirty five years a leading role in suppression of nuclear weapons proliferation and promotion of nuclear disarmament goals had proved to be under threat. However, the indisputable fact is that today NPT is one of the most important instruments to support security and stability in the world, and results of May 2005 Conference will have a constitutive impact on the destiny of the Treaty itself, international nonproliferation regime and global security as a whole.

Talking about modern stage of Review process within the NPT, first of all we must remember previous NPT Review Conferences, specifically, Conferences of 1995 and 2000, which considered to be historical giving proper weight to the decisions that had been made.

Review Conferences of 1975-1990

Epochal 1995 NPT Review and Extension Conference was preceded by four Review Conferences, which were held according to Article VIII(3) of the Treaty in Geneva on 5-30 May 1975, 11 August – 7 September 1980, 27 August – 21 September 1985, and 20 August – 14 September 1990. Thus, at the time of conducting the Conference in 1975 number of the country-members was equal to 91, and by August 1990 their number increased up to 140.

Within the framework of each of the conferences, debates took place around many issues, which fall under the force of Treaty; however, the biggest disputes (between the nuclear states on the one hand and non-nuclear on the other) appeared during discussion of implementation problems of the NPT article VI (nuclear disarmament), issues of administration of the safeguards by nuclear states to non-nuclear ones and the necessity to sign the Comprehensive Prohibition of Test Ban Treaty (CTBT).



Out of four mentioned Conferences only two were successful in 1975 and 1985. The participants were able to reach consensus regarding text of the Final Document.

NPT Review and Extension Conference 1995: international context

Work of the Conference took place against a background of generally positive events in the sphere of control over arms, disarmament and nonproliferation. This way, was reached certain progress in suppression to the nuclear weapon horizontal proliferation process. In particular, it was successful to find solution (although, as time proved, for certain period) for crisis around nuclear program of DPRK⁴ and to restrain nuclear ambitions of Iraq⁵.

Constitutive events, from the point of view of further destiny of nuclear nonproliferation regime, and results of NPT Review Conference, became a decision-making of Ukraine, Byelorussia and Kazakhstan on the day before the Conference about voluntary renunciation from nuclear weapon, inherited after dissolution of the USSR and annexation to the NPT as non-nuclear states. These events were rendering cooperation to strengthening the NPT authority. Ukraine's correspondent decision, in addition, opened an avenue for START signed between the USA and the Russian Federation (1991) to come into force, as well as assisted to the substantial progress in the matter of practical nuclear disarmament, which became considerable element at the decision-making on termless extension of the NPT validity⁶.

⁴ In March 1993, the Government of DPRK made a statement on the decision to leave NPT. It refused to allow IAEA inspectors to check propriety and fullness of preliminary report on fissile material and facilities, which related to the safeguards according to the Treaty signed by the North Korea in 1992. That day the conflict was settled within the bilateral negotiations between Pyongyang and USA, which completed with the signing a Framework Agreement (October 1994), which foreseen the reduction of nuclear program of KNDR in exchange for assistance of the United States in provision for needs of the national power system of the North Korea. In June 1993, one day before the decision on leaving NPT came into force, Pyongyang announced about suspension of withdrawal process. Almost ten years in a row had been flaring up a crisis around DPRK with a new power. On 10 of January 2003 Pyongyang made a statement about refusal from IAEA Agreement for the Application of Safeguards and withdrawal of moratorium for implementation of decision about leaving NPT.

⁵ Iraq, being a Party of NPT, throughout many years was conducting broad program on creation of nuclear weapon and means of its delivery. As far back as in 70-80-ies there existed certain suspicions regarding leading scientific research activity by Iraq, which goes out the civilian frames. Since 1982 Iraq in a boosted way was implementing program of enriching uranium up to the level necessary to create a weapon. Iraqi specialists gave several tries to extract plutonium out of reactors, which were under the IAEA Safeguards. After defeat of Iraqi army, which intruded into Kuwait, in April 1991 UNSC passed the Resolution no. 687, according to which all the potential of Iraq in the area of WMD and means of delivery were subject to destruction, withdrawal or neutralization under international control of IAEA and newly established Special UN Committee for issues of Iraq (UNSCOM).

⁶ Ukraine's contribution into the process of practical nuclear disarmament met an acknowledgement of forum participants, evidence to that was Ukraine representative's election to the position of Vice-chairman of NPT RC and Vice-chairman of the Main Committee I for the Conference (problems of nuclear disarmament). Authority and influence of Ukrainian delegation, which actively participated in the work of all main organs of the Conference and formal and informal working groups, reflected on the character of the decisions, prepared and approved as a result of strained diplomatic activity.

Among the other events, which formulated positive environment for the Conference in 1995, must be remembered a reduction process of the nuclear arsenals of the Russian Federation and the USA under signed in 1987 Agreement about disposition of the intermediate and less range missiles, signing in January 1993 the START II (which, however, did not obtain a power because of the disputes between official Washington and Moscow), active work, which was led within the Conference on the disarmament (Geneva), on the text of Comprehensive Test Ban Treaty (CTBT).

Main Tasks and Problems of the Review Conference in 1995

Article X(2) of the NPT foresees convocation of the Conference of Treaty country-members after twenty five years since it came into force in order to take a decision whether it will be termless prolonged or prolonged for certain defined period or periods. Such decision, as mentioned in article, must be approved by the majority of NPT country-members. Moreover, article VIII(3) of the Treaty established a practice to conduct conferences every five years in order to review how the objectives of the NPT, set forth in its preamble and provisions, are being fulfilled.

Thus, the Conference of the NPT country-members, opened on 17 of April 1995 at the Headquarter of UNO in New-York⁷, pursued two main tasks – to prolong term of Treaty validity and to define such term; to review Treaty implementation status for the last five years and all previous twenty five (1970-1995). Among the other important tasks, which appeared in front of Forum, were: the development of recommendations regarding the enhancement of Treaty effectiveness and mechanism of their implementation; definition of the ways for assistance to achievement of generality of the NPT and so on.

So, central problems of the NPT Review Conference were:

1. Adoption of the decision based on the Article X(2) of NPT, i.e. definition of the term for extension of the Treaty validity, with what, exactly, was connected the main intrigue of the Conference and around what a strained diplomatic battle swiveled.
2. Adoption of the decision regarding that whether Treaty can be prolonged unconditionally, or decision on extension of Treaty term must be provided with a set of measurements, in particular, in nuclear disarmament issues, expounded as a document of mandatory of recommendatory character.

Substantial attention in the course of the Conference was paid to the discussion of implementation of disarmament article of the NPT and issues related to it (Conclusion of CTBT and Fissile Materials Cut-off Treaty - FMCT), article IV of NPT (peaceful use of nuclear energy) problems of nuclear weapon states to provide safeguards for non-nuclear weapon states and creation of the zones free of nuclear weapon. However, it must be marked out that already by the opening of forum discussion of the issue to prolong term of the NPT validity pushed aside an issue of implementation of Treaty provisions.

⁷ At the time of NPT RC conduction 178 states were the members of the Treaty, 175 of them were represented at the Conference, including Ukraine. Our state joined the NPT in December 1994, for the first time participating in the forum work enjoying the full rights of Treaty member.

NPT validity extension – the key issue of 1995 RC.

Article X (2) of the NPT has been foreseeing three possible variants of the Treaty extension – indefinite extension (termless), for several definite terms, for single term. According to the previous evaluation, more chances to obtain support from the states could get proposals of indefinite extension and extension for several 25 years periods, which consecutively would change each other.

Of course, from the point of view of keeping NPT's vitality and provision of its further leading role in the global stability and security supporting processes would be most acceptable indefinite extension of its validity, however, there was no assurance that correspondent proposal will obtain majority of country-members voices (90), which is necessary for adoption of legally mandatory decision according to article X(2)⁸. Never the less, common debates, which almost 116 delegations participated in it, certified that overwhelming majority of the participants are inclining to the extension of NPT for indefinite period. However, there were other approaches to the NPT extension described in speeches of the states, which joined the Movement of Non-alignment and group of the Arabic countries⁹. Split among the participants of the Conference because of the said issue would have serious consequences for stability of nuclear nonproliferation regime and global security. That is why already in the beginning of forum's work, when difficulties with adoption of Procedure Regulations raised and with issue resolution on the way of voting (by show or secret), in particular, Chairman of the Conference Jayanta Dhanapali (Sri Lanka) and the adherents of the NPT's indefinite extension had strengthened in their belief that the voting should be avoided and adoption of the corresponding solution on the basis of consensus is the most optimal way to resolve NPT extension issue, including from point of view of support its vitality in the future.

Regarding the decision-making on the NPT extension for indefinite period, in this context a special attention should be paid to the presentations made by SAR and Mexico, which, according to the words of J. Dhanapali, became one of the determination episodes of the Conference¹⁰. Thus, Minister of Foreign Affairs of SAR Mr. Alfred Nzo, proposed together with the decision on indefinite extension of the NPT to set so-called "principles of nuclear nonproliferation and disarmament". Representative of Mexico announced an idea, which conditions adoption of decision regarding the NPT extension by means of adoption of certain recommendations in the sphere of nuclear disarmament and supported initiative of introduction of intersession NPT review

⁸ *Tymerbaev Roland*. 1995 Review and Extension Conference for the nuclear Nonproliferation Treaty operation: peculiarities, results, lessons learned // Scientific notes of the PIR-Center no. 11. – Moscow, 1999. – p. 16

⁹ Nigeria offered to extend NPT's operation for one more term, Venezuela – for a certain period of time with consequent Review Conference, Indonesia, Iran, Myanmar expressed in favor of consecutive extension of the NPT's operation for several terms on conditions that nuclear States will execute certain obligations in the sphere of nuclear disarmament. Delegation of Ukraine, headed by the G. Y. Udovenko supported proposal to indefinitely extend the NPT's operation.

¹⁰ *Multilateral Diplomacy and the NPT: An Insider's Account*. Jayantha Dhanapala and Randy Rydell. UNIDIR/2005/3, p.7.



mechanism for the period between Review Conferences. Both initiatives were supported and approved as decisions of the Conference.

Final stage of the NPT RC: decision-making

Proposal of the Chairman of the Conference Mr. J. Dhanapali, the NPT RC has resolved without a voting a package decision, in the first part of which – Decision 1 “Enhancement of efficiency of the NPT Review”, Decision 2 – “Principles and objectives of nuclear nonproliferation and disarmament”, Decision 3 – “NPT’s operation extension”, in the second part – resolution on the problems of nuclear nonproliferation and disarmament in the Middle East¹¹.

Decision on indefinite extension of the NPT had de legally mandatory character, the rest of the decision – political and recommendatory character.

Separately should be paid attention to the fact that it would be wrong understanding of that historical decision about indefinite extension of the NPT’s operation would be approved by consensus. In fact, consensus was in adoption of resolution on acknowledgement of the fact that obviously, majority of the participants vote for indefinite extension of the NPT, accordingly, there is no need for voting, and that is why decision on indefinite extension of the NPT assumes full juridical power¹².

Role of 1995 NPT Review Conference

Conference on Review and extension of the NPT’s operation carries, unconditionally, a historical for many reasons character. First of all, a great meaning for supporting of vitality of the NPT and whole nuclear nonproliferation regime, built upon NPT basis, had a decision on indefinite extension of the NPT’s operation as well as improvement of the mechanism of NPT’s operation review. With its decision RC gave an impulse to the process of nuclear disarmament. Even though, the Conference of that year was not capable to reach consensus regarding the Final Document, stated decisions with its content outweighed its unadoption.

Secondly, NPT RC became first large-scale forum in the period of after completion of cold war, although there were present all the nuclear states and represented almost all of the NPT country-members. Contrary to the numerous disputes between states parties of the Conference were able to certify high level of cooperation and to reach weighty positive results.

2000 NPT Review Conference

In accordance to the 1995 NPT RC decision on enhancement of the efficiency of NPT’s Operation Review during 1997-1999 there were held three sessions of the 2000 NPT RC PrepCom, according to which results, against the stated mandate, there were no recommendations made on the issues of forum work essence. This fact in a raw with

¹¹ Approval of the correspondent Resolution was offered by the group of Arabic States as a condition to their support of indefinite extension of the NPT’s authority.

¹² *Tymerbaev Roland*. Review and Extension Conference for the nuclear Nonproliferation Treaty operation: peculiarities, results, lessons learned // Scientific notes of the PIR-Center no. 11. – Moscow, 1999. – p. 31.



external political climate, which formulated at the moment of conducting the Conference (24 of April – 20 of May, 2000, in New York), did not give the grounds to the leading experts and analysts in the sphere of control over arms and nuclear nonproliferation to talk about perspectives of successful completion of the forum. Thus, according to the statement of the Chairman of NPT RC, Mr. J. Dhanapali, the pleasant surprise became not only that the Conference by its consensus approved the Final Document and that such document received a real filling¹³.

The years before the Conference were full of both positive and honestly negative events in the sphere of international security. Powerful resonance, in particular, was reasoned by nuclear explosions, done by India and Pakistan in May 1998. Within the frames of the Disarmament Conference in Geneva, for a quite few years it did not work to start negotiations regarding the signing CTBT. In October 1999 Senate of the USA did not support a bill of ratifying CTBT, since that time exactly opportunity for the Document to enter into force seemed to be under threat¹⁴. Serious disputes rose between Washington and Moscow with regard to the further destiny of the Anti-Ballistic Missile Treaty¹⁵.

All these issues as well as many other problems in the sphere of nuclear nonproliferation and disarmament were actively discussed during the Conference 2000, as a result to which a comprehensive in its sense Final Document was adopted. Special attention should be paid to so-called 13 Practical Steps in the sphere of nuclear disarmament, which are kind of specific program of actions for international society and first of all nuclear states, in correspondent sphere. In particular, the elements of this program foresee the soonest CTBT ratification, nuclear states implementation of certain steps towards the nuclear disarmament, reaching the goals of general and comprehensive disarmament under the effective international control¹⁶.

Current stage of review process

Final Document of the 2000 Conference and, in particular, defined in it certain Practical Steps on provision of systematic and consecutive efforts in implementation of the Article VI of the NPT became a significant event in the sphere of nuclear nonproliferation and disarmament. Although, weightiness of the reached consensus should be evaluated taking into account to which extent political agreements, included into Final Document, will be realized in life.

Unfortunately, last events certify the absence of the progress towards the nuclear disarmament, finally the unsteadiness of the agreements, which were acknowledged in 2000 as epochal. This way, prospects of entry into force of CTBT remain indefinite,

¹³ *Multilateral Diplomacy and the NPT: An Insider's Account.* Jayantha Dhanapala and Randy Rydell. UNIDIR/2005/3, p.89.

¹⁴ The United States of America are among the countries, which ratification of CTBT is a mandatory condition of entry into force.

¹⁵ In June 2002 under Initiative of the United States the Anti-Ballistic Missile Treaty (1972), which was considered to be a cornerstone of strategic stability, lost its validity.

¹⁶ Delegation of Ukraine, which representative was elected Vice-President of the Conference in 2000, succeed to include into the text of the Final Document provisions reflecting Ukraine's unique contribution into the process of practical nuclear disarmament and nonproliferation as well as proposals concerning cooperation in the issue to minimize and soften consequences of Chernobyl catastrophe.



negotiations concerning FMCT still did not start, ABMT lost validity. Information about development of new types of nuclear weapon by the USA becomes known (low-powered and high-frequency), what makes other States, first of all, to fulfill correspondent activity and in future may become a ground to resume a nuclear tests, and thus, will lead to a full fiasco of international community efforts to cease a practice of such tests.

Positive step towards nuclear disarmament could become Russian – USA Treaty on Strategic Reduction of Offensive Potentials (Moscow Treaty) signed in 2002, however, it does not contain Verification Provisions, and thus, does not provide with implementation of inconvertibility principle¹⁷.

This is the general picture, against which background has occurred NPT RC 2002-2004. Review of the summarized results of the next VII NPT Review Conference, which now is held in New York, - subject to separate talk. However, the day before Conference opening in the circle of nonproliferator mainly dominates skeptic moods regarding the possible repeat by the current Conference of successful practice forums in 1995 and 2000. We will see soon, how much reasonable these considerations are.

¹⁷ It is foreseen that the USA according to the Strategic Offensive Weapons Reduction Treaty will remove nuclear war heads from installed intercontinental ballistic missiles, form the sea-based missiles and heavy bombers and its consequent storage. Because this Treaty does not oblige its participants to eliminate removed from the battle duty war heads and means of its delivery, there is an opinion that in case of need the USA will be capable in short period to resume its strategic potential on the account of stored war heads, which quantity till 2007 will make more then 2 thousand units. This way, number of deployed war heads may reach 4 thousand.

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USSR Legacy: Kyiv Unwilling to Relinquish High-Enriched Uranium Stock?

Concerned with the potential of nuclear weapons and nuclear material falling into the hands of terrorists, Washington has been after the Ukrainian leadership over several years soliciting their agreement to ship high-enriched uranium (used in research reactors of the Kyiv-based Nuclear Research Institute and Sevastopol-based National Institute for Nuclear Energy and Industry) to Russia. This topic was raised during Viktor Yushchenko's visit to the United States. As of today, it is difficult to say whether the Americans' efforts have been a success.¹⁸ Until now, Kyiv has been reluctant to part with high-enriched uranium.

Washington started planning return of high-enriched nuclear fuel (SNF) to the countries of origin back in 1999 as the terrorist threat was escalating. Around the world there are tens of institutes with research reactors using high-enriched uranium (HEU). These facilities attract various extremist organizations keen on carrying out terrorist attacks on them. Equally, terrorists are interested in HEU stockpiles stored, since they can help create the so-called "dirty bomb".

Mistrustful of security systems maintained by other countries, Washington developed a program for returning high-enriched nuclear fuel removed from reactors to the countries of origin - United States and Russia. Notably, in pursuing that policy the United States allied forces not with Russia only, but also with IAEA: this organization discourages non-nuclear countries from possession and use of SNF in nuclear research facilities.

Jointly with Moscow and assisted by IAEA, the White House identified 20 research reactors in 17 non-nuclear countries around the world, where Soviet-made or Russian-made high-enriched nuclear fuel is used. The United States suggested that those countries participate in the program for nuclear research reactor fuel to be returned to Russia.

In August 2002, Washington saw to it that fresh high-enriched fuel was shipped to Russia from Serbia and Montenegro's Research Institute. During 2003, SNF from research reactors of Romania, Bulgaria, and Libya was also returned to Russia. Under negotiation now is the destiny of nuclear fuel from an Uzbek nuclear research facility located near the Afghan border.

The Americans kept an eye on Ukraine as well. Back in 2002-2003, the United States repeatedly suggested that Ukrainian government redeem 75 kilograms of high-enriched uranium located at the National Scientific Center *Kharkiv Physical-Technical Institute*. Those suggestions were backed up with a sweeping PR-campaign in Western mass media, which argued that Kyiv was incapable of reliable storage of nuclear material stockpiles. Yet despite Washington's diplomatic pressure that was timed to the

¹⁸ On 13 May 2005, a meeting of the National Security and Defense Council was held. The 13 May Presidential Press Service release said: "...As a priority, the President emphasized the need to reconsider the appropriateness of storage on Ukrainian soil of high-enriched uranium stockpiles and use of high-enriched nuclear fuel in domestic research reactors."

climax of the *Kolchuga* scandal, the then Ukrainian government decided instead to let the Kharkiv Institute keep the HEU. One argument among others was that high-enriched uranium-235 was required for scientific purposes.

In May 2004, Washington launched the so-called Global Threat Reduction Initiative. Among other things, it provides for removal of nuclear fuel from research reactors worldwide and its return to the countries of origin. In addition, the Initiative assumes resetting research reactors that use high-enriched nuclear fuel to operate based on low-enriched nuclear fuel (LENF). Notably enough, this Initiative also assumes return of all Russian-made spent nuclear fuel to Russia.

To implement this ambitious program, the U.S government planned to allocate USD 450 million. It is remarkable that only a few days after the Initiative was announced, namely on 27 May 2004, the U.S. Department of Energy Chairman S. Abrahamson and the Director of the Russian Federation Nuclear Industry Agency A. Rumyantsev signed an agreement *On Cooperation in the Import to the Russian Federation of Nuclear Research Reactor Fuel Fabricated in the Russian Federation*.

In the same month of May the United States government reiterated their proposal to Kyiv to ship to Russia the nuclear research reactor fuel from the Kyiv and Sevastopol Institutes, assuring its LENS-based operation. At that, the Americans promised that they would barter low-enriched fuel for the high-enriched for free and would commit almost USD 1 million to upgrading the obsolete Kyiv-based WWR-M reactor and resetting it for operating on LENS.

Kyiv's initial response to Washington's proposal was favorable. They even started considering the proposed draft agreement *On Cooperation in Preventing the Spread of Nuclear Materials and Technologies*. Yet a closer look revealed that things were not so simple with the U.S. proposal. Accordingly, while official Kyiv does support Washington's struggle against international terrorism, our country has yet to make up its mind to hand its high-enriched uranium to Russia. There are a few reasons for that. We may begin with a statement that Kyiv is unwilling to groundlessly admit to being helpless in SNF storage. Back in the Soviet Union times the system of physical protection of nuclear material was considered reliable, and it was again Americans that assisted in further upgrading it in 1990s. Its effectiveness was repeatedly attested to by IAEA representatives who periodically inspected the Kyiv and Sevastopol Institutes. That, in turn, attests to the fact that Ukraine meticulously fulfills the obligations it assumed. We may be reminded that all nuclear material kept by the Kyiv Nuclear Research Institute, Sevastopol National Institute for Nuclear Energy and Industry, and National Scientific Center *Kharkiv Physical-Technical Institute* has been under IAEA control as part of the safeguards system since 1995.

For the Ukrainian leadership this reason is weighty, but not the principal one. Official Kyiv is concerned that, once research reactors have been reset onto low-enriched fuel, Ukrainian science will incur irreversible damage. The thing is that a great deal of research, and not in nuclear physics alone, is conducted with but high-enriched uranium. HEU-based research enables our domestic science to obtain unique technologies, a thing beyond reach for countries whose scientists work with low-enriched uranium in their research. HEU surrender can not only rid Ukraine of specific know-how, but also retard its nuclear research.

Considering, however, that fundamental research is extremely ill funded, and the country is experiencing a scientist brain drain, Ukrainian science is unlikely to restore the status quo once attained. It is worth mentioning that non-nuclear Germany defied the U.S. pressure a few years ago in launching a high-enriched fuel reactor to carry out nuclear research. And that with "the Green" – opponents in principle to the use of nuclear energy – holding the power in Germany! Therefore, Kyiv is suspicious that behind the words about preventing the spread of nuclear material and suppression of terrorism, Washington is keen not only on reducing the potential threat of HEU falling into terrorists' hands, but also on crushing potential competitors in the field of high-enriched uranium research. By the way, it also plays to Russia's interests. Hence Kyiv makes no haste in shipping enriched nuclear fuel back to Russia. Still, Ukraine is prepared to do a favor to the United States. In particular, as regards resetting the Kyiv reactor to run on low-enriched fuel.

The Kyiv-based WWR-M reactor is extensively used for operational safety research for operating nuclear power plants. What is extremely urgent for this reactor, however, is the aging concern: according to the SNRCU-issued license, the operational lifetime of the WWR-M research reactor at the Kyiv Institute for Nuclear Research expires on 31 December 2005.

As experts indicate, this reactor's operational lifetime can only be extended if it gets upgraded. Therefore, experts are led to believe that in the case of the Kyiv reactor, the U.S. proposal can be accepted as long as they are willing to invest over USD 1 million into resetting of WWR-M onto low-enriched fuel. The Sevastopol reactor is a different story: its operational lifetime is yet to expire, making it premature to reset it onto LENF.

Kyiv is ready for a dialog with Moscow and Washington over spent nuclear fuel return. In terms of nuclear and radiation safety, it is a far more important thing for Ukraine than resetting research reactors to operate on low-enriched fuel. And in this matter Kyiv relies on support from Washington. All the more that the problem of funding this work needs to be solved along with reaching an agreement on the issue of Russia not returning radioactive waste after spent fuel reprocessing.

Apart from the listed reasons that form official Kyiv's position, there is also a geopolitical aspect to the problem. The thing is that mere possession of high-enriched uranium raises the country's significance in the system of international relations, and enables a dialog with the United States at a higher level. If anything, consider Russia: mere possession of nuclear weapons makes this country "a Premier League team". Meanwhile, Ukraine's renunciation of nuclear weapons in early 1990s caused a drastic slump of interest in it on the part of industrially developed nations.

Clearly, such a position held by the Ukrainian leadership hardly wins any admiration with the White House administration. Yet the Americans do not abandon hope to see things happen their way. And to make Washington's reasoning sound more persuasive to Kyiv, the White House follows the U.S. diplomatic tradition to tie up SNF return to Russia with other issues of concern in Ukraine/U.S. relations. On the other hand, according to information available, the American pressure on Kyiv has not been tough indeed as yet. We note that Washington has no formal pretext to impose sanctions against Ukraine. Our country is not party to any agreement binding Kyiv to

forswear high-enriched uranium and nuclear fuel. And in this situation it depends on the Ukrainian leadership's political will only, whether Ukraine will join the program for nuclear research high-enriched fuel to be returned to Russia.



MULTILATERAL REGIME OF EXPORT CONTROL

Editorial team continues publication of the materials with the purpose of more detailed introduction of the readers to the international regimes of export control, directed particularly towards the nuclear weapon nonproliferation of WMD, including nuclear one. Now it is turn of Nuclear Suppliers Group.

Nuclear Suppliers Group

What is NSG?

Nuclear Suppliers Group is an International Organization, which activity is based on the collective political agreement of member States and aimed at nuclear proliferation prevention by means of control over the nuclear related goods on the basis of maintenance of main Guidelines of both nuclear and nuclear related goods export (further referred as - NSG Guidelines). NSG Guidelines are to be implemented by each Member State according to the national legislation and relevant international commitments.

NSG has no official relations with the International Atomic Energy Agency (the IAEA), however, the IAEA publishes the NSG documents and applies Trigger List as a ground for accounting on a voluntary basis.

When and Why Was the NSG Established?

The NSG establishment is inseparably related to the activity of another informal organization - Zangger Committee. Mandate of this Committee is limited by the interpretation of Article III.2 of the Nuclear Weapon Non-proliferation Treaty (further referred as - NPT). Between 1971 and 1974, a group of 15 nuclear supplier states held a series of informal meetings in Vienna chaired by Professor Claude Zangger. The group's objective was to reach a common understanding on:

- (a) the definition of "equipment or material especially designed or prepared for the processing, use or production of special fissionable material;" and
- (b) the conditions and procedures that would govern exports of such equipment or material in order to meet the obligations of Article III of the NPT on the basis of fair commercial competition.

Zangger Committee Agreements require the IAEA safeguards to be applied to the supplied material. Materials and equipment especially designed or prepared for the processing, use or production of special fissionable material can also be supplied only on condition that received on this equipment fissionable material will stay under the IAEA safeguards. Reexport can also be done only after the IAEA safeguards are applied to the fissionable material. Committee has approved List of nuclear export items ("Trigger list").

After India tested nuclear explosive device in 1974 and some of the States were trying to start out construction of nuclear cycle enterprises, *it became understood that Non-Proliferation Regime and Zangger Committee did not impede to technologies transfers to the NPT Nonmember States.* Main countries - owning nuclear technologies and nuclear

suppliers at the same time had established "London Club" ("Club de Londres"), (later received a title of Nuclear Suppliers Group). The main goal was to work out Guidelines and Criteria of nuclear export, which were called upon to expand Zangger Committee's Agreements.

Thus, the NSG was, as a matter of fact, established in response to the India's nuclear weapon test, which showed that some of the nuclear technologies, which are not being used for the military nuclear programs, give an opportunity for its application in nuclear weapon development. States, which already have been the NPT parties, had seen a necessity to consequent limitation of nuclear equipment, materials and technologies export. Other advantage out of the NSG creation was that the nonaligned member States neither to the NPT not to Zangger Committee were obtaining an opportunity to join to the international efforts in the sphere of nuclear non-proliferation through its participation in the given group activity.

What are the Guidelines?

In 1976 the NSG published the document "Nuclear Export Guidelines" and expanded its Control list in comparison to what was the Zangger Committee using. This document defines terms and conditions of delivery such as: providing physical security for nuclear materials at the level, not less than recommended by the IAEA; possibility to transfer any assembly, designed on the new technologies basis merely on condition of putting it under the IAEA Control as well as imposed restriction upon the sensitive technologies and materials.

At the 1990 NPT Review Conference special Committee offered a row of Recommendations regarding the NPT Article III Implementation, which used to have an influence on the NSG activity throughout 1990-ies.

The NSG did not meet again until 1991. The "Trigger List" remained unchanged until 1991, although the Zangger list was regularly updated. The revelations about the Iraqi weapons program following the first Gulf War led to a tightening of the export of so-called dual-use equipment. At the first meeting since 1978, held at the Hague in March 1991, the twenty-six members agreed to the changes, which were published as the "Dual-use List" in 1992, and also to the extension of the original list to more closely match the up-to-date Zangger list.

In 1992, the NSG decided to establish Guidelines for transfers of nuclear-related dual-use equipment, material and technology (items which have both nuclear and non-nuclear applications), which could make a significant contribution to an unsafeguarded nuclear fuel cycle or nuclear explosive activity. These Dual-Use Guidelines were published as Part 2 of INFCIRC/254, and the original Guidelines published in 1978 became Part 1 of INFCIRC/254 In 1992 the NSG accepted new condition for implementation of nuclear supplies - Comprehensive Safeguards Principle as well as established a new control regime over equipment and dual-use materials and respective technologies which are used in nuclear sphere. At the time of the meeting, which took place in March/April 1992 in Warsaw four documents were adopted: Guidelines of control over export of dual-use materials and technologies, list of the materials and dual-use technologies, Memorandum of Understanding and Statement on comprehensive safeguards.



Aim of the NSG Guidelines

The NSG Guidelines aim to ensure that nuclear trade for peaceful purposes does not contribute to the proliferation of nuclear weapons or other nuclear explosive devices which would not hinder international trade and cooperation in the nuclear field. The NSG Guidelines facilitate the development of trade in this area by providing the means whereby obligations to facilitate peaceful nuclear cooperation can be implemented in a manner consistent with international nuclear non-proliferation norms.

"The NSG Guidelines" for both the nuclear transfers and nuclear-related dual-use goods were published accordingly in the form of the documents INFCIRC/254, Part 1 and INFCIRC/254, Part 2.

Guidelines for Nuclear Transfers (INFCIRC/254, Part 1 and the NSG Trigger list)

Document INFCIRC/254, Part 1 contains "The NSG Guidelines" and consist of terms and conditions of supply and trigger list of units, equipment, components and materials representing goods specially designed or prepared for production of special fissionable material. Also trigger list controls technologies for development, production and use of goods stated in it. Part 1 of the NSG Guidelines prohibits export of the products and respective technology mentioned in trigger list:

- For use in any country, which is nuclear-weapon-country and which does not have any legal obligations in connection to the application of comprehensive IAEA safeguards
- in case if State - exporter is not sure that exported goods will be used with peaceful purposes.

There are two exception cases out of the total number of prohibitions, contained in Part 1:

- in case if export considered to be important in order to provide unit operation, which is under the IAEA safeguards, or:
- in case if export is done in accordance to the Agreements, signed before 4 April 1992 for first members of the NSG and till the entry of new ones.

Guidelines for Nuclear Transfers (INFCIRC/254, Part 1)

The first set of NSG Guidelines governs the export of items that are especially designed or prepared for nuclear use.

These include: (i) nuclear material; (ii) nuclear reactors and equipment therefor; (iii) non-nuclear material for reactors; (iv) plant and equipment for the reprocessing, enrichment and conversion of nuclear material and for fuel fabrication and heavy water production; and (v) technology associated with each of the above items..

In order to introduce changes into whether the NSG Guidelines or the Trigger list and agreement of the entire NSG member is needed. The NSG list differs from

Zangger Committee's Trigger list by that it includes chapter related to the conversional uranium technologies.

Guidelines for Transfers of Nuclear-Related Dual-Use

Equipment, Material and Related Technology currently published as document INFCIRC/254/Rev. 5/Part 2.

Document INFCIRC/254, Part 2, contains "NSG Guidelines" and list of equipment, materials and respective technologies related to the nuclear sphere and are of a dual-use.

Document prohibits transfer of the products and technologies subject to export control:

- for use in a non-nuclear-weapon state in a nuclear explosive activity or an unsafeguarded nuclear fuel-cycle activity, or
- in general, when there is an unacceptable risk of diversion to such an activity, or when the transfers are contrary to the objective of averting the proliferation of nuclear weapons.

There are no exceptions in Restrictions of Part 2. Since 1992 changes to the List of dual-use goods were made only once. The List consists of sixty-five items, divided into eight categories:

- 1) industrial equipment;
- 2) materials;
- 3) Uranium isotope separation equipment and components;
- 4) heavy water production equipment (other than Trigger list items);
- 5) equipment for the development of nuclear explosive devices;
- 6) nuclear explosive device;
- 7) components and equipment for nuclear weapons tests;
- 8) other export items, including the tritium and assemblies for its production.

Additional procedures necessary for implementation of the NSG Guidelines Part 2, were expounded in the "Memorandum of Understanding" MOU.

Guidelines for Transfers of Nuclear-Related Dual-Use Equipment, Materials, Software and Related Technology (INFCIRC/254, Part 2)

The second set of NSG Guidelines governs the export of nuclear related dual-use items and technologies, that is, items that can make a major contribution to an unsafeguarded nuclear fuel cycle or nuclear explosive activity, but which have non-nuclear uses as well, for example in industry. The most important element of the MOU is Part 4. It detects the procedure of notification on refusal, according to which the Government refusing to export products or technologies stated in the Annex (List of dual-use goods) is obliged to inform due to the shortest period of time rest of the governments involved in MOU. State-recipient of such notification do not have initiate

passage of the products and technologies, which is basically similar to the passage which obtained permission from the other member State.

The Government issuing the sanction reviews notifications on refusal every three years and refusal must be confirmed or cancelled. Process of notification serves two main goals. It does not allow to doubtful country to estimate prices and order products controlled by other several member States and this way provides equal maintenance of commercial interests of member States.

Who are the current NSG participants?

In the beginning seven States joined the NSG: Canada, FRG, France, Japan, USSR, Great Britain and the USA. Between 1976-1977 the main core of the Group has increase up to fifteen States, including entry of Belgium, Czechoslovakia, GDR, Italy, Netherlands, Poland, Sweden and Switzerland. Twelve States more became participants before 1990. After the USSR dissolved a raw of former Soviet Republics obtained a status of observers, as a step towards the future membership in given regime. Ukraine got membership in the NSG in 1996.

At the present moment member States of the NSG are the following countries: Австрія, ARGENTINA, AUSTRALIA, AUSTRIA, BELARUS, BELGIUM, BRAZIL, BULGARIA, CANADA, CHINA, CYPRUS, CZECH REPUBLIC, DENMARK, ESTONIA, FINLAND, FRANCE, GERMANY, GREECE, HUNGARY, IRELAND, ITALY, JAPAN, KAZAKHSTAN, REPUBLIC OF KOREA, LATVIA, LITHUANIA, LUXEMBOURG, MALTA, NETHERLANDS, NEW ZEALAND, NORWAY, POLAND, PORTUGAL, ROMANIA, RUSSIAN FEDERATION, SLOVAKIA, SLOVENIA, SOUTH AFRICA, SPAIN, SWEDEN, SWITZERLAND, TURKEY, UKRAINE, UNITED KINGDOM, and UNITED STATES. The European Commission participates as an observer.

2004/05 NSG Chair Country: Sweden.

On what basis are participation decisions taken?

Factors taken into account for participation include the following:

- The ability to supply items (including items in transit) covered by the Annexes to Parts 1 and 2 of the NSG Guidelines;
- Adherence to the Guidelines and action in accordance with them;
- Enforcement of a legally based domestic export control system which gives effect to the commitment to act in accordance with the Guidelines;
- Adherence to one or more of the NPT, the Treaties of Pelindaba, Rarotonga, Tlatelolco, Bangkok or an equivalent international nuclear non-proliferation agreement, and full compliance with the obligations of such agreement(s);
- Support of international efforts towards non-proliferation of weapons of mass destruction and of their delivery vehicles.

What are the activities of the NSG?

The NSG's main activity is conducted as a conferences and meetings of appropriate groups, established by the member States. First of all that is:

- **Plenary**
The NSG Plenary works on the basis of consensus. Overall responsibility for activities lies with the NSG Participating Governments who meet once a year in a plenary meeting. The Plenary can decide to set up working groups, with recommendations by the Consultative Group, on matters such as the review of the NSG Guidelines, the Annexes, the procedural arrangements, information sharing and transparency activities. The NSG Plenary can also mandate the Chair to conduct outreach activities with specific countries.
- **Consultative Group (CG)**
The CG is the NSG's standing intersessional working body, tasked to hold consultations on issues associated with the Guidelines on nuclear supply and the technical annexes. The CG takes its decisions by consensus.
- **Information Exchange Meeting (IEM)**
The IEM immediately precedes the NSG Plenary and provides another opportunity for Participating Governments to share information and developments of relevance to the objectives and content of the NSG Guidelines.

The Latest NSG Measures

In December 2002 in Vienna was an convened an extraordinary Plenary, during which several complex amendments were approved, prepared with the purpose of strengthening the NSG Guidelines Provisions.

The following websites information was used while preparing material for the publication: www.nuclearsuppliersgroup.org ; www.pircenter.org; www.dsecu.gov.ua ; <http://en.wikipedia.org/>

Translation from English and preparation for publication was done by S. Kondratov.



Oleksandr Dergachov,

BASIC ASPECTS OF UKRAINE'S NATIONAL SECURITY

National security is generally interpreted as a state of the vital interests of human, society, and state being protected against internal and external threats. It makes an impression to represent the broadest approach to understanding this complex phenomenon, making one wish to move from this premise toward its most concrete implications. And it would be no mistake if it concerned a stable nation, a developed state. In the Ukrainian case, however, we have to deal with a paradox – there exist no classic threats to national security, while the number of specific and perilous problems associated with its statehood formation has not dwindled over the fourteen years of independence. Furthermore, the faulty model of social-political development and overt egotism of the ruling elite have caused the basic national security characteristics to deteriorate. It makes itself felt today when, as a result of democratization processes, the real status is revealed in the areas of property relations, political organization, mass conscience; and it becomes clear how it all affects the nation's competitive abilities and its historical prospects.

1. National self-identification and consolidation problems

The last year's events have demonstrated that Ukraine has serious problems in reaching domestic consolidation. They predominantly relate to the specifics of Ukrainian statehood formation and incompleteness of that process. It should be admitted, however, that these problems are for the most part aggravated by dangerous shortcomings of national development under independence. Social inertia and the course of political struggle make for an intricate combination of internal and external factors that affect the prospects of democratic transit and national rebirth, and hence the level of the nation's historical ambitions.

Special hazards and difficulties are due to the fact that under grave basic conditions Ukraine has to concurrently go through the stages of statehood formation (rebirth), social transformations, and adaptation to intensive internationalization processes. Note that successful European transition states ('Vysehrad Four', Baltic countries), using both internal and external transformation factors, moved forward through the following milestones: self-identification – consolidation – democratization – integration. Consolidation was a prerequisite for success of their transit and for beginning of a full-fledged sustained existence. For Ukraine the initial consolidation and reaching a democratic consensus may become the basis for completion of national self-identification and, on this basis, for a departure from the transitional period risks.

Consolidation is a feature of a classic mature nation, a form of existence of modern nations. It is a feature to be acquired in the process of formation and development of a nation. Without a certain level of consolidation a stable nation is altogether impossible. The level of social-political development of a nation and certain qualities of the population are factors that prevent occurrence of internal threats. They



are key to identifying the potential for the nation's success, including economic success and possibilities for being involved in international processes. It is absolutely obvious that many nations retarded in their development lack historical time to repeat the classic way of formation and consolidation. Meanwhile, lack of society consolidation makes it impossible to assure security for everybody, i.e. full-scope national security as such. Its successful strengthening as viewed by ones means heightened threats to others. Under these conditions any concept of security will have a sketchy character, and the related implementation strategy will remain extremely hard to optimize.

Internationalization processes bring additional trials, but, as it are inherent to the European processes, can encourage consolidation. Distinct signs exist that economic internationalization and humanitarian internationalization jeopardize the social and political basis of a nation, its cultural uniqueness, the unfolding of national specifics, the pillar of its patriotism. Ukraine has to deal with serious consequences of retarded national social processes as compared to international ones; incompleteness of national self-identification, social-political consolidation, and formation of the modern competitive political elite. In addition, being plunged in post-Soviet political processes that offer an archaic pre-national internationalization alternative is yet another obstacle to the independent pursuit.

Conditions for formation of a successful state include the ability to progress and compete, sustained moral and material motivation of citizens for patriotism. Home traditions and development of national originality form a separate factor of stability and development of a state. All of this can be interpreted both as an expression and as factors of national consolidation. The key feature that determines the nation's development tendencies is the availability or lack of patriotism and associated choice made by the elite and economically active part of the population: whether to build up the country or dissociate one's own destiny and success with it. The behavior of a part of political and business elite that represents the old Ukrainian regime, consisting in seeking a shelter in Russia if not protection, is exactly indicative of serious problems.

This problem has concerned mass conscience as well. According to the Institute of Sociology of Ukraine's sociological research data, only as few as 41.1% of respondents consider themselves primarily as citizens of Ukraine, 32.3% - as inhabitants of the village, district or town where they live, 4.8% - as inhabitants of a region (oblast of a few oblasts), 2.5% - as representatives of an ethnos or nation, 13.1% - as citizens of the former Soviet Union. Amongst factors that unite people in our society, the most commonly mentioned were difficulties of living in the country (40.4%), dissatisfaction with the authorities (39.6%) and much less frequently - patriotic sentiments of a citizen of Ukraine (9.4%), and the national idea of building up the Ukrainian state (7.8%). Such a basis makes the nation vulnerable; and the state, internally weak. The Orange Revolution has generally replaced the negative unification factors with positive ones, but for progressing toward real consolidation it has created nothing but prerequisites.

Church communities remain split in a similar way while the positioning of laity primarily happens on the patriotism-canon hierarchy (subordination to the Moscow Patriarchate) plane that alienates the Church from self-identification in terms of civil

values. The top Church leadership are actually into big politics and mostly have to follow the tone of the power structures and geopolitical factors.

The threat persists of hostile external forces taking advantage of internal weaknesses: active separatist movements, anti-patriotic opposition, and uncontrolled large-scale social processes. It was partially reflected in the response to the Kosa Tuzla Island events, in the willingness to support the Treaty on united economic space even if the mechanism of approving decisions in this union that takes over a portion of national sovereignty, consolidates Russia's domination. The presence of serious problems was proven by an outburst of separatism during the culmination of the presidential elections and its new manifestations in Donbass and Crimea in the spring of 2005.

Ukraine should make a decisive progress on the path of creating a political nation. Undoubtedly, universal powerful consolidation factors include democratization, formation of a political nation, civil society development. The basis for its security should be represented by the establishment and potential of the national political, spiritual, and intellectual elite; high level of its patriotism and altruism, ability to articulate national interests and develop effective strategies to secure them. Ukrainian society should make use of the political impulse gotten in late 2004 to streamline its self-identification and consolidation. Blackmailing with referendums on Russia-related motives embarked on by the orthodox left and oligarch parties should make no sense any more.

2. Statehood formation troubles

In the process of getting independent, Ukrainian society was dealt a weak and extremely controversial impulse for renewal. Weak because the society itself was insufficiently involved in the struggle for independence. It actively involved those society layers that articulated their interests in terms of building up a sovereign national state. They were blocked from developing decisions in principle, defining the social development model, designing the power, and real influence on its activities. Controversial because for a significant period of time the country was managed without set priorities and progress strategies.

The partially replaced nomenklatura that managed in 1991 to take over the power were predominantly formed in a republican format, but it was not and could not be national (nor a really modern one) by its nature, system of values, and mentality. One has to admit low professional preparedness of that political elite to manage a sovereign state. Independence had been declared by a quite variegated provisional coalition of political forces, each of which had its reasons and ideas about the future of Ukraine of what is beneficial and priority and what is dangerous. Similarly, the acquisition of new experience rather concerned the interests of the elite than those of the state. Lack of good management made it impossible to make effective use of the chances provided by the state's independence. It was exclusively some outside forces that were viewed as an obstacle in the way of utilizing possibilities of independent development and a source of hazards, while the acquisition of independence was viewed as a key to solving each and every social conflict and crisis phenomena. The very fact of building up a nation

was considered a sign of success, while the unacceptability of the build-up design was at length not conceived with appropriate criticism.

Powerful endogenous forces braking social progress and state development emerged in the country. The independence did not solve the problems that constituted the USSR crisis; the current situation mainly results from an exacerbation of the old ailments. In fact, the majority of crisis phenomena that had contributed to the breakup of the empire began working against the new state once independence had been gained. At that, some former mechanisms and resources had been lost and new problems resulted, accordingly. A comparative analysis of objective initial conditions for carrying out reform (where Ukraine had nearly the best prospects among European post-Communist countries) and of reform outcome quite expressly outlines the key national problem – a dangerously low-quality state policy.

In each specific case it is to be identified to what extent the perverted development and procrastinated transitional period has been objectively caused; to what extent the lack of consolidation is an internal problem, and to what extent, external one. What is taking place: an objectively slowed down national rebirth or its renunciation undertaken by selfish and irresponsible national leaders?

For fourteen years the country suffered from inadequate performance by the authorities focused solely on self-establishment, enrichment and, particularly, on strengthening its own security. The functions of governance and administering to social needs were secondary for the authorities. The law-enforcement and controlling bodies, the judicial system proved incapable of protecting the interests of citizens. In parallel; moral decline, corporatism, and criminalization of the power structures had reached such heights and had rooted so deeply that they had converted those phenomena into a grave social threat.

The authorities that failed to win the confidence of a predominant majority of the population and rather had set it against themselves, antagonized their relationship with the society can not be effective. It inhibits the formation of a civilized businessman, effective proprietor, law-abiding and patriotic citizen while generating a social and economic paralysis and mass disillusionment. It creates additional risks in case of a national force majeure and associated need for consolidated action. Simultaneously and ever faster growing is the threat of social destruction and society atomization resulting from the wide spread of the individual survival syndrome. Nowadays numerous layers of population and entire social groups remain at least indifferent to the idea of Ukrainian statehood, because they do not feel the tangible connection to it and the possibility to make an impact on its activities.

The state policy's inconsistency and reform procrastination cripple the society's potential, become another source of instability. During fourteen years no fundamental social constitution issue had not been resolved in principle, no evolutionary tendency had become structure-making. With respect to specific historical and geopolitical circumstances, this uncertainty is especially perilous, as it extends the period of statehood formation and strengthening, gives additional chances to internal any external restorers.

An absolutely unnatural and unjustified chasm had developed between levels of material welfare. Huge resources had been concentrated in the hands of a few clan-like



industrial-financial groups. Not only do those resources fail to work for the good of the society, but in multiple cases are used contrary to its interests. Hence the issue of property redistribution becomes topical. The point is not so much about suppressing seamy business, as about an audit of the origin of big capitals, not only about deconstruction of clan-oligarch mechanisms, but also about restoring public control over major resources.

The seamy character of decision-making process, ill-established governmental policy, and fundamental conflict between branches of authority had made the country ill-managed and precariously vulnerable. Millions of people had been pulled into half-seamy and seamy business; they had been forced to forget to be law-abiding along with relying on laws to protect their interests. The long-term departure of many hundreds of thousands of citizens in search for a job near or far abroad disturbs the Ukrainian internal social and political balance, inhibits the implementation of streamlined national development strategy.

In this setting, a paradoxical and dangerous phenomenon emerges: anti-state efforts of the orthodox left and representatives of oligarch clan groups get socially justified and are legalized de facto. Challenging the constitutional order, manifestations of separatism have essentially become common means of struggle for power. The split highlighted by the orange revolution is not a new phenomenon, let alone unexpected. The intensity of struggle between authoritarian and democratic forces revealed the divide between the new European and the old post-Soviet Ukraine. This divide understandably does not split us the way the votes had been split between Viktor Yushchenko and Viktor Yanukovich. A large number of citizens had been misled and deceived. Nevertheless, improving the relations between different groups of citizens as inhabitants of the east or west of the country is extremely complicated.

The Orange Revolution was necessary in terms of the heightened threats of national degradation and destruction. But as such it has not solved the problems listed above. The part of political and business elite that has found itself in the opposition is willing to exploit the frame of mind of certain layers of the population and, specifically, the Russian factor as tools in their political struggle. At that, the state authorities are still affected by the controversiality of the social spirits and abstain from appropriately responding to manifestations of anti-state political activities and have yet to develop effective means to block destructive activities on the part of some powerful economic actors and political forces.

3. Geopolitical uncertainty risks

Ukraine's formal establishment on the international arena is generally complete. But its transformation into an efficient actor and respectable partner, a strong link in the system of international relations is far from guaranteed. Similarly, it cannot take full advantage of international cooperation opportunities to assure domestic security and development. The modern dynamic international relations, especially the European ones, impose extremely high requirements on those willing to become full participants thereof. Important as never before in determining the state's international standing are its accomplishments in bringing more democracy into domestic life, establishing the



rule of law, creating an efficient economy and social sphere. Against this background it becomes evident that the Ukrainian state has not yet acquired neither attractive nor even distinct features as an actor of international relations. Its place and role in the new system of European relations under formation are not completely defined; instead, signs of its isolation persist.

Unlike the former Baltic Soviet Republics, in Ukraine the prerequisites were originally missing for a prompt and indisputable identification of the society as a European one. Efficient Europe-oriented elite was practically nowhere to be found, while a significant part of the population exhibited deeply rooted Soviet habits of social behavior. Independence secured a sort of equilibrium of European and Eurasian components and, accordingly, the transitional state of the society and state. It automatically generated risks of geopolitical seclusion and related prospects of becoming a "gray zone" or a buffer in the system of regional relations.

The specifics of geopolitical coordinates of Ukraine consist in its pertinence to two regions at the same time – Europe and Eurasia, taking a peripheral standing in both. Lack of consensus on foreign policy priorities has resulted in that Ukraine, on the one hand, departs from the Eurasian integration processes while being unable to promptly implement the European alternative, on the other hand. Therefore, the nation gets suspended in a state of geopolitical uncertainty. Besides, it is not an actor that forms the geopolitical space, rather it is forced to adapt to complex and large-scale processes unfolding in the new Europe. The Russian and European factors of influence on such a specific country as Ukraine diverge and continue, as covertly as they may, to compete. Strategic dependence on far more powerful states that are on complicated and hardly predictable terms with each other at that, including elements of competition, has similarly become a feature of Ukraine's international standing.

In fact, after quite a lengthy period of independence Ukraine still remains part of the East. It ensues from all of its basic characteristics: property relations; general conditions and practices of conducting business, the extent of the latter being seamy and criminal; relationships between business and politics; specific features of a significant part of the political elite; social status of the bureaucracy; corruption level; protection of social rights; mass conscience and civic virtues of the population; development of parliamentary and local government systems; the role and efficiency of the law; and civil society potential. Those features of Ukraine's are Eurasian, post-Communist.

Understandably, a dependence of Ukraine on Russia is still maintained and in certain aspects reinforced, which goes beyond the objectively caused and has a crisis-bearing nature. The structure of independence is not limited to the economy and energy areas; it has political, cultural, and mental/psychological implications. It affects both the perception of Ukraine by the West, our partners' unwillingness to define their policy with respect to our nation without looking back to Russia. Russia's efforts to retain its area of influence, counteract centrifugal processes on the post-Soviet soil are commonly well tolerated by countries of the West. An approach dominates there that prioritizes avoiding tension for the sake of persisting on good terms with Russia. When combined, these circumstances restrict Ukraine's freedom of geopolitical choice and complicate building up on the priority of the Western vector in its foreign policy.

Therefore, Ukraine has two problems to solve in its relations with Russia. First, lift all artificial obstacles to the implementation of its interests at the international arena, making any Russian claims for special rights impossible. Second, establish a close partnership with Russia based on the principles of international law and European traditions - it should become a natural component of the system of international relations. The irreversibility of independence and strengthened posture of international actorship has to be supported by special foreign policy efforts of the new authorities. The main task is to reach a wide consensus on foreign policy priorities. Above all, Ukraine needs a period of inner focus enabling its consolidation and finally laying the fundamental interests as the basis for action. These are the fundamentals upon which the foreign policy should be ukrainized both eastward and westward. Such national fundamentals must underlie the treatment of all security-related issues.



Daria Friedman,
journalist

ENFORCEMENT REFORM: DISTRIBUTION OF DUTIES

Over the years of independence, Ukraine has gained vast experience in carrying out a widest variety of reform. They all differ in their timeframes, dimensions, targets, and results. Unfortunately, in real life, experience tends to be “begotten by grave blunders”. It may well be the reason why not all transformations initiated by the authorities have been positive and beneficial. This is demonstrated by a sheer inability of some state authorities to function efficiently in present-day conditions.

Nearly the first one to come in the post-election Ukraine was an active discussion of the need in a general reform of the enforcement sector. As to dynamic action in this direction, we note: certain improvements have already taken place; yet it is premature to talk about radical changes. And that was predictable since enforcement sector reform cannot be done in a rush, the process being complex and multifacetous.

As it would commonly happen, in order to win the audience, one should hew out a bright and apt first phrase, “to throw a bait”, so to speak. Once your initial words fail to make one wonder what happens next – you are in for a fiasco! The first phrase that led the public to enthusiastically follow the developments in the said reform was that: the enforcement entities, as decided by the newly-elected President, will be headed by mere civilians. The logic of this decision is quite clear. Until recently, the enforcement agencies of Ukraine had been hostile towards the new President’s team. It was them who had made desperate efforts to snatch the victory from “the Orange”. It is clear that with the “old” enforcement agencies the “new” authorities would not feel secure. It should be mentioned, however, that according to domestic and foreign mass media, the current enforcement ministers are provisional figures. Accordingly, the Russian periodical *Kommersant* presumes that they have most likely been charged with crisis management. “It may last a year – the lifetime of the Cabinet of Ministers’ immunity from a vote of distrust by the Supreme Council. Once the active formation period is complete, the enforcement entities transformed beyond recognition can be handed over to professionals”.

Nor did it take the new authorities too much time to come up with the next phrase. And it was equally bright and brave. On February 8 the President signed a Decree *On Several Issues Related to the Activities of the National Security and Defense Council of Ukraine*” (№208/2005) that defined the NSDC’ organization, the role of the Secretary, etc.

The Law *On the National Security and Defense Council of Ukraine* (№183/98, Art. 13) assigned purely secretarial functions for the position: the Secretary was supposed to develop proposals on prospective and current planning of Council activities; submit draft decision enforcement rulings to the President; make arrangements necessary for preparing and conducting NSDC meetings; brief the President of Ukraine and NSDC members on the implementation progress of Council decisions; coordinate activities of NSDC task force and advisory agencies; as requested by the President, present NSDC’s



position, to the Supreme Council of Ukraine and in dealings with executive bodies, local authorities, political parties, public organizations, mass media, and international organizations.

Currently, however, the NSDC Secretary is entitled to attend Cabinet of Ministers meetings with a right of advisory vote, suggest nominees to positions within the law-enforcement agencies, Ukrainian Armed Forces, other military units, along with the positions of judges, Supreme Board of Justice members, Higher Judge Qualification Committee, to be appointed by the President. In addition, he or she can agree nominations to hold positions of state authorities dealing with national security and Defense of Ukraine. And that is quite a number of officials as the NSDC's scope includes defining the state's strategic national interests, approaches to and ways of assuring national security and Defense in the political, social, economic, military, scientific, environmental, and information areas, etc. Besides, the NSDC Secretary will also have influence on appointment of heads of law-enforcement agencies for the Autonomous Republic of Crimea, cities of Kyiv and Sevastopol.

Such a substantial expansion of powers could not go unnoticed by mass media, by opponents to the new authorities. They launched an extensive discussion of the new powers of the NSDC Secretary for compliance with the effective legislation, conflict of powers with those of the Premier Minister and of the State Secretary. A group of Supreme Council deputies, particularly representatives of factions such as the Social-Democratic Party of Ukraine (united), Regions of Ukraine and extra-factional deputies appealed to the Constitution Court requesting to verify the NSDC Decree's legitimacy. In essence, the Decree is contradictory to the Constitution, the Law on NSDC - the President has actually delegated his authorities to the NSDC Secretary.

Petro Poroshenko considers the deputies' appeal to the Constitution Court groundless. He has repeatedly emphasized that it is the President that is the immediate person in charge of the NSDC. According to the Constitution, the President is entitled to appoint heads of law-enforcement and judicial agencies, while the NSDC Secretary, according to the Presidential Decree and the codified procedure, shall prepare documents for his signature.

The discussions of the functions assigned to the NSDC Secretary were identified by Petro Poroshenko as "another lame PR-move of bankrupt politicians". He is convinced that the NSDC functions are clearly formulated and do not overlap neither those of the government, nor those of the State Secretariat.

This is not the first time that the new authorities are charged with legal nihilism. As of this March, the President had signed 33 decrees classified "not for publication", which is illegal. It was reported by the Deputy Director of the Ukrainian Helsinki Union for Human Rights Evgen Zakharov. According to his statement, the labels "not for publication", and "not for print" were used by the former power despite such designations being not provided for in Ukrainian legislation (*Dzerkalo Tyzhnia*, 2005, 12-18 March).

As believed by experts, in order to make the enforcement sector reform the most efficient possible, the functional duties need to be codified for each agency. Our enforcers duplicate each other nearly in each and every area. Thus, economic crime is handled by both the police and state security agencies, "lucrative" cases are taken care of by the



General Prosecution; the frontier handles search operations, etc. Instead, each entity should have its own functional duties and powers to match the purpose they were originally established for. Establishment of a new special state agency for suppression of corruption and corruption-related crime, a National Bureau of Investigations, has recently been under active discussion. The President-established Task Force to develop the concept of establishment and organization of NBI activities by April 1, 2005 was expected to submit a proposal on the agency establishment and associated draft regulations. Currently, however, nothing but approaches to NBI establishment is available for discussion.

In the opinion of a Doctor of Legal Science Mykola Melnik, NBI establishment requires resolution of the fundamental legal aspects as follows: 1) NBI's purpose and objective; 2) legal status of the agency and of its employees; 3) subject of activities; 4) subordination, nomination procedure for the NBI Director and his or her deputies; 5) NBI organization, its primary staffing procedure (*Dzerkalo Tyzhnia*, 2005, 9 - 15 April).

A clear answer to these key questions is still missing. Furthermore, some believe that that agency ought to focus on pre-trial investigations only. Thus Oleksandr Turchinov believes that NBI should be an independent investigative agency in charge of pre-trial investigations and, as necessary, would form search operations teams to support its activities. But if we start "lading" the Bureau with search operations and special powers, we will end up having another bureaucratic "monster" competing with the already existing agencies (*Kievskiy Telegraf*, 2005, 18 -24 March).

At substantial variance are approaches to the NBI primary staffing procedure, its organization, and the number of employees.

Viktor Korol, member of the Task Force to develop the concept of NBI establishment and, concurrently, one of those with a chance to be placed in charge of the newly created agency, suggests an option of NBI establishment on the basis of Ministry of Internal Affairs (MIA) units for suppression of organized crime and corruption, the UBOZ. "It will be based on the UBOZ's manning table, organization, "the backbone", etc. We will establish new units on its material basis and in compliance with the current legislation. Apart from the UBOZ, we also send paychecks for suppression of organized crime and corruption to the SBU's "K" Unit and a customs police unit. This will form the basis for NBI establishment". The level of future "customers" of the NBI, according to Korol, would include officials of categories 1-3 and equally privileged employees of law-enforcement agencies (regardless of the rank), judges, deputies of all levels.

As to the number of NBI staff, the Task Force estimates the Bureau to be staffed with up to 3-5 thousand employees.

NBI opponents emphasize that they are trying to foist on us the U.S. organization model, now that the notion of the NBI is, in fact, patterned after the U.S. FBI. Instead, assuming that Ukraine seeks to join the European law-enforcement space, we are better advised to look to best European models.

Speaking of the enforcement sector reform, attention cannot be spared as regards the Security Service of Ukraine. And although, according to the agency's boss Oleksandr Turchinov, it does not concern a serious transformation, certain adjustments are necessary, however. "The architecture of future changes is still vague. If it concerns

a body to play an extremely important role in assuring the nation's security, one should avoid making hasty decisions *Dzerkalo Tyzhnia*, 2005, 19 February). SBU should get back to the law arena and learn to operate within legal limits. Until now the service has by and large embarked on practices contrary to the current legislation, indulged in abuse of power (arbitrary wiretapping and suppression of business rivals, to name first). Therefore, the most important thing at this stage is for the SBU to operate exclusively within the limits of the effective legislation and our current Constitution. As to staffing, Oleksandr Turchinov assures that there will follow no mass "cleansing". "Both then and today there were and are specialists and immoral individuals that would abuse their official positions for career promotion or personal enrichment... But I want to emphasize that despite the grave legacy of the "officer's honor" notion and the notion of elite character of the service that have survived the past times, - it is undoubtedly positive. On such a foundation a real, strong, European-type special service can be build."

Extremely lively as they seem are the Minister of Internal Affairs Yuri Lutsenko's activities aimed at improving the performance of his agency.

Already within the first six months Lutsenko intends to submit a draft law on amending the Law *On Police*. to the Supreme Council. In an interview to the 1+1 Channel he reported existence of a few MIA reform options. One suggests that the MIA retain nothing but police functions. Vehicle examinations and registrations will be handed over to the Ministry of Transport; the Passport and Migrations Services, to the Ministry of Justice. Then, according to Mr. Lutsenko, one Deputy Minister will only be responsible for police units, including investigations and civil security. Another deputy will lead the Interior Troops to be renamed to the MIA Guard, which would perform duties elsewhere performed by gendarmerie. Yet another deputy would be responsible for the status at the Passport Service, education, health, and material resources. The Minister believes that the latter MIA unit should be staffed with civilian experts making up one third of the total police strength.

It is no secret that the police agency is heavy laden with a multitude of special units with vague functions and colossal budgets. The costs incurred to maintain *Berkut*, *Sokol*, *Kobra*, *Titan* and other police task forces are multiple times the amount allocated to fund the SBU, for example. Such a skew should not exist.

When carrying out a reform, the hardest time possible seems to befall the Armed Forces. Now that our leadership wishes to integrate Ukraine into the NATO, the sum allocated to fund the needs of domestic Defense shall not be under two per cent of the gross domestic product (an Alliance requirement). Ukrainian Minister of Defense Anatoly Hrytsenko in an interview to *Dzerkalo Tyzhnia*, 2005, 19-25 March) indicated that those figures generally ranged from 1.3 to 1.6 per cent, while the Ukrainian legislation requires a minimum Defense budget allocation of three per cent of GDP. Compared to the last year, it is not the aforementioned figures that have decreased, but also the ratio of the military budget to the national budget. Budget proposals submitted to the parliament by the former government had assumed minimum required normative needs, and even that minimum had only been met at 73%. Such a practice makes any renewal and further development of the army close to impossible. The current leadership is searching for all possible ways to solve the problem, primarily

financial ones. In particular, they generated an idea of creating “legitimate and wholly transparent” schemes of the Armed Forces’ superfluous property sales. MD is an entity extremely rich in resources (enterprises, superfluous property, and equipment). It would make sense to use those resources to meet the Armed Forces’ development needs. Until now the use of that possibility has been limited, often with legal infringements and without accounting for AF interests. Therefore, according to Anatoly Hrytsenko, new decisions are warranted here. It is only transparent schemes of superfluous property sales both in and out of Ukraine being free from the agency of numerous intermediaries and under control by the government, Ministry of Finances, and Ministry of Economy that will allow a substantial replenishment of the special fund provided for the Ministry of Defense budget and use of those funds to improve combat training, equipment renewal, and resolution of social issues.

Another challenge that the Ministry of Defense is confronted with is transition to the contractual principle of AF recruitment by 2010 (commitment made by Mr. Yushchenko during his election campaign). To streamline the transition to the contractual basis, the following problems need to be solved: increase money allowances, improve the system of military lodging provision, provide an appropriate level of combat training and, finally, rouse popular interest in military service. While the earlier plans concerned increases in percentage of contracted servicemen, the current efforts are focused on solving the above problems, which, in turn, will motivate recruits to serve in the Armed Forces.

It is quite difficult to predict the AF strength by 2010 with precision. Tentative projections reduce it from 285 thousand (current strength of the Armed Forces) down to 100 thousand. But while until recently the leadership has followed the path of reducing combat units, nowadays there is a pressing need to curtail the rear services a bit. The former staffing policy resulted in a combat unit/rear service unit ratio unacceptable for normal armies. The reason is that the rear service system is yet to be reformed. MD retains a huge number of bases, arsenals, military campuses without arranging at least a decent level of service (we have a system of food supplies after the 1930s pattern!), which in armies of developed countries has long become a concern of private businesses. A transparent scheme of tendering for such services is scheduled to be developed in the near future. It will be an impulse to launch a new type of business – supplies to the Armed Forces, which will eventually eliminate the need to maintain such a bulky system of rear service.

Factoring in all the above considerations while reforming the entity will enable the Ministry of Defense to provide the Armed Forces with quality training and be prepared to accomplish tasks assigned to them by the top political leadership of the country.

Together with the society, the enforcement agencies are being renewed and doing their lessons-learned. And that is characteristic not of Ukraine only. Governments of world countries are seeking ways to improve enforcement entities. Step by step the new authorities are beginning to convert their declarations regarding the urgent need for an enforcement sector reform into a reality. But in setting reform priorities, they somehow omit security as an objective for enforcement agency activities. Instead, the rationale sounds like “we are reforming ourselves because we are headed

for Europe, because we want to join the NATO, because democracy norms should be met”, etc. All those things are important indeed; still, one should never forget that the enforcement entities were created for one purpose – to guarantee national security in its broadest scope, ranging from state security to that of individuals.

There is an imperative need for certain countries to rise above bickering, mercenary and selfish interests, and look for consensus on this vital issue among all countries party to the NPT in order to maintain and strengthen the regime and guarantee security and stability worldwide.



KALEIDOSCOPE

Russian scientists have developed measures regarding avoidance of accidents on North West of the country, where lots of radioactive wastes have been collected.

ITAR-TARS, 13 May 2005

Russian scientists have developed regulations regarding avoidance of accidents in the Northwest part of the country, where lots of radioactive wastes has been collected. "Main threat to health of a human being and environment from nuclear materials in Murmansk and Arkhangelsk oblast is the possibility of accidental ejection of radioactive wastes", - it runs about project report on Strategic Ecology Evaluation of strategic Master Plan, prepared by International Center of Ecology Security. Rosatom, informed in Russian atomic agency, supervised conducting of evaluation on behalf of Russian party.

"Most of nuclear materials had been collected at the former costal technical base in Guba Andreeva, at the same time on the open yard in Germes 800 assemblies of atomic submarines of the first generation are located in the containers or cases, most of which are quite damaged", - mentioned in the document. "Radioactive fund near old storages of spent fuel at Guba Andreeva and Germes in many times exceed the natural. So, it is necessary to introduce controlled access to here with the purpose to prevent personnel from irradiation", - was stressed in the project. As it was mentioned in the document, "Russia has built more then 450 naval reactors. Their total capacity equals to the capacity of all Russian NPP. Two third of them are located on the North West of the country, it makes 20% of total quantity of nuclear reactors of the world". There have been built 248 atomic submarines, 5 military ships with nuclear energy units, 8 atomic icebreakers and one transporting ship." "As of January previous year on north west of Russia there were 127 vessels with nuclear energy units". Master-plan designed by leading Russian scientists in the nuclear field contains proposals regarding elimination of brought into exploitation atomic ships, both submarines and surface vessels, as well ecological rehabilitation of costal sites. As well there was proposed a list of priority measures to remove or decrease risks of appearing of accidents, especially radioactive. Authors of the document draft have an intention to discuss it during the meetings with community, which will take place in June in Severodvins'k and Moscow. Project of ecology evaluation was designed for the European Bank of Reconstruction and Development, which is managing all the funds provided by the European donor states.

Excessive Collecting of Spent Fuel is going on at Russian Atomic Energetic Plants as well as Reduction of the Number of Operational Irregularities in their Work.

During the press conference, which took place in March 2005, Andrey Malyshev, who is acting Head of Federal Service for Ecology, Technological and Atomic Oversight informed that considering NPP exploitation Russia is one of three best countries in the world. According to his information, one thing calls disturbing, - that is collecting of spent nuclear fuel and radioactive wastes at the separate NPP sites. Consequently, the situation, when a spare volume of the maintain pool is less then needed for simultaneous active zone unloading, possibly may appear. In 2004 a license for construction of dry storage for spent nuclear fuel was issued at the mountain-chemical factory, however, construction process is not yet running according to schedule. "If we would solve this issue at such rate, then by 2007 a raw of blocks will have possible problems with its exploitation in connection with the need to hold on to adopted regulations," - mentioned the Head of Russian institution. In Russia in 2004 an increasing of number of technological violations in research nuclear assemblies operation was registered (from

26 in 2003 up to 31 in 2004), vessel nuclear energy units (from 21 in 2003 up to 22 in 2004), nuclear fuel cycle sites (from 21 in 2003 up to 26 in 2004), radiation dangerous sites (from 30 in 2003 up to 39 in 2004). At the same time, marked Malyshev that in 2004 there was recorded a decreasing in number of violations in NPP power units operation – from 51 in 2003 up to 46 in 2004, there was no violations recorded of safe exploitation conditions, all violations of NPP operation were classified according to the international scale INES as zero level.

As Mr. Malyshev told, radioactive situation on the territory of Russia in 2004 has been remaining stable, content of radionuclide of anthropogenic origin in atmospheric air on land, in soil remained on the level of the year 2003. If allowed frequency of appearance of emergency conditions with core melting at NPP equals to 10^{-5} per year, nowadays in Russia all deeply modernized first generation power units have a frequency close to 10^{-5} .

According to the information of MK-News.

Lithuanian Ignalina NPP may not be shut down till 2010

«Shut down of the NPP, - stated Algirdas Brazauskas, prime-minister of Lithuania, during the Seim session, - is possible only in case if Lithuanian by that time joins western European energy systems». Really to shut down second power unit of INP, stated Prime minister, “will be possible after brining into force electro-bridge with a capacity of 1000 MW from Lithuania to Poland, connecting it with energy system of EU”. At the same time, according to the words of Brazauskas, Poland does not show necessary interest of it.

Prime minister stated that second project is now in active phase – linking energy systems of Lithuania and Sweden by laying at the bottom of the Baltic Sea of subsurface cable with a capacity of 700 MW/year. Shut down of INPP, which produces 80% of estimated by Lithuania energy may bring the country to the energy shortage. Entering the EU, Vilnius has committed to shut down INPP “as non-relevant to the European standards” on condition that EU will compensate majority of expenses related to its shut down. On 31 December 2004 Lithuania shut down first power unit, second supposed to be closed by the end of 2009. At the site of NPP there are two “Chernobyl” RBMK-type nuclear reactors located.

According to the information of the INPP website <http://www.iae.lt/>

Materials were prepared by Olha Kosharna