

# COUNCIL OF COUNCILS

*An Initiative of the Council on Foreign Relations*



# The 2015 Council of Councils Annual Conference *Panelist Papers*

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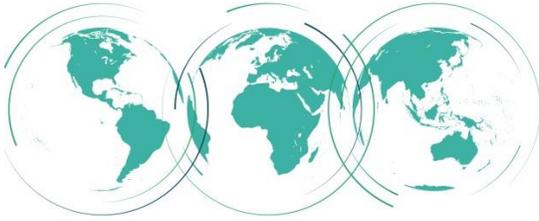
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## Session One

# *Managing the Crisis in Ukraine: Great Power Relations and the Future of Sovereignty*



Panelist Paper

*Managing the Crisis in Ukraine:  
Great Power Relations and the Future of Sovereignty*

Council of Councils Annual Conference  
May 10–12, 2015  
Council on Foreign Relations, Washington, DC

**Thomas Gomart**, French Institute of International Relations

The crisis in Ukraine has fueled an intense debate among policymakers. The focus of this debate dramatically depends on where it originates. So far, the European Union (EU) has adopted a united stance vis-à-vis Russia. Currently, the debate is focused much more on the sanctions and their consequences than on the future of relations with Russia. Poland and the Baltic states led calls for the North Atlantic Treaty Organization (NATO) to station combat forces in eastern Europe. Countries such as Sweden and Finland also worry about their own security. Germany and France led the diplomatic negotiations in the so-called Normandy format to implement the first and second Minsk agreements. In the United States, the debate has focused on the return to spheres of influence, and the competition between a rising power such as China and the United States. Russia is mainly presented as a revisionist power, which intends to transform the world order. In this regard, U.S. primacy is at stake, and consequently the global order. In Russia, the debate is focused on Russian security concerns and the historic relationship with Ukraine. It is also focused on the rising rivalry between Russia and the West. It is often proclaimed by prominent Russian policymakers that Russia is far stronger and the West far weaker than many Western policymakers imagine. Elsewhere, in Asia for instance, the debate is not so tense. However, diplomatic positioning is telling. In March 2014, the vote in the United Nations (UN) General Assembly supporting the position that Crimea remains part of Ukraine was one hundred to eleven (among them, Syria) in favor, with fifty-eight states abstaining (among them, Brazil, China, India, and South Africa) and a further twenty-four states absent (among them, Israel, Iran, Lebanon, Morocco, Oman, and the United Arab Emirates).

These debates and diplomatic stances should broaden our perspective. It would be misleading to be only interested in the implementation of the Minsk agreement. The Russian annexation of Crimea and the destabilization of eastern Ukraine have deep implications for the post-Soviet area, the European security order, and, to some extent, the global balance of powers. In June 2014, the proclamation of the self-declared Islamic State is not without dramatic consequences for the global order. There has been a consensus—and not only in Western capitals—that, of the two immediate crises, the one in the Middle East is far more urgent and destabilizing than the one in Ukraine. By prioritizing this way, policymakers may look in the wrong direction. Both crises raise questions about the future of sovereignty or, more precisely, the interplay between great powers and sovereign countries.

In terms of analysis and forecast, we should think simultaneously of “Syraq” and “Rukraine.” The biggest challenge to global governance is the combination of an assertive and declining Russia and a disintegrating and embattled Middle East. Seated in Europe, it is both an intellectual and a political challenge. It is often said that the Ukraine conflict has highlighted just how differently Russia and the West conceive of international relations. This is true, but

incomplete: it has also emphasized how China, India, and Middle Eastern nations perceive the world. Focusing only on the divergence between Russia and the West is misleading. Indeed, the profound divergence regarding world disorder is rooted in the situation in the Middle East. More precisely, the tensions between Russia and the West are narrowly related to the complex interactions between Washington, London, Paris, and Moscow—on the one hand—and the Arab world, Turkey, Iran, and Israel, on the other.

Over the past two decades, Russia has formalistically observed the principles of multilateralism within the UN framework. However, it has taken particular care to ensure that any multilateral actions do not impinge on its sovereign prerogatives. Moscow supports the central coordinating role of the United Nations as the principal body regulating international relations, given that it ensures collective decision-making on the basis of equality. For Moscow, the United Nations, and in particular the UN Security Council, provided a significant check on American dominating power after the collapse of the Soviet Union. According to Moscow, the international system has been dramatically destabilized by Western military interventions undertaken without any mandate from the Security Council. Nevertheless, Russian diplomacy values multilateral institutions principally as equalizers of power toward the United States. Speaking about the primacy of international law should be understood as a way for Moscow to counter Western humanitarian arguments with its own reading of a “higher morality.”

Ukraine has exposed deep similarities between Russian and Western countries. In a sense, there is a profound mimicry in Russia's international behavior. Even if the political motivations differ, it can be argued that, during the last decade, four permanent members of the Security Council have directly contributed to the fragmentation of three sovereign countries through the use of force: the United States and the United Kingdom (UK) in Iraq, France and the UK in Libya, and Russia in Ukraine. China appears to be the notable exception. This raises the question of how the Security Council's permanent members can be seen simultaneously as the protectors of the international security order and its main spoilers. To some extent, Russia's policy is a reaction mainly to Westerners having used force. It also reflects its vision of a security order based on the concert of traditional great powers. Permanently referring to the fundamental international legal norms and principles, Moscow intends only to protect the sovereign rights of national governments. It is certainly not attempting to facilitate the emergence of a multilateral system in which small countries could really take part in the decision-making process.

Russia has had strong arguments against Western powers since NATO operations in the Balkans and the U.S.-led intervention in Iraq, as in both instances Western countries used force without UN permission. With the annexation of Crimea, the Kremlin lost one of its principle arguments to challenge Westerners. There is now a visible disconnect between its formal allegiance to the primacy of international law and the territorial integrity of nation-states, and a highly selective approach toward implementing such principles. Unsurprisingly, Russia has favored its direct security interest at the expense of acceptable international behavior. Consequently, only a few countries might see Russia as a serious contributor to international public goods.

## **Policy Issues**

- Does Russia have the political and economic resources (given oil prices and sanctions) to pursue a policy aimed at transforming the global world order? More importantly, the Kremlin's intention to directly challenge the United States and Europe may lead to closer relations with Brazil, India, China, and South Africa (the other BRICS countries), and China in particular. To what extent is that feasible?
- Does the United States need to reconsider strategic priorities to maintain global stability? The assumption that Europe had become a strategically stable continent and that the United States could shift its attention to other regions, especially Asia, may have been overturned. To what extent will Europe play a more important role in U.S. strategy in the next decade?

- Does Europe have a clear vision of its relations with Russia, which will remain an unavoidable neighbor? Before responding to this question, Europe has to manage a crisis that has both strategic and economic consequences. There is certainly a balance to establish between sanctions imposed by the European Union and security reassurance measures taken by NATO to manage the crisis, in order to try to resolve it properly. To what extent is that feasible?



Panelist Paper

## *Managing the Crisis in Ukraine: Great Power Relations and the Future of Sovereignty*

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**Sook-Jong Lee**, East Asia Institute

### **A Snapshot of the Ukraine Crisis So Far**

The Ukraine crisis started after citizens began protesting an authoritarian move by then President Viktor Yanukovich to suddenly suspend an association agreement with the European Union (EU) in November 2013. Yanukovich chose instead to accept a generous financial and economic package from Russia. As a result, anti-Russian and pro-Western nationalists seized power in Kiev, resulting in his ouster. Russia reacted quickly, sending forces to Crimea by late February 2014 to protect its interests in preventing Ukraine from joining the North Atlantic Treaty Organization (NATO). With the Crimean Parliament's secession referendum of March 16, 2014, Russian President Vladimir Putin signed a bill to absorb Crimea into the Russian Federation two days later. Putin threatened Kiev with troop exercises along the border and raised the stakes in order to deter possible U.S. and EU intervention. Meanwhile, the Kremlin encouraged Russophone eastern and southern Ukraine to demand regional autonomy. The interim government started military operations in Donetsk and Luhansk, which held referendums on regional sovereignty, and this move inflicted numerous casualties on both the Kiev-supported pro-Western nationalists and militant pro-Russian independents. Putin began to resume top-level contact with Kiev only after Petro Poroshenko was elected on May 25, 2014.

The U.S. and the EU sanctions, which expelled Russia from the Group of Eight (G8) and severely affected the Russian economy, were not successful in moving Russian troops back home. The Barack Obama administration's diplomatic actions appeared ineffective and inconsistent in responding to Russian aggression. Mounting international pressure, following the shooting down of a Malaysian Airlines commercial flight on July 17, 2014, led to the Minsk truce agreement on September 5, 2014, between Ukrainian forces and pro-Russian rebels. A considerable number of Russian soldiers withdrew from Ukraine following the truce agreement. But the ensuing peace talks collapsed. A peace initiative proposed by Francois Hollande and Angela Merkel led to a new ceasefire, which was agreed to on February 12, 2015. The main points of the agreement include the restoration of full Ukrainian government control of its border, withdrawal of all foreign armed groups, weapons, and mercenaries, and constitutional reform by the end of 2015 including decentralization and permanent special status for the separatist-held regions. Following this agreement, both the Ukrainian army and rebels began to withdraw heavy weaponry from the contact lines despite occasional clashes. But the danger of rekindled fighting still exists unless Ukraine solves the country's identity division through its constitutional reform.

## Consequences of the Ukraine Crisis

The Ukraine crisis has opened a new period of heightened rivalry between former Cold War adversaries. It has ended relatively good post-Cold War relations between the United States and Russia that existed from the 1990s to the early 2000s. With his master concept of a “greater Europe from Lisbon to Vladivostok,” following the Russian-led Eurasian economic community plan, Putin’s Russia is likely to continue to challenge the U.S.-dominated order. On the other hand, the United States will refuse to treat Russia as an equal. The present U.S.-Russia rivalry is asymmetrical, as the United States has the much bigger power share. In addition, the nature of rivalry is not based on an ideology that can divide the world again. Although the crisis falls short of transforming the post-Cold War order into a new destabilized one, it has great ramifications for the future of former Soviet Union countries and calls for smart management of similar events before they develop into another major crisis where foreign great powers intervene in order to assert their influence. The whole incident suggests how vulnerable a country’s sovereignty remains in the twenty-first century when facing great power intervention aligned with internal secession-seeking rebels.

## What We Learned From the Ukraine Crisis

*The external identity choice of former Soviet countries between the European Union and Russia accompanies internal conflicts that invite great power intervention.* The Ukraine crisis did not have to occur if the country was well-integrated ethnically based on solid democratic rules. The crisis showed how the country can disintegrate quickly if ruling forces isolate regions where other cultures and ethnicities prevail. Post-revolutionary, pro-EU nationalists in Kiev did not have to isolate Russophone Donetsk and Luhansk by banning the Russian language. The identity division within Ukraine surfaced when the issue emerged of whether to associate with the European Union or Russia. Therefore, it seems more constructive for former Soviet countries to focus their nation-building efforts on domestic harmony first rather than hurrying to join either of the great powers. Otherwise, the risk of great power intervention seemingly escalates, jeopardizing their sovereignty.

*Great power rivalry in Europe is revived and the European Union needs to tame U.S.-Russia competition over battleground countries in the middle.* The Ukraine crisis has demonstrated that the European continent is again divided, with Russia to the east, NATO and the European Union to the west, and the lands in between—Ukraine, Moldova, and the countries of the South Caucasus—forming the battleground in the U.S.-Russia fight for influence. The European Union needs to take the role of a balancer to prevent war in these countries. One basic approach would be assisting and integrating these countries in the middle economically, while avoiding their military integration into NATO. Taming competition between the United States and Russia in former Soviet states is the most important task for the European Union. For this, the European Union’s Eastern Partnership program—introduced in 2009 to enhance the Western orientation of countries located east of the EU border—needs to be reexamined so it is not seen by Russia as a move to isolate them. At the same time, the European Union should support the territorial integrity and political independence of these countries in the middle, facing the Russian threat, by helping them to steer their democratization course and close internal ethnic and cultural divisions.

*The Ukraine crisis may have spillover effects in the Asia-Pacific region and further develop U.S.-China competition.* The Asia-Pacific region does not have clear battleground countries influencing the game between the region’s two great powers, the United States and China. However, Central Asian countries and the South China Sea may be hotspots for competition. The Obama administration’s rebalancing strategy toward the region has alerted China, which has responded with the idea of a “new type of great power relations”—essentially a power-sharing concept with the United States. Fortunately, so far, the competition between the United States and China remains limited to economic influence, through the creation of the Trans-Pacific Partnership and the Asian Infrastructure Investment Bank. If competition rises to security areas, however, the conflicts can escalate into war, since the region does not have an EU-style regional architecture to balance two great powers. The current U.S.-Russia conflict would bring

Russia and China closer in seeking a great-power concert, rather than accepting the current U.S.-dominated global order. The U.S. diplomatic failure in stopping Russia's annexation of Crimea has been seen as U.S. weakness by Asian countries. Washington should show its security commitment to the region at an earlier stage if a similar crisis occurs.



Panelist Paper

## *China's Policy Development on the Nonintervention Principle*

Council of Councils Annual Conference

May 10–12, 2015

Council on Foreign Relations, Washington, DC

**Yinghong Zhang**, Shanghai Institutes for International Studies

### **Challenges of the Nonintervention Principle**

It is worth noting that the principle of mutual noninterference in other countries' international affairs was included in the Five Principles of Peaceful Coexistence jointly proposed by China, India, and Myanmar in the 1950s. Chinese President Xi Jinping visited Indonesia on April 22, 2015, to commemorate the sixtieth anniversary of the Bandung Conference, hosted by Indonesia. Respect for other countries' sovereignty and noninterference has become one of basic principle of China's foreign policy.

As the basic principle of international law, the nonintervention principle is now facing the following major challenges brought about by changes in international relations:

- *Divergence on the definition of internal affairs.* The answer to what constitutes internal affairs and/or domestic jurisdiction is still unsettled. In this regard, one of the doctrines advocates that no affairs are essentially reserved for states, since any affair could be regulated by international law. Therefore, only two events may be distinguished: affairs that have already been regulated by international law and affairs that have not. Internal affairs only refer to the second category. However, developing international relations and the increasingly organized international community are reducing the scope of internal affairs. Therefore, the jurisdiction of sovereign states is shrinking; matters under domestic jurisdiction are shifting to the hands of the international community and the principle of nonintervention in international affairs is facing a challenge.
- *Extension of the concept of international peace and security.* According to chapter seven of the UN Charter, if an act that threatens or breaks peace, or an invasion, has been confirmed, then the UN Security Council has the right to intervene with enforcement measures. In this chapter, peace and security means international peace and security. Meanwhile, there are wide disputes regarding whether massive human rights violations inside a country threaten world peace and security. Despite this dispute, since the beginning of the twenty-first century, the international community has reached new consensus on threats to peace and security that include not only international warfare and military confrontation, but also internal violence, organized crime, terrorism, weapons of mass destruction, extreme poverty, lethal infectious diseases, and environmental degradation.
- *Increasing "responsibility to protect."* In December 2001, the International Commission on Intervention and State Sovereignty of Canada officially submitted a report entitled *The Responsibility to Protect*. The report notes that sovereign states have the responsibility to protect their people from avoidable disasters, massacre, rape, and famine, and if these states are unwilling or powerless to do so, that this responsibility shall be shouldered by the

wider international community, including preventing and reacting to violence when necessary, and reconstructing fragmented societies.

### **China's Difficult Task When Adhering to the Nonintervention Principle**

The Five Principles of Peaceful Coexistence included the principle of noninterference in internal affairs, which has been regarded as basic principle of China's international relations since the founding of the People's Republic of China. China faces many difficulties when adhering to the nonintervention principle, given the change in the international balance of power, China's rise, and China's expanding national interest.

- *The conflict between the nonintervention principle and the responsibility of a great power.* China is facing greater international pressure when adhering to the nonintervention principle with its rising international status. As one of the five permanent members of the Security Council and with its enhanced economy, China is expected to play a much more important role in global governance, regional cooperation, and domestic conflicts within the international community. However, China is unwilling or unable to play the global leading role that most countries might expect because of the nonintervention principle.
- *The conflict between the nonintervention principle and its relations with great powers and neighbor countries.* The Chinese government has reined in its strategy and public relations because of the nonintervention principle, which has also increased the risk of inconsistency in its foreign policy, as well as compounded its credibility gap at the regional and global level. On the one hand, China has built up the Sino-Russia strategic cooperation relationship. China needs Russia's support on both the geopolitical and strategic levels, and on energy. When facing Russia's policy toward Ukraine, especially the annexation of Crimea, China finds it difficult to publicly criticize Russia's violation of Ukraine's sovereignty and territorial integrity. China has to face the conflict and the inconsistency between the great powers' relations and the nonintervention principle. On the other hand, because of the nonintervention principle, China often has to take a negative stance in many important multilateral negotiations, especially regarding territorial disputes with its neighbor countries, which has caused anxiety, suspicion, and even rivalry among its neighboring countries.
- *The conflict between the nonintervention principle and its protection of overseas interests.* China's difficult position—stay out of any international affairs and adhere to the nonintervention principle—will conflict with its expanding overseas interests. For a long time, China hoped to protect its national interests by adhering to the nonintervention principle as a developing country. Since the beginning of the twenty-first century, China's national interest has covered a much broader area, including issues related to Chinese protection of citizens abroad, Chinese foreign investment, labor overseas, and pipelines and important transportation channels. The nonintervention principle itself seems very conservative. It negatively affects China's protection of its national interests as its interests expand and develop.

### **China's Response**

Given changes in the international and domestic environment, rethinking and adjustment of the nonintervention principle is absolutely necessary. Because of China's identity as a developing country, it is hard for China to give up the nonintervention principle in total. Under the pressure of changes in international relations, China has to take the initiative to conduct creative interventions, in order to cope with the challenge of the nonintervention principle.

- "Protective intervention" refers to the interventions China conducts to implement the international rule of law and democratic values and protect China's national interests in the case of serious humanitarian disasters or threats or damage to China's national interests. China's support for the maintenance of international peace and security and the responsibility to protect provides a theoretical premise for protective intervention. Therefore,

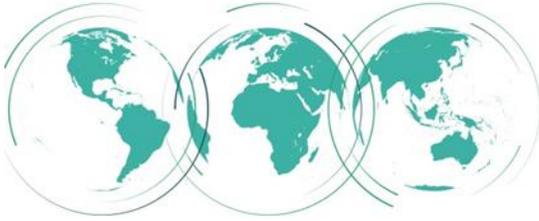
there are two preconditions for its implementation: serious international crimes such as genocide, war crimes, ethnic cleansing, and crimes against humanity, and threats to international peace and security. The Chinese government actively participates in UN peacekeeping operations.

- “Preventive intervention” refers to mechanisms for preventing conflicts. If protective intervention refers to post-conflict peacekeeping mechanisms, then preventive intervention focuses on pre-conflict mechanisms. Many organizations or groups have made rules on matters relating to early involvement and regional conflict-prevention mechanisms. With the increasing complexity of perpetual post-Cold War conflicts and crises, China’s national interests are connected more closely to incidents and situations outside its own territory, which require China to adopt a more active attitude toward early warning and conflict prevention. For example, the discussion on the institutional construction of the Shanghai Cooperation Organization touched on the issue of intervention in cases of political turmoil or civil conflicts in its member states. China also has held a number of Six Party Talks on the North Korean nuclear issue with the United States, Russia, South Korea, and Japan since the beginning of 2003 to prevent nuclear crisis.
- “Mediation intervention” mainly refers to what happens amid crisis. China has many different identities, for example, as a member of the Security Council, as one of the world’s largest developing countries, and as an emerging economy. It has set up close traditional friendships with most Asian, African, Latin American, and central and eastern European countries. With these diplomatic resources, China could play a bridge and mediation role between the so-called global north and south, and among countries within the global south. In recent years, China has taken an active role in the process of peacemaking or peacebuilding. Its efforts manifest in activities such as the mandate of special envoys in regional hotspots, including the Middle East and Sudan. The mandate for these envoys shows China’s basic stance on crisis mediation methods, which promote understanding through dialogue and communication so as to mitigate tensions. Beginning more recently, China also welcomes intensive mediation efforts to solve the Ukraine crisis.

The international community is faced with more complicated security threats and challenges today, with triggering sources and the scope and influence of spillover effects becoming more widespread. The international community needs more coordinated and integrated mechanisms and measures to deal with these crises and conflicts. China has a great role to play with its unique identity as a critical emerging power in the camp of developing countries. It is necessary for China to redefine the nonintervention principle and its choice to implement protective intervention, preventive intervention, and mediation prevention, both to comply with the trend of international relations and to meet the requirements of China’s national interests.

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## Session Two

### *Countering Terrorism and Violent Extremism*



Panelist Paper

*Countering Terrorism and Violent Extremism*

Council of Councils Annual Conference

May 10–12, 2015

Council on Foreign Relations, Washington, DC

**Michael Keating**, Chatham House (Royal Institute of International Affairs)

Success in countering terrorism and violent extremism (T&VE) requires a multifaceted approach, including constant reassessment of evolving risks as well a deeper understanding of the conditions that provoke and sustain T&VE. Conventional strategies that draw primarily or exclusively on intelligence and counterterrorism capabilities are essential—and insufficient.

Actions to preempt, disrupt, and dismantle terrorist and associated criminal networks will be more effective if they are part of broader political strategies that seek to address the causes of extremism and the conditions in which it takes root. Without such strategies, conventional approaches can even be counterproductive. The temptation to see relations with the Middle East and North Africa exclusively through the lens of counterterrorism is strong but will distort effective longer-term approaches to the problem.

A broader political approach has many components, including engagement with the communities and countries most affected by T&VE. Tackling T&VE without the support of communities and local leaders will not succeed. Whether in Basra or Baltimore, this necessitates greater understanding of the circumstances that create an environment conducive to T&VE, as well as of the communities themselves. This is crucial to countering the appeal of narratives used by extremists to justify their actions.

It will also involve engagement with both the sponsors, financial backers, and perpetrators of T&VE, both directly and indirectly, including through social media. The use of information technology and what has been described as “Hollywood-style” imagery by the Islamic State group and al-Qaeda affiliates represents a new development—one that distinguishes some new groups. It appears to be having a profound impact, including on women and young people. We are still in the early phases of understanding how this underpins the resource mobilization, recruitment, and operational activities of terrorist groups.

A political approach also requires engagement with terrorist groups themselves if they are viewed as representing valid political grievances, no matter how unpalatable this is to the victims and witnesses of their violence. It is not enough to understand organizational structures, military capabilities, funding, and means of communication; also important is an understanding of ideology, motives, goals, and core interests. Understanding these does not mean being sympathetic to them.

Generalizations can be misleading. “Terrorism” and “violent extremism” are labels that can hide as much as they reveal. They can be used for political purposes and are subject to political change, with groups and individuals put on or removed from official lists as circumstances shift. Moreover, T&VE takes many forms and differs in terms of

origins, motives, means, levels of support, and effects, among other factors. Strategies for dealing with T&VE need to address the specific circumstances.

The political challenges to states willing to pursue multifaceted approaches should not be underestimated. This includes crafting strategies that coherently combine conventional and less conventional activities, involving ministries, departments, and units with a wide range of responsibilities, whether relating to intelligence, security, foreign affairs, law, finance, economic development, or humanitarian relief.

That is not easy, to say the least, as the experiences in Afghanistan, Iraq, and elsewhere have illustrated. In Afghanistan, the United States and its allies are still coming to terms with the cost of the most expensive counterterrorism operation the world has ever seen. To what degree was it coherent in its objectives? Did counterterrorism goals contradict and even undermine state-building objectives? To what degree did an understanding of a deeply conservative tribal society inform U.S. and international actions?

For democratic states, a political approach to T&VE also involves, as President Obama underscored recently, the challenge of remaining faithful to legal norms and values that define open societies, and not compromising them in ways that fuel extremist narratives. A strategic response means overcoming the urge to resort to the language of terrorists and to knee-jerk reactions to outrages, no matter how egregious they are. As Salman Rushdie put it, “How do you defeat terrorism? Don’t be terrorized.”

Gaining acceptance of the requirement to “deal with the devil” may be necessary for successful strategies to counter T&VE, not least to reduce levels of violence and over time to displace terror by talks. This is perhaps self-evident. But in Afghanistan it took almost a decade after 9/11 before talking to the Taliban became politically palatable in the United States. Now, the entire international community sees an intra-Afghan peace process as an essential ingredient to reducing mounting levels of T&VE.

Another challenge is the deployment of diplomats and experts with the local knowledge, cultural, and personal skills to conduct negotiations and support structured processes. The practical and political hurdles are considerable.

Diplomatic missions—whether bilateral or of multilateral organizations—are increasingly “bunkerized,” and contact with local people strictly regulated, making the job of building trust and empathy far more difficult. Quick rotations complicate matters further. One political challenge is to ensure that diplomats have the institutional backing to engage with people seen as unsavory, even “evil,” particularly when talks will almost inevitably be marked by spoiler activity and public outrage.

An even bigger hurdle to crafting multidimensional approaches is securing lawmakers’ and the public’s support for investment in efforts to tackle the conditions exploited by terrorists and violent extremists. These may include poverty, ignorance, inequality, abuse of authority, corruption, and criminality.

The sense of powerlessness and injustice among millions of people in many societies is pervasive, and exploitable. In the Middle East, these were identified in the UN’s groundbreaking *Arab Human Development Report* a decade ago. It would be facile to suggest that T&VE can be countered by development and good governance alone; equally, anger, injustice, and hopelessness cannot be dealt with only by drone strikes.

Political, economic, and social disenfranchisement and systematic denial, let alone abuse of rights, do not lend themselves to quick fixes. Tackling them involves reexamination of policies that have contributed to conditions in which T&VE can grow—for example, support for authoritarian governments in the interests of energy security and political stability.

The agenda for tackling new forms of T&VE is complex. Geopolitical rivalries and profound mistrust among influential states in the Middle East undoubtedly contribute to the dynamics of extremism and to exacerbating sectarian divides, most obviously by delaying the prospects of a reduction in violence and of a peace process in Syria. Should the state collapse, the conditions for further violence, terrorism, and violent extremism will multiply. Insufficient attention is being invested in getting both the states in the region and the broader international community to recognize their common interests, including containing fundamentalism.

An essential ingredient in moving forward will be the willingness of influential states to work together to adopt and cooperate around multifaceted approaches that include conventional counterterrorism approaches but are anchored in a political vision that resonates with the vast number of people in the region who seek peace, security, jobs, and justice. The United Nations, World Bank, and other international and regional organizations should have a central role in this process but do not have the space or support to play that role. There is a very long way to go.



Panelist Paper

*Countering Terrorism and Violent Extremism*

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Council on Foreign Relations, Washington, DC

**Fernando E. Petrella**, Argentine Council for International Relations

Since this panel deals with countering terrorism and violent extremism, it is pertinent to underline the importance of current moves to remove Cuba from the list of state sponsors of terrorism. Yet, Fidel Castro’s Cuba—as a state—disseminated terrorism all over Latin America in the early 1960s, at the peak of the Cold War. The first *guevarista* attack (inspired by Ernesto “Che” Guevara’s radical politics) in Argentina took place in 1964, targeting the democratic government of Arturo Illia, a member of the Radical Party—one of the oldest parties in the region. This undermined Illia’s capacity to control the domestic situation, which ended in a military coup d’état. The last *guevarista* attack took place in 1989, during the government of Raul Alfonsín, who tried the former ruling military junta—and killed innocent civilians, further aggravating the economic problems forcing Alfonsín’s resignation before the end of his term. In between, Cuba trained local guerrillas, killed hundreds of innocents, and supported a bloody dictatorship that added more suffering to the population.

The international community faces several challenges in combating and controlling terrorism, including the following six:

*Describe terrorism but avoid definitions.* Discussions on definitions fail to achieve results. Definitions skip the fact that terrorism is, as the United Nations has described it, committed against innocent civilians “to create an atmosphere of fear as a way to obtain political or ideological purposes.” The number of victims and extent of the cruelty counts. Collateral destruction is part of terrorists’ measure of success. As former United Nations Secretary-General Kofi Annan stated, “By its very nature, terrorism is an assault on the fundamental principles of law, order, human rights and peaceful settlement of disputes . . . Terrorism is a global threat with global effects; its methods are murder and mayhem but its consequences affect every aspect of UN Agenda.”<sup>1</sup> In addition, the 2001 UN Security Council Resolution 1373 states that “terrorism constitute[s] a threat to international peace and security.” No definition can achieve that degree of clarity and eloquence.

*Provide a solid legal anchor.* After Resolution 1373 was adopted under chapter seven of the UN Charter, the legal anchor was provided. Countries should condemn terrorism in all its forms and manifestations, committed by whomever, wherever, and for whatever purposes, as it constitutes one of the most serious threats to international peace and security. Moreover, in Resolution 2178, passed in September 2014, the Security Council affirmed that “terrorism in all forms and manifestations constitutes one of the most serious threats to international peace and security and that any acts of terrorism are criminal and unjustifiable regardless of their motivations.” Furthermore, Resolution 1373 called on all countries to become parties of the conventions against terrorism concluded by the UN General Assembly. In addition, Resolution 1440, passed in 2002, adds the need to combat “by all means” terrorist acts and regards such acts as a threat to international peace and security. Therefore, there is no substitute for

anchoring a shared understanding of terrorism in the domain of the United Nations to preserve legality and legitimacy in the struggle against terrorism.

*Avoid impunity.* Past and present terrorists should be held accountable and openly brought to justice, as an unequivocal message to future terrorists. The public and the media should know that Peru did very well with the leaders of the Shining Path terrorist group. The dilemma of peace or justice is valid, but has to be solved on a case-by-case basis.

Resolution 1373 offers guidance on what constitutes an individual's connection to terrorism and thus when they can be held accountable to avoid impunity. This includes "those who provide financial aid, support terrorism actively or passively, withhold information related to prevent terrorist acts, or give refuge." Furthermore, the Security Council recognizes the importance of "an effective criminal justice response to terrorism" in its January 2013 presidential statement. In a resolution released on December 12, 2001, the Inter-American Commission on Human Rights said that terrorist acts should not remain unpunished.

*Prevail in the intellectual/cultural battle.* When Kurt Waldheim, the former UN secretary-general, decided in September 1972—in reaction to the Munich massacre—to spearhead an initiative to include "measures to prevent international terrorism which . . . takes human lives or jeopardizes fundamental freedoms," in the agenda of the UN General Assembly, he could not foresee that he was setting the scenario for an intellectual confrontation not yet exhausted.<sup>2</sup> For the countries in the Non-Aligned Movement, terrorism could be justified when it was against foreign occupation (as in the Middle East) or in favor of self-determination (as in decolonization). The position of a safe haven for terrorists commanded immediate sympathies among intellectual circles in Western Europe and Latin America. The image of a *guerrillero* (warrior) resting against a tree, reading poetry with the Kalashnikov automatic rifle by his side, continues to inspire—think Che Guevara or Osama bin Laden. These images failed to portray them as serial widow and orphan makers, paving the way for the notion of a sort of nice and gentle terrorism. Some intellectual circles supported terrorism even regarding crimes committed against civilians within democratic governments, as was the case in most of Latin America. Clearly, then, the cultural battle was lost.

But after the adoption of Resolution 1373 in 2001, the situation should have changed. There are two elements that should be considered: education against terrorism, something that was never done before; and the victims and the families of the victims of terrorism. Deep sympathy and solidarity is not enough. Victims should be acknowledged and compensated. They should never be suppressed or discriminated against ("good" victims and "bad" victims). They should be a symbol of combating terrorism inside their communities and beyond. The Security Council has been clear in this respect, for example in presidential statements throughout 2013. But winning the cultural battle requires more. It requires countering propaganda disseminated among failed countries, minority religious circles, and intellectuals living next door at home. The broadcaster Voice of America, or something of that sort, could be part of the answer to neutralize the effects of terrorist's propaganda. Addressing this issue, without interfering with freedom of the press or manipulating public opinion, is an additional challenge.

*Combating and confronting terrorism.* Terror has become global and less dependent on state support. Rather than being organized in a hierarchical military way, as were the Latin American guerrillas with Cuban training, terrorist networks have adopted a looser organization.<sup>3</sup>

There are two kinds of terrorism. The one that is a protest against society (such as the Boston Marathon bombing) and the one that presents itself as an alternative to the state (such as the self-declared Islamic State or al-Qaeda).

Even if the UN accepts that terror should be combated by "all means," confronting urban terrorism requires extreme care not to impinge on fundamental liberties. Education can be paramount to persuade people that vigilance is necessary. Again, the role of the media and intellectuals, as well as nongovernmental organizations, seems

paramount. To win the battle to suppress terrorism, countries ought to have the hearts and minds of the population on their side. The White House Summit to Counter Violent Extremism is a timely action in the right direction.

Terror like that perpetrated by the Islamic State group could be confronted by adequate military machinery. The help of like-minded countries is crucial, to prevent terrorists from accessing weapons of mass destruction. Avoiding unilateralism is necessary. Finally, “terrorism cannot and should not be associated with any religion, nationality, civilization” as the UN Security Council affirmed in 2006 in Resolution 2199.

*Deal with the underlying causes of terrorism.* Terrorism will not be defeated by military force and intelligence alone. The United Nations underscores the need to address the conditions that contribute to the spread of terrorism in the Global Counter-Terrorism Strategy, adopted by the General Assembly in 2006. Similar elements are included in the 2006 White House National Security Strategy. Going to the roots of terror is part of the solution, bearing in mind that terror is not justified in any circumstance. Finally, the example of honesty and dedication set by those who rule is the best demonstration of legitimacy in combating terrorism.

In conclusion, these six challenges set basic rules to confront terrorist activity. Recognizing concerns (for example, from Israel) and rivalries between religious groups would be wise diplomacy. The refugee problem brings about opportunity for recruiters to attract terrorists. Migrants fleeing across oceans in shoddy boats, as seen in the Mediterranean, can be a first signal of a world with no boundaries to human tragedy. Every region should make a contribution. Getting everybody involved will probably become the most important challenge for us all.

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Panelist Paper

*Countering Terrorism and Violent Extremism*

Council of Councils Annual Conference

May 10–12, 2015

Council on Foreign Relations, Washington, DC

**Rizal Sukma**, Centre for Strategic and International Studies, Jakarta

It has been more than thirteen years since the horrific terrorist attacks of September 11, 2011. Yet the problem and threat of terrorism has not faded away. In fact, as the threat of al-Qaeda seems to have subsided, new groups of terrorists have emerged that commit even more brutal atrocities. In this regard, the emergence and spread of the self-declared Islamic State has been the most alarming phenomenon, not only in the Middle East, but also in Western societies and other parts of the world, including in Indonesia.

The Islamic State is particularly worrying for four reasons.

First, the atrocities committed by this group are extreme, something that the world has not seen since Pol Pot's genocide in Cambodia in the 1970s and in Rwanda in the mid-1990s.

Second, the Islamic State manages to attract a younger generation of Muslims and new converts to Islam from different countries—ranging from Australia to Europe—in addition to the Muslim world itself. This demonstrates the Islamic State's ability to skillfully manipulate advanced tools of propaganda to its benefit.

Third, although the Islamic State in Syria and Iraq, its existence has served as inspiration for those attracted to the group's ideology to carry out terrorist attacks in other places, including Sydney and Paris.

Fourth, the rise of the Islamic State demonstrates that the problem will not go away anytime soon, and the international community and national government cannot be complacent in addressing this threat. Although conventional counterterrorism strategies need to be maintained, we also need to find new approaches and strategies to address the threat.

First, identifying the root cause of the problem within various forms of Islamic teaching and within Muslim societies is only one part of the effort. However, the rise of the Islamic State also suggests the need to look into other societies where those attracted to the Islamic State live—the homegrown jihadis and extremists.

Second, the taming of extremism—violent or not—cannot be separated from the geopolitical dynamics in the Middle East. Two problems need to be addressed: Iran versus Saudi Arabia, and the solution to the Israel-Palestine problem.

Third, there is a limit to what international cooperation can do to address this problem. The problem of Islamic extremism also needs to be addressed by Muslim communities themselves.

Here, I would like to highlight Indonesia's experience in dealing with the Islamic State.

First, initially, there was growing support for the Islamic State in the country. The government, Muslim leaders, and mainstream Muslim groups, however, were quick to condemn and denounce it and support within the country quickly faded away. However, the problem remains. Around two hundred and fifty Indonesians were identified as having traveled to Syria and joined the Islamic State.

Second, while continuing cooperation with other countries, Indonesia emphasizes the importance of a national response to the problem.

There are at least four main advantages to be gained from a national response to terrorism.

First, the national government would be able to disrupt terrorist networks despite the absence of a regional consensus on what terrorism means and who the terrorists are. This would simplify the measures required by each individual country and allow them to focus on the need to take action against suspected terrorist groups or individual members of terrorist networks.

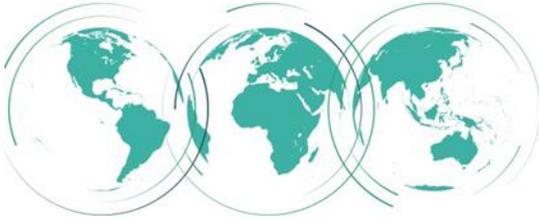
Second, a national response makes it easier for the government to avoid the impression that it is cracking down on terrorism only to fulfil the agenda of a foreign country. Through a national response, the government can demonstrate and convince the public that it is merely responding to the growing threat to national security.

Third, because a national response is less associated with foreign agendas, the national government is better placed to forge national support from mainstream Muslim groups in dealing with terrorist groups that justify their acts in terms of Islamic teachings.

Fourth, as the problem is also related to domestic sensitivity within the Muslim community, the solution can only be sought within the nation's Muslim community itself.

# COUNCIL OF COUNCILS

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## Session Three

# *Reforming Global Health Governance: Lessons From Ebola*



Panelist Paper

*Reforming Global Health Governance: Lessons From Ebola*

Council of Councils Annual Conference

May 10–12, 2015

Council on Foreign Relations, Washington, DC

**David P. Fidler**, Council on Foreign Relations

The Ebola outbreak in West Africa was an epic disaster for global health governance. The strategy designed to deal with serious international health incidents—global health security—failed. The institution empowered to lead responses to such incidents—the World Health Organization (WHO)—failed. The international law crafted to guide responses to serious disease events—the International Health Regulations (IHR)—failed. The outbreak was tamed through unsustainable means that global health governance had not emphasized: community resilience in post-conflict countries supported by an ad hoc expeditionary campaign led by developed states, including deployment of military forces. Post-Ebola developments reflect changes in global health governance that shift global health security in new directions, call into question the WHO’s future, affect governance efforts on other global health problems, and underscore continued failures to address problems the Ebola outbreak highlighted.

**Why Did Things Go So Badly Wrong?**

One of the most important changes in global health governance over the past twenty years involved framing serious disease events as security threats and developing a strategy to address such threats. This global health security strategy linked global health with important political and economic interests of states, transformed the WHO’s responsibilities, and stimulated radical revision of the IHR. These strategic, institutional, and legal innovations originated with the crisis in emerging and reemerging infectious diseases in the mid-1990s but came of age during and after the severe acute respiratory syndrome (SARS) epidemic in 2003. With adoption of the revised IHR in 2005, global health security became a guiding governance strategy for the WHO and implementation of the new international legal rules.

The first test of the strategy, the WHO’s responsibilities under it, and the revised IHR came in 2009 from pandemic influenza A (H1N1). From 2010 to 2011, the IHR Review Committee analyzed this pandemic, acknowledged positive aspects of the response, and identified problems with the IHR and the WHO’s ability to address serious disease events. The Review Committee warned that “the world is ill-prepared” for a “sustained and threatening public-health emergency” and recommended that states improve their compliance with the IHR and strengthen the WHO’s capacities to manage dangerous disease events. The Review Committee proposed an emergency contingency fund and reserve force to bolster the WHO’s and states’ ability to manage a serious disease outbreak.

The WHO and its member states did nothing with the Review Committee’s analysis. The WHO’s reform process, which began in 2010, ignored the need to strengthen the institutional and legal elements of global health security. The 2012 deadline for WHO members to comply with the IHR’s obligations on core surveillance and response

capacities arrived with most states not in compliance. When the WHO faced fiscal difficulties, it slashed funding and staffing for its surveillance and response responsibilities, rejecting the Review Committee's recommendation to strengthen them. The cuts reflected a strategic decision to downgrade global health security and heighten attention on other global health problems. The WHO's reform process also failed to address problems with the WHO's regional and country offices—especially in Africa—that have long undermined the WHO's effectiveness.

Once catalytic in increasing global health's prominence in world affairs, global health security suffered political neglect by countries, downgrading within the WHO and experiencing large-scale IHR noncompliance before a single Ebola case appeared in West Africa. When the outbreak started, the lack of leadership by the WHO director-general, problems with regional and country offices in Africa, weak WHO surveillance and response capacities, and incompetent staff contributed to the debacle. The Ebola crisis also hammered the IHR. The lack of basic health capacities in Guinea, Liberia, and Sierra Leone highlighted the dismal compliance with the IHR's core surveillance and response obligations and the nonexistence of a strategy or funding to address this problem in developing countries. Many states violated the IHR during the crisis by implementing trade and travel measures that had no scientific and public health justification, and few bothered to explain their behavior. The Ebola outbreak left the political, institutional, and legal pillars of the global health security strategy badly damaged.

### **What Developments in Global Health Governance Are Discernible in the Early Post-Ebola Period?**

The impact of the disaster for global health governance can be glimpsed in the establishment of at least four different high-profile efforts to review what went wrong and make recommendations. None has issued findings yet, but four themes are prominent in discussions about improving global health governance after the Ebola crisis. First, states and international organizations have again embraced global health security to guide global health governance. This development contrasts with the neglect of this strategy and its components within the WHO before the Ebola outbreak. This return to global health security includes resurrecting the IHR Review Committee's proposals for an emergency contingent fund and reserve force as part of strengthening the WHO's capabilities.

Second, unlike after SARS, governance leadership is not coming from the WHO but from, primarily, the United States and other actors, such as the World Bank. Post-Ebola discourse shows a striking lack of confidence in the discredited WHO. My reading of post-Ebola tea leaves suggests that the question is not whether the WHO can be resuscitated but whether it should. Over the past twenty years, other initiatives and actors (e.g., Global Fund, Gates Foundation) challenged and weakened the WHO's role and influence. However, global health security constituted one area where an empowered, authoritative WHO was critical. The WHO's anemic reform process, its pre-Ebola weakening of global health security, and its performance during the outbreak leave the WHO in the most politically perilous situation it has ever faced.

Third, in taking the lead, the United States is emphasizing its Global Health Security Agenda (GHSA), which involves a coalition of countries and organizations, and building regional capacity for health security in Africa. Frustrated by the WHO's downgrading of global health security, the United States launched the GHSA in February 2014, before the Ebola crisis unfolded. During the outbreak and in the postcrisis period, the United States scaled up the GHSA, gathered more support for it, and made it prominent in the post-Ebola governance landscape. The United States played the lead role in working with the African Union to establish the African Centers for Disease Control and Prevention (African CDC) in April 2015. The creation of the African CDC, with prominent U.S. participation, marginalizes the much-criticized WHO regional office in Africa and sends the message that, after Ebola, health security in Africa is bypassing the WHO's dysfunctional structure.

Fourth, during and after the Ebola crisis, the need to address the lack of national health capacities in developing countries has been one of the most discussed global health governance issues. The discussion often connects this need with the objective of improving compliance with IHR obligations on core surveillance and response

capabilities. The extent of the health capacity needs in developing countries also provides incentives to look beyond the WHO to developed states and international organizations that have resources to fund this endeavor.

Other problems requiring governance attention have emerged from the Ebola episode, including:

- Strengthening compliance with the IHR's requirements that trade and travel measures have scientific and public health justifications, perhaps through stronger enforcement mechanisms;
- Sorting through operational lessons learned, including whether high-profile, military-supported efforts (e.g., building treatment centers) contributed materially to bringing the outbreak under control; and
- Stimulating faster development of vaccines and other medical and health technologies in light of the lack of a vaccine for Ebola and the controversies over experimental treatments for Ebola victims.

### **What Problems Do Post-Ebola Developments Portend for Global Health Governance?**

The renewed emphasis on global health security complicates governance efforts on health issues that are not security threats, including noncommunicable diseases (NCDs) and universal health coverage (UHC). The pre-Ebola shift in the WHO away from global health security involved a push for more attention on NCDs and UHC within the WHO and in the post-2015 development agenda. The post-Ebola return to global health security focuses on certain types of infectious disease threats. Arguments that global health security should include more than these threats will not find fertile ground after the Ebola nightmare. Moreover, the United States, through GHSA and other actions, now dominates global health security policy, making it unlikely that NCDs, UHC, or other non-security approaches that have been proposed will get traction in this strategy.

Similarly, creating an emergency contingency fund and reserve force and improving how the UN system supports responses to health emergencies will overshadow other global health issues, particularly in connection with WHO operations. These initiatives will require significant funds and personnel, and resources earmarked and expended for these purposes will not be available for other needs, such as NCDs. The contingency fund and reserve force will be yet more “vertical” programs focused on a narrow range of infectious disease threats of interest to developed countries. *Plus ça change, plus c'est la même chose.*

Concerning the badly bruised WHO, states have to figure out what to do with it. As all WHO reform efforts have demonstrated, the WHO is incapable of achieving serious reform through established processes. Requiring the WHO to take on new responsibilities, such as operating an emergency reserve force, does not constitute organizational reform. Even after Ebola, whether states want to transform how the WHO functions as an institution is not clear. Without serious reform, the trajectory of post-Ebola global health governance might weaken this battered organization beyond the point of effective recovery.

The frequency with which health capacity building is mentioned has produced no clarity on where the money is going to come from. The dismal compliance with the IHR's core surveillance and response capacity obligations demonstrates that states did not prioritize this key aspect of global health security before Ebola. The only prominent plan with funding at present is the GHSA, but, while important, the resources attached to GHSA are not adequate. In addition, funds spent on an emergency contingency fund and reserve force will not bolster national health capacities in developing countries, which creates tension within the global health security strategy.

Finally, we do not know whether the “Ebola effect” on global health governance will have staying power. Epidemics exhibit political elasticity—they increase global health's political importance, but this impact fades as crises pass. The post-Ebola agenda includes things states failed to do even after experiencing more globally dangerous disease events (e.g., the H1N1 pandemic). This agenda includes providing sufficient funding for building health capacities in developing countries, accepting enforceable rules of international health law, and seriously reforming the WHO.

Why Ebola will cause states to shoulder these burdens and costs over many years has not been explained in the clamor for change. This question applies to more targeted initiatives as well. Will U.S. political, technical, and financial commitments to the African CDC support the growth this venture must achieve to fulfill its objectives?

To conclude, global health security was once an innovative idea that generated historic changes in global health politics, governance, and law. After Ebola, the novelty is gone, the WHO is discredited, the changes have proved inadequate, and the strategy is in shambles. Efforts to reconstitute global health security as a lodestar for global health governance have only just started, and these efforts might well remake such governance dramatically. But, being “present at creation” also means not knowing how the story ends.

*This paper draws on D. P. Fidler, “The Ebola Outbreak and the Future of Global Health Security,” The Lancet, 2015, p. 385 (in press).*



Panelist Paper

*Reforming Global Health Governance: Lessons from Ebola*

Council of Councils Annual Conference

May 10–12, 2015

Council on Foreign Relations, Washington, DC

**Yanzhong Huang**, Senior Fellow for Global Health, Council on Foreign Relations

**Ariella Rotenberg**, Research Associate, Council on Foreign Relations

The Ebola outbreak has caused almost eleven thousand deaths in Sierra Leone, Liberia, and Guinea to date and infected twenty-five thousand people.<sup>1</sup> The outbreak originated in the tropical rainforest of Guinea in December 2013. For a time, the outbreak was confined to rural areas—and possibly could have been contained more easily if it remained in remote communities. But some critical enablers such as the lack of local health system capacities and the gap in global health governance fueled the rapid spread of the disease.

The first problem is the lack of effective national health systems to contain its spread. Ebola is not a novel virus. Since it was first identified in 1976, there have been at least eight outbreaks with more than one hundred cases before the current outbreak in western Africa. Although Ebola has never appeared in the region previously, researchers have learned that it moves from animals to humans, thrives on delayed diagnosis, strikes unprepared hospitals, and can be contained within rural settings by isolation, careful nursing, and contact tracing. All this highlights the importance of developing adequate health systems that are able to rapidly identify cases, isolate patients, trace contacts, and quarantine exposed cases. Unfortunately, none of the three Ebola-stricken countries had essential public health infrastructure.

The tremendous funding countries and international organizations have committed to fighting prominent infectious diseases such as HIV/AIDS might have helped countries such as Nigeria contain the spread of Ebola, but there is no doubt that such vertical programs and projects suffer problems of fundability and scalability and have not significantly contributed to overall health system strengthening in the three Western African countries. Prior to the outbreaks, Guinea, Sierra Leone, and Liberia spent less than one hundred dollars per year per capita on health care.<sup>2</sup> Human resources shortages were of particular concern: Liberia and Sierra Leone had only about 90 and 136 doctors, respectively, although at least ten times that number were required to meet even a minimum threshold for an adequate health workforce.<sup>3</sup> The rapid increase of Ebola cases and the significant number of health workers who died from Ebola only exacerbated the human resource shortages in these countries. After the outbreak started, Dr. Frank Glover, president of SHIELD, a U.S.-based nongovernmental organization in Africa, noted that the number of doctors involved in delivering clinical care sunk to fifty.<sup>4</sup> In the absence of a robust health-care system, the health workers were not in a position to isolate contagious patients, treat them appropriately, or go out to look for cases and advise community members about prevention. Disease surveillance capacity was extremely weak. The first case occurred in Guinea in December 2013, but was not detected until March 2014. Similarly, it took two months before Sierra Leone's outbreak was detected, confirmed, and declared. To make things even worse, some affected

countries refused to share information during outbreaks. Authorities and government partners in Sierra Leone, for example, refused to share already gathered data with Doctors Without Borders, forcing the humanitarian organization to start from scratch in contact tracing.<sup>5</sup>

To be sure, the capacity gap is not *sui generis*—according to WHO Director-General Margaret Chan, 129 countries have public health systems too weak to prepare themselves for an Ebola-type outbreak.<sup>6</sup> But high levels of distrust between West African citizenry and their governments rendered many of the official government actions ineffective, particularly in Liberia and Sierra Leone, two of the poorest countries in the world that are both still recovering from brutal civil wars. For example, despite early efforts by the Liberian government to inform its people about the emergence of Ebola early on, many ordinary Liberians told reporters they believed the disease was a creation of the government in order to increase contributions to their country from foreign donors.<sup>7</sup> Rumors spread in Monrovia, the capital of Liberia, that shadowy figures poisoned communal wells in order to raise the Ebola death count.<sup>8</sup> The presence of police and uniformed military no doubt brought up difficult recollections for West Africans whose memory of violent civil war is still fresh. The resulting distrust of government officials complicated their ability to distribute care and enforce needed quarantine measures.

Since the Ebola crisis reduces state capacity in western African countries when ever-increasing capacity is needed to tackle the crisis, purely endogenous solutions were unlikely to stem the spread of the virus, and the capacity had to be imported externally. Unfortunately, the world failed to develop any functioning global response mechanism to a potential disease outbreak in failed states or states with fragile health systems. As Chan noted, Ebola had been around for forty years prior to the current outbreak, but countries were still empty handed in terms of producing drugs and vaccines to help stop the transmission of the virus. Ongoing efforts to develop new medical countermeasures against the virus have proved challenging because there is no underlying commercial market to support the financial investment needed.

The “massive failure of global health governance,” in the words of David Fidler, was epitomized by the WHO’s initially slow and ineffective response to Ebola. Despite the signs of an epidemic in March 2014 and repeated warnings from Doctors Without Borders, it was not until August 8, 2014, that the WHO declared the Ebola epidemic a “public health emergency of international concern,” and it took five months after the international spread of the virus for the WHO to release an Ebola response road map.<sup>9</sup> Some attributed the hobbled early response to the lack of qualifications of WHO workers on the ground.<sup>10</sup> This was not surprising, given a severely trimmed budget, particularly that of its epidemic-response department. The lack of stable, predictable, and sustainable funding from member states has resulted in the WHO’s overreliance on donations, which has not only led to the outsourcing of some of its core functions, but has also created coherence problems in its programs and priorities.

But the funding and staffing issues do not exonerate the international health agency from its missteps in the crisis. One of the organization’s functions is to coordinate international response to public health emergencies and other global health challenges, as shown in the fight against the 2003 SARS epidemic. Yet Margaret Chan initially defined the organization as primarily one that provides technical advice and not services.<sup>11</sup> Second, while the revised IHR requires countries to build certain core capacities to detect, assess, report, and respond to global health emergencies, the WHO made the capacity building and enforcement primarily the responsibility of the states parties. The WHO neither had dedicated funds for IHR capacity building nor for developing any enforcement mechanism to make sure politics did not get in the way of disease response. Third, the WHO failed to act on the recommendations from the Review Committee established after the 2009 H1N1 pandemic, including the proposed surge capacity fund which represented less than 0.5 percent of international health assistance.<sup>12</sup>

Eventually, several nations did contribute significant help to fight the Ebola outbreak. The assistance came to each of the three stricken countries from respective Western powers that had a historical—and, in the case of Guinea and

Sierra Leone, colonial—connection to West Africa: the United Kingdom led the effort in Sierra Leone, the French in Guinea, and the United States in Liberia. The British government promised a sixty-two bed hospital in Freetown, Sierra Leone's capital.<sup>13</sup> France pledged one hundred million euros to help stem the spread of the disease in Guinea—and French President Francois Hollande visited Guinea last November.<sup>14</sup> The United States deployed three thousand troops, mostly to Liberia, on September 16, 2014.<sup>15</sup>

As of April 29, 2015, a total of thirty-three new cases of confirmed Ebola were reported in Guinea and Sierra Leone, compared to thirty-one the week before. Liberia had no new confirmed cases—the last confirmed patient with Ebola passed away in Liberia on March 27.<sup>16</sup>

In the wake of the Ebola outbreak, global health practitioners and scholars are taking a close look the existing global health governance regime. Chan named a panel of outside experts to review the WHO's Ebola response and has pledged to overhaul the way it deals with epidemics.<sup>17</sup> But many question whether its reforms will be enough to ready the world if another Ebola-sized outbreak occurs. Chan stressed the necessity of compliance at the national level with the IHR in order to ensure that member countries are prepared for potential outbreaks. Some experts question whether the WHO is sufficient, or whether a new international organization is needed.

Proponents of a framework convention on global health have seen the world's initial failures in addressing the Ebola outbreak as a case and point for the necessity of such a treaty. The framework convention would aim to close the health gap among and within countries in order to work against the health marginalization of underserved populations. This framework convention would approach the issue from a departure point of recognizing health as a human right, and aims both to handle acute issues such as disease outbreak, as well as systemic issues such as extreme poverty and inequality as it relates to health.

As Ebola slowly fades from the headlines, the window of opportunity to improve global health governance seems to be closing. Global health practitioners and academics must act quickly if they aim to successfully correct for the failures that were exposed by Ebola—at local, national, and international levels.

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# COUNCIL OF COUNCILS

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## Session Four

### *Currency Competition and International Trade*



Panelist Paper

*Global Currency Competition and International Trade*

Council of Councils Annual Conference

May 10–12, 2015

Council on Foreign Relations, Washington, DC

**Edward Alden**, Council on Foreign Relations

**Robert Kahn**, Council on Foreign Relations

The issue of currency misalignment and currency manipulation has become a highly contentious one in the United States. With Congress considering whether to grant President Obama the authority he needs to conclude ambitious trade agreements in Asia and Europe, some in Congress are calling for enforceable rules to prevent countries from devaluing their currencies to gain an export advantage. The administration is resisting, concerned that such language may be unworkable in practice, and could backfire on the United States.

There are three big questions to be addressed in considering whether trade negotiators should tackle the problem of currency valuations. First, is it possible to define “currency manipulation” in any clear way? Secondly, could the problem be handled better by other institutions like the International Monetary Fund or the Group of Twenty (G20)? And finally, could there be unanticipated consequences from trying to discipline currency arrangements by using trade tools?

**Definition of Currency Manipulation**

Although the concern over currency manipulation is far from a new one, a consensus on definition has been elusive. One approach, favored by many economists, looks to define currency manipulation with reference to macroeconomic outcomes, including external imbalances or an exchange rate “misalignment” relative to some estimated equilibrium level. At the other end of the spectrum, manipulation could be measured by the observed act of foreign exchange rate intervention or other direct interventions to prevent markets from reaching their natural level. This latter approach is more amenable to legislative rule making, but more subject to the critique that it imperfectly captures the behaviors we are trying to deter. In either case, there may be many instances where currency manipulation meets the “duck test”—we know it when we see it—but defies efforts to document it in a formal rule.

The International Monetary Fund (IMF) has sought since 1977 to bridge these competing perspectives with a seven-part test for determining whether member countries’ practices warrant IMF surveillance. These include such factors as protracted, large-scale, one-way intervention in the exchange markets, and large and prolonged current account surpluses (see appendix for full list). The U.S. Omnibus Trade and Competitiveness Act of 1988 requires the U.S. Treasury to issue a semi-annual report identifying countries that “manipulate the rate of exchange between their currency and the U.S. dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade.” Although the Treasury has provided broad guidance as to how it

defines manipulation and relies in part on the IMF definitions, critics have argued that the definition is too general to be effective in deterring manipulation.

Advocates of strengthening the rules against currency manipulation argue that a reasonable yet more stringent definition of currency manipulation could be agreed on, looking especially at active government intervention in the exchange markets and the buildup of excessive reserves over a certain period of time. China during the 2000s is the most obvious example here; from 2001 to 2008 its foreign exchange reserves rose from just over \$200 billion in 2001 to nearly \$2 trillion, and its current account surplus rose from 1.3 percent of gross domestic product to over 10 percent. Since then, China's reserves have continued to grow, though at a slower pace, but the current account surplus has fallen back to just under 2 percent.

However, determining the intent behind interventions and defining "excessive" is far from clear. Further, such a definition would exclude the effects of monetary policies such as the U.S. quantitative easing measures from 2008 to 2014, and Japan's similar measures since 2013. Monetary policy can have large impacts on currency valuations and cause severe problems for trading partners, even if the intent of monetary easing is to spur domestic demand and not necessarily to weaken the currency. Raghuram Rajan, the governor of the Bank of India, has accused the major industrial countries of currency manipulation, arguing that the claim that unconventional monetary easing is aimed at stimulating domestic demand was simply a "fig leaf" for beggar-thy-neighbor devaluations.

In the context of Abenomics, the Group of Seven (G7) sought to go a step further and find a workable distinction between monetary policy and currency manipulation. In their February 2013 statement, G7 ministers and governors endorsed fiscal and monetary policies "oriented towards meeting our respective domestic objectives using domestic instruments," and reaffirmed their commitment not to target exchange rates. That formulation—allowing monetary easing that is aimed at domestic objectives (e.g., stimulating demand after a recession) and avoiding the direct purchase of foreign assets—remains in place to this day.

## **The Role of the IMF and G20**

The disagreements over definition may explain in part why traditional institutions such as the IMF have been so ineffective in policing currency value. Article IV of the IMF articles, as amended in 1977, calls on member countries to "avoid manipulating exchange rates or the international monetary system in order to prevent effective balance-of-payments adjustment or to gain unfair competitive advantage over other member countries." The IMF is supposed to "exercise firm surveillance" over the currency practices of member countries, but it lacks any authority to force countries to change their practices and has failed to exercise the little authority it does have. No country, for example, has ever been cited under the exchange manipulation rules. The IMF has no formal dispute settlement mechanism, and no real ability to levy sanctions against offending countries unless they are in need of an IMF loan, which surplus countries by definition rarely need. In recent years the G20 has also tentatively waded into the issue. At the 2009 Pittsburgh summit, the G20 leaders agreed to launch a Mutual Assessment Process (MAP) designed to look more carefully at the cross-border consequences of domestic economic policies, including monetary policy, and to create some peer pressure on surplus countries. While the IMF was to lead the staff work, the objective of MAP was a peer-to-peer review process that ultimately would result in country commitments to address imbalances. Although there was extensive technical work done to set the basis for these discussions, the MAP floundered at the political level. More broadly, as the crisis has receded, the G20 has found it more difficult to reach consensus on the thorny and divisive issue of misalignment.

This is not to say that the Fund has stood still. In recent years, the IMF staff has developed new tools and reports, including an external vulnerability report and one looking at spillovers from shocks in one country to the broader global economy, and developed better tools for measuring misalignment. Yet, while the machinery of multilateral surveillance has been strengthened, making progress on misalignment will require a high degree of political will at the leaders' level.

## **Congressional Pressure for Trade Action**

The failure of these institutions to take more vigorous action has increased the pressure, especially from the U.S. Congress, to tackle the problem through trade agreements. In the United States, much of the debate is focused on the impact of China's intervention in the currency markets during the 2000s, when China's trade surplus with the United States soared and the U.S. manufacturing sector shed nearly five million jobs. As far back as 2005, the Senate voted overwhelmingly to slap an across-the-board 27.5 percent tariff on all Chinese imports if China did not agree to increase the value of the renminbi. The bill, which would clearly have violated World Trade Organization (WTO) rules, was not taken up by the House. But since then members of Congress have periodically tried to push legislation that would force the U.S. administration to take a tougher stance on the issue.

In the current debate over trade promotion authority (TPA), a number of approaches have been proposed. The Senate Finance Committee on April 23 narrowly defeated an amendment sponsored by Senator Rob Portman (R-OH) and others that would have required the administration to seek enforceable rules against currency manipulation in the Trans-Pacific Partnership (TPP) and other future U.S. trade agreements. The committee did pass an amendment to a companion Customs bill that would require the U.S. Commerce Department to consider whether an undervalued currency amounts to an export subsidy that could be challenged under U.S. trade laws by U.S. companies that believe they have been harmed by unfairly priced imports. Neither of these provisions was contained in the TPA legislation passed by the House Ways and Means Committee.

The Obama administration has opposed both of these proposals, concerned that they could jeopardize the negotiations with Japan and ten other countries in the TPP and/or run afoul of WTO rules. They further note that any rules implemented through the TPP would apply only to those signing the agreement, and thus exclude China and a number of other countries that are substantial trading partners of the United States. The U.S. Treasury's preferred proposal is to strengthen the provisions of the 1988 Trade Act, which was passed by Congress in the midst of rising concerns over Japan's growing exports to the United States. Since 1994, however, the Treasury has not identified a single country as a currency manipulator under the provisions of that act. Although the designation brings no formal consequences—indeed, the only requirement is that the United States enter into negotiations with the offending country—the Treasury has feared that formally labelling a country as a “manipulator” could be counterproductive in any negotiations. In an effort to address congressional concerns, the Treasury has recently signaled a willingness to support new language that would create a less adversarial “name or explain” mechanism, but would back it up with a stronger array of potential sanctions. The TPA bill as marked up by Senate Finance contains these provisions, but the House bill does not.

There are a number of unconventional proposals also being discussed, including economist Fred Bergsten's idea of meeting manipulation with matching and offsetting sterilized foreign exchange intervention, and other proposals to cut an offending country off from trade and other benefits. Finally, there is already some language in the WTO agreements designed to discourage competitive devaluations. Article XV of the General Agreement on Tariffs and Trade (GATT) similarly states that member countries “shall not, by exchange action, frustrate the provisions of this agreement.” In principle, this language could be tested through the dispute settlement provisions of the WTO. No country has ever brought a case, though the U.S. Trade Representative's Office has examined the possibility in some detail.

## **Conclusion**

The U.S. Congress is continuing a long effort to persuade the administration to adopt more robust rules to discourage currency manipulation. So far, both Republican and Democratic administration have resisted that pressure. The strengthening of the Chinese renminbi over the past five years, and the lack of any exchange market intervention by Japan since 2011, may have tamped down the case for more aggressive action. But U.S. exports in the first quarter of 2015 fell by 7.2 percent due to a combination of weak growth abroad and a strengthening dollar.

If such trends continue, reinforced by additional monetary easing in Asia and Europe, congressional pressure for action may grow.

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*Appendix: IMF Criteria for Exchange Rate Surveillance (1977 Decision)*

<http://www.imf.org/external/np/pp/2007/eng/nd.pdf>

"In its surveillance of the observance by members of the principles set forth above, the Fund shall consider the following developments as among those which would require thorough review and might indicate the need for discussion with a member:

- (i) protracted large-scale intervention in one direction in the exchange market, particularly if accompanied by sterilization;
- (ii) official or quasi-official borrowing that either is unsustainable or brings unduly high liquidity risks, or excessive and prolonged official or quasi-official accumulation of foreign assets, for balance of payments purposes;
- (iii) (a) the introduction, substantial intensification, or prolonged maintenance, for balance of payments purposes, of restrictions on, or incentives for, current transactions or payments, or  
(b) the introduction or substantial modification for balance of payments purposes of restrictions on, or incentives for, the inflow or outflow of capital;
- (iv) the pursuit, for balance of payments purposes, of monetary and other financial policies that provide abnormal encouragement or discouragement to capital flows;
- (v) fundamental exchange rate misalignment;
- (vi) large and prolonged current account deficits or surpluses; and
- (vii) large external sector vulnerabilities, including liquidity risks, arising from private capital flows.



Panelist Paper:

## *A New Economic Agenda for the EU and the Prospects of the Transatlantic Trade and Investment Partnership*

Council of Councils Annual Conference

May 10–12, 2015

Council on Foreign Relations, Washington, DC

**Ferdinando Nelli Feroci**, Institute of International Affairs

### **Where Do We Begin? Reforms Adopted by the European Union in the Past Few Years**

The economic and financial crisis forced the European Union and the eurozone to adopt significant new measures geared toward greater integration of fiscal and economic policies. New instruments (such as the Six Pack and Two Pack agreements) ensure more effective control of national budgets, and deficits and debt reductions have been adopted and are operational. New mechanisms for coordinating national fiscal and economic policies (the European Semester and the Macro Imbalances Procedure) have been introduced, with the objective of reinforcing convergence of economies of members of the European Union. New common instruments (such as the European Financial Stability Facility and the European Stability Mechanism) have been created to provide financial assistance to countries of the eurozone, thus implementing the principle of solidarity. The basic elements of a banking union (including a centralized system of supervision for major banks, and a common resolution scheme) are now in place, together with a set of new regulations for financial markets, services, and products, aimed at reducing excessive risk propensity. Additionally, the European Central Bank (ECB) has intervened in many occasions with decisive measures using unconventional monetary policy to provide liquidity to the euro area, such as security market programs, long term refinancing operations, outright monetary transactions, targeted long-term refinancing operations, and, more recently, quantitative easing.

### **Major Damage Was Avoided but Something Went Wrong**

Although necessary to remedy substantive weaknesses of euro governance, these measures have been adopted in emergency situations as a result of difficult compromises between different national positions and without a clear and shared vision of a coherent long-term project. Some errors were thus made in the process. The excessive focus on fiscal adjustments has diverted attention from other priorities and growth in particular. The speed of fiscal adjustment—certainly necessary—imposed on noncompliant countries, particularly in the periphery of the Eurozone, has been too fast and has accentuated recessionary trends in their economies. The asymmetry of the processes of adjustment has imposed excessive burdens on deficit countries. But no specific commitments have been requested of surplus countries. And the divisions emerging among members of the eurozone on the causes of the crisis and the nature of its remedies—including those advocating more solidarity, stronger common institutions, and common instruments, and those insisting on the need to avoid moral hazard and on the principle that “home works” come first—has led to a situation of growing reciprocal mistrust.

## **The Current Situation: Some Good News but No Room for Complacency**

Thanks especially to the measures adopted by the ECB, the current situation in financial markets has significantly improved. With the exception of Greece, countries under assistance programs have returned to financial markets, refinancing their debt autonomously. Yields on sovereign debt have generally decreased in a spectacular manner. Debt levels are still excessively high in some countries, but public debt sustainability is not at stake—albeit with the exception of Greece. Access to credit has also improved for business and families, and the fragmentation of financial markets has been reduced.

But there should be no room for excessive complacency. Despite better conditions in the EU and the eurozone in particular—including low energy prices—growth is still too slow and unemployment risks threatening social cohesion. The rate of investments has generally declined in the past three years, or at least investments have grown much less than in other areas of the world. Economic imbalances among members of the Eurozone persist, which were among the causes of the crisis. Productivity and labor-cost gaps remain important. The risk of deflation in the eurozone is widely recognized and has driven the recent decisions of the ECB to implement quantitative easing. In general there is a serious risk of protracted long-term stagnation affecting the European economies.

## **A New Economic Agenda and Policy Mix**

Among the recent major developments to register in Europe is the new consensus—shared by the new Commission, new European Parliament, and member states—on the need to redefine the priorities of a European economic agenda focused on growth and employment, with a more efficient policy mix between monetary policies, fiscal or budgetary policies, and economic policies.

On monetary policies, measures of an unconventional nature, including the Outright Monetary Transactions announcement in summer 2012, have been adopted by the ECB since the beginning of the crisis. This has been possible thanks to a legally correct but evolutionary interpretation of the mandate of the ECB, which has operated since 2010 in a manner more like that of similar institutions outside the eurozone. The most recent decision of the ECB to launch, with the so-called quantitative easing, a massive program acquiring bonds issued by euro-area governments, national agencies, and European institutions on secondary markets (for a maximum amount of sixty billion euros per month for a period of at least eighteen months) is both an autonomous decision of the ECB and a consequence of the new political consensus among members of the eurozone on the need for a supportive monetary policy. The effects of quantitative easing are already evident on at least three indicators: the level of exchange between the euro and other major currencies, the level of interest rates on sovereign debt (in particular of peripheral countries), and the conditions of access to credit (in some countries). Effects on the level of inflation will take more time.

On fiscal policies, there is an implicit agreement on the idea that the instruments adopted to ensure fiscal sustainability and budgetary discipline should not be fundamentally revised at this stage. But there is also an agreement on the need to utilize those rules and those instruments with the necessary flexibility, in order to avoid pro-cyclical effects on economies still in the process of recovering from a recession or characterized by low growth. The recent Commission's communication providing more flexibility on the time frame for the attainment of the agreed targets for deficit and debt reduction, specifically for countries in economic difficulty or in the process of implementing structural reforms, is proof of such new awareness.

On economic policies the focus remain on the need for some countries to continue to adopt and implement reform policies which are, broadly speaking, meant to stimulate competitiveness and productivity. Economic convergence remains an objective shared in principle, but difficult to realize in practice. Reform policies remain a sensitive responsibility of national governments and the European Union does not have sufficient means to effectively

coordinate national economic policies. The loose mechanisms available so far (the European Semester and Country recommendations) have not produced the expected results. Additionally, something innovative should probably be imagined to provide some form of incentive to countries that actually adopt and implement reform policies consistent with a broad framework agreed at the EU level.

Finally, based on the assumption that structural reforms are necessary but not sufficient to stimulate growth at least in the short term, new attention has been dedicated to the need to stimulate public investments as a means to foster growth. At the EU level, the flagship initiative is the Juncker Plan: a program aimed at mobilizing up to 315 billion euros to finance a series of infrastructural projects of a trans-European nature. The program has been approved despite several critical remarks and reservations. The uncertainties are numerous and are concentrated in particular on the overall volume of financial resources which will eventually be available, the capability of the original capital made available by the EU budget to mobilize an adequate leverage effect, the availability of sufficient national matching funds, and the criteria for selection of the projects. But the program is important for its symbolic value, as the concrete sign of the new priorities of the European Union. It would certainly not be sufficient if not coupled with sufficiently ambitious investment programs—both public and private—at the national level.

### **Is There Room for Further Steps Toward Reform of Eurozone Governance?**

The question of if and how to complete eurozone governance reform will be discussed again next June. It will be examined at the highest political level on the basis of a report of the presidents of the four common institutions involved in the management of the common currency, and this report will analyze achievements and shortfalls of the work program described in a previous report from 2012. A functioning banking union is certainly among the achievements. Among the shortfalls, one should observe the lack of progress toward a more integrated fiscal union, (with a more centralized management of national budgets in exchange for some form of risk sharing) and toward a more efficient economic union (with more effective means of coordination of national economic policies). But it is difficult to detect, at this stage, a strong appetite for radical reforms that would lead toward more transfers of national sovereignty in such delicate areas as fiscal, budgetary, and economic policies. This is also the consequence of the fact that conditions are now paradoxically less favorable because the worst phase of crisis is over and there are fewer incentives for member states to adopt courageous reforms toward more integration.

It is therefore essential that the European Union concentrates on other initiatives which can contribute to growth and employment. The EU should maintain its commitments for the completion of the internal market by regularly adopting new legislative initiatives in areas not yet sufficiently integrated, particularly services. The digital agenda and single digital market should remain high among the priorities of the European Union. Energy policies should return to the center of the European agenda with a focus on the completion of the internal market, security and sustainability of supplies (and thus further diversification for sources and routes), carbon reduction, and development of renewable sources of energy. The recent proposal for an energy union is a step toward a more integrated common energy policy at the EU level that will have an impact on EU relations with oil- and gas-producing countries. Climate change is an integral part of this policy. The European Union has adopted a set of ambitious targets for the post-2020 period and is committed to ensure the success of the Paris conference with a global agreement of a binding nature on reducing global warming.

### **Europe and Trade Liberalization: The Case of TTIP**

The European Union remains committed to its agenda for trade liberalization to be pursued mainly through a series of free trade agreements (FTAs) with significant partners. After the successful conclusions of the agreements with South Korea, Singapore, and Canada, the most ambitious ongoing negotiation is for the Transatlantic Trade and Investment Partnership (TTIP) with the United States. Launched in June 2013, thanks to a unique window of opportunity in Europe and in the United States, negotiations on TTIP soon met with the difficult task of reconciling

strategic ambitions with often-contradictory sectoral national interests. After nine rounds of negotiations, the parties are still far from a significant breakthrough on most of the negotiating chapters. So far a further reduction (in some cases, elimination) of traditional barriers like tariffs is at hand. But non-tariff barriers, regulatory convergence, public procurements, access to agricultural markets, inclusion of financial services and energy, intellectual property rights, and protection of geographical indications are still chapters where reasonable compromises are yet to be found.

Negotiations on TTIP in 2014 remained hostage to all the constraints of an electoral year, both in the United States and in Europe. Now political conditions should be more favorable in the United States (with a new Congress more inclined to approve trade promotion authority) and in Europe (where member states at the highest political level have constantly backed the Commission's efforts to advance in the negotiations). But new preoccupations for some potential effects of the agreement are emerging in several countries in Europe (on matters related to food and agriculture, consumer protection, or on the arbitration clause for foreign investments). Even though more emotional in nature, these preoccupations are voiced with a lot of media exposure and are contributing to create hostility in public opinion toward the agreement, countering the positive narrative according to which FTAs generally contribute to growth and possibly employment. These preoccupations are also expressed by some political parties represented in the European Parliament and could eventually be reflected critically by the European Parliament, which will have to approve the agreement before its formalization. As a consequence, at this stage, without strong political backing both in the United States and in Europe, more transparency, and an effort of public diplomacy to explain the advantages of the agreement, an early conclusion of the negotiation based on the idea of a comprehensive and ambitious deal appears difficult to achieve. A possible alternative would be to go for a partial agreement on some of the chapters envisaged in the original negotiating mandates, coupled with a review clause that would contain a commitment to complete it in the near future.

# COUNCIL OF COUNCILS

*An Initiative of the Council on Foreign Relations*



## Session Five

### *Dilemmas of Humanitarian Intervention: The Case of Syria*



## Panelist Paper

# *Syria and the Limits of Humanitarian Intervention*

Council of Councils Annual Conference

May 10–12, 2015

Council on Foreign Relations, Washington, DC

**Christian Koch**, Gulf Research Center

Syria is a vital state for the strategic stability of the entire Middle East. The repercussions of the protracted civil war that is now in its fourth year have been felt throughout the region with consequences that will be around for decades to come. From the outset, the developments in Syria have represented an issue of priority for the Arab world, in particular for the states of the Gulf Cooperation Council (GCC).

The Arab Gulf states have been important contributors to the various humanitarian relief efforts, providing large financial contributions and services on the ground through the Red Crescent, and hosting a large number of Syrians who have been able to find a livelihood in the Gulf countries. In this context, it must be remembered that the GCC states never encouraged the Syrian revolution and they cannot be seen as a partner in its ignition. In fact, the GCC countries spent seven months in 2011 and 2012 trying to reconcile the different interests and urging the Syrian government not to escalate the situation. A shift in the GCC position occurred only when it became clear that the situation was becoming hopeless and that the regime of Bashar al-Assad was not willing to consider compromises. In addition, a more concerted Arab Gulf policy came about only after Iran expanded its interventionist policy in support of the Assad regime. GCC action should also be understood in the context of key Western states standing by without taking action while the crisis escalated.

The GCC states have had a clear and consistent policy following the exhaustion of diplomatic efforts to try to convince the Syrian government to change its course. Their view is that the regime of Bashar al-Assad has lost prestige, power, control, and, ultimately, legitimacy. For the past forty years, the regime has ruled by oppression. It is the GCC states' strong conviction that the regime will be unable to survive.

The current Syrian crisis shows that, in order to be effective, international intervention must come at the beginning of a crisis rather than after mass atrocities have occurred. Right timing and clear identification of the enemy are needed in order for intervention to be effective. Unfortunately, given these prerequisites, intervention in Syria was needed at the very outset of the conflict and before the current civil war situation developed.

In Syria, there are now three groups to consider: the regime, the well-armed extremist groups, and the general population. Here, it is no longer possible to simply identify the enemy between the government and the extremist opposition. Instead of there being one clear enemy, there are thus several enemy groups in Syria, a reality that any potential humanitarian action must keep in mind. There already exists tremendous hesitation on the part of the international community to take on the fight against the Islamist groups. In addition, as can be seen in the campaign

of the international coalition against the Islamic State group that is being conducted in Iraq and parts of Syria, an air campaign can only have a very limited impact and will add to humanitarian concerns.

Given the current situation, there are clear limits that must be recognized. The imposition of a no-fly zone and the establishment of humanitarian corridors or a safe haven concept inside Syria can only be achieved with proper protection alongside the recognition that such steps involve a fighting component. Countries committed to carrying out such action must understand that significant military resources will have to be committed and that those forces authorized to carry out such action will necessarily be drawn into the conflict inside Syria. In this context, it is not enough to talk about a peacekeeping component but rather one must consider peace implementation. This significantly raises the stakes involved.

The protracted crisis in Syria has also exposed the limits of the UN Security Council to intervene in humanitarian crises. Without any consensus among its members, in particular the five permanent members of the Security Council, the role of the Security Council is hamstrung. Although U.S. leadership is essential, it is not sufficient by itself. Established and rising powers have to reconcile their divergent views concerning the responsibility to protect civilian populations and produce a political commitment to bridge their differences outside the context of power politics.

Whether it is within or outside the UN framework, the need for quick and decisive action is still essential. The establishment of no-fly zones in Iraq in 1991 was undertaken outside of the UN framework and pushed forward by four countries—Turkey, the United States, the United Kingdom, and France. Given their commitment and speed, they were able to impose the no-fly zone within a week of having announced their intentions. Such decisiveness was missing in Syria from the very beginning. As a result, the international community is now faced with a situation to which there are no good answers.

One option to address humanitarian crises such as Syria is to provide for a greater role for regional organizations to take the lead in such cases. The recent announcement of an Arab military force under the auspices of the Arab League could be such an option. The more immediate need is to focus on broadly supporting the neighboring countries of Turkey, Lebanon, and Jordan in providing facilities that can take care of the thousands of incoming refugees.



Panelist Paper:

## *Syria and the Dilemma of Humanitarian Intervention*

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Council on Foreign Relations, Washington, DC

**Andrew S. Thompson**, Centre for International Governance Innovation

On April 27, 2015, the International Crisis Group (ICG) released a statement conceding that the situation in Syria is hopeless.<sup>1</sup> More specifically, its assessment is that the civil war—which is now in its fifth year—has become so intractable that there is currently no chance of either a diplomatic or political solution. Too many factions within the country, including newly formed extremist groups, are vying for power, thereby negating any possibility of a peaceful solution. In providing support to the various sides, external actors, all of whom have competing interests, have been waging a “proxy war” in Syria.<sup>2</sup> Meanwhile, the security and well-being of civilians caught up in the fighting worsens by the day. In short, the situation in Syria highlights one of the central dilemmas of humanitarian intervention: to intervene militarily could very well make the situation worse, but to do nothing is to condemn hundreds of thousands of Syrians to displacement and possibly death. The challenge for the international community is to avoid the former without sacrificing the latter.

There is good reason for this pessimism. Since the conflict began in 2011, estimates suggest that over two hundred thousand Syrians have been killed and another 12.2 million displaced.<sup>3</sup> Collectively, neighboring Turkey, Jordan, Lebanon, Iraq, and Egypt have taken in four million refugees, which has placed a tremendous strain on these countries that has the potential to destabilize the entire region. Meanwhile, all sides in the conflict have committed war crimes and crimes against humanity. Civilians have been killed unlawfully in airstrikes, government forces have deployed chemical weapons, and summary executions—including beheadings—have been carried out. Torture of political prisoners in detention centers, many of whom were incarcerated for exercising their right to peaceful protest, is rampant.<sup>4</sup>

Despite various efforts, neither regional organizations nor the UN have been able to halt the fighting or contain it. Both the Arab League and Organization of Islamic Cooperation have suspended Syria’s membership, but these were largely symbolic gestures that have little if any impact on the situation on the ground. NATO possesses the military capacity to intervene, but its members lack the appetite to put their soldiers in harm’s way. Former UN Secretary General and UN-Arab League Joint Special Representative Kofi Annan was able to negotiate a temporary ceasefire in the spring of 2012, but he resigned in August of that year out of frustration, while the UN Human Rights Council’s Commission of Inquiry into the situation in Syria has not been given proper access to the country to investigate the abuses that have been committed. The UN Security Council’s record has been deplorable. On numerous occasions it has rejected calls to have the situation referred to the International Criminal Court. The best it has been able to do is pass UN Security Council Resolution 2139 of February 2014, which demands, among other things, that all sides halt “attacks on civilians and the deprivation of food and medicine.”<sup>5</sup> But without any willingness to enforce the terms of the resolution, it is largely a symbolic gesture.

So what can be done?

Several observers have called for a “Permanent Five (P5) Code of Conduct,” the gist of which is that permanent members of the Security Council will not use their vetoes in situations where their direct national interests are not affected. But this is wishful thinking at best. China and Russia effectively did this when they agreed not to block the imposition of a no-fly zone over Libya in 2011, and the result was a NATO operation that resulted in regime change.<sup>6</sup> Besides, even if the P5 were willing to adopt such a code, the Syrian conflict would not apply given current geopolitical realities.

A coalition of the willing, made up of states that are willing to act without UN authorization, is another possibility. This is, in effect, what is happening in northern Iraq with the U.S.-led aerial campaign against forces of the Islamic State group. In their final report of 2001, the authors of the “responsibility to protect” allowed for the possibility of such coalitions in cases where there was deadlock at the United Nations.<sup>7</sup> But the General Assembly rejected this option in its 2005 endorsement of the responsibility to protect principal. As it now stands, any military intervention that is not authorized by the Security Council would be illegal under international law and likely seen as illegitimate as well.

There are other, less intrusive options. Turkey has called for a no-fly zone to be imposed over Syria.<sup>8</sup> While this would make aerial attacks more difficult for the Assad regime to carry out, there is a danger that it could escalate the conflict. Similarly, several human rights groups have called for the imposition of an arms embargo. For this to work, all sides would have to honor it. Of course, much more can and must be done to improve the humanitarian situation in Syria and neighboring countries. Countries in Western Europe and North America have, to date, only agreed to grant asylum to a few thousand refugees. Western governments need to be more generous. Moreover, there is some speculation that recent efforts on the part of the Obama administration to normalize relations with Iran and secure an agreement on the nuclear weapons program could lead to some agreement between the two countries on the situation in Syria.<sup>9</sup> Although this may be wishful thinking, given Iran’s alliance with the Assad government, there is little to be gained by excluding Tehran from any multilateral talks.

A diplomatic solution, although difficult, is still the best way forward. The use of force in this particular situation is fraught with uncertainty and low probability of success, thus demonstrating that the central dilemma of humanitarian intervention is not easily resolved. Despite the obstacles, it is still possible to save Syrian lives through non-military means, and every effort must be made to do so.

## **Recommendations**

- Any new multilateral talks to secure a ceasefire must include Iran, and must prioritize the protection of civilians.
- The international community should impose an arms embargo blocking the transfer of weapons to all parties in the conflict.
- Efforts should continue at the Security Council to have the situation in Syria referred to the International Criminal Court. Any resolution must allow for all actors in Syria to be subject to investigation.
- Diplomatic pressure must be exerted on all actors to adhere to the terms of Resolution 2139, including providing humanitarian actors with full access to the country, and to allow UN human rights monitors full access to the country.

- Assurances must be sought from Turkey, Egypt, Jordan, Lebanon, and Iraq that no Syrian refugees will be repatriated back to Syria. Countries in Western Europe and North America must agree to increase the number of Syrian refugees they accept.
- Efforts should be made to negotiate the release of all political protestors currently being held in Syrian detention. Countries such as the United States, France, Canada, and the United Kingdom must agree to grant asylum to these detainees, and provide them with access to the necessary medical, psychological, and social services required for their rehabilitation.

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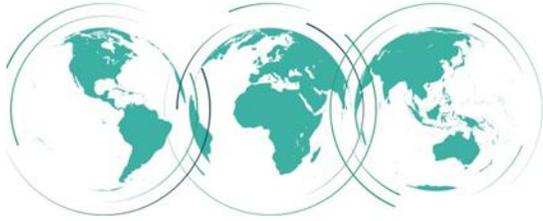
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# COUNCIL OF COUNCILS

*An Initiative of the Council on Foreign Relations*



## Session Six

*Controlling Nuclear Weapons:*

*Reviewing the Nonproliferation Treaty*



Panelist Paper

*Reviewing the Nonproliferation and Disarmament Regimes*

Council of Councils Annual Conference

May 10–12, 2015

Council on Foreign Relations, Washington, DC

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The Nuclear Nonproliferation Treaty (NPT), a pillar of international security since 1970, has not had an easy time in the twenty-first century. In the early 2000s it seemed to be on the verge of collapsing due to the combined effect of stalemate in the disarmament process and, more critically, apparently fatal flaws in the nonproliferation regime.

If the 1990s saw a sharp fall in the number of nuclear warheads deployed by the United States and Russia (which, taken together, still account for over 90 percent of the world's arsenal), by the 2000s the trend seemed to have bottomed out. Nuclear-weapon states (NWS)—the five countries whose possession of nuclear weapons the NPT considers legitimate (which, by coincidence, are the five UN Security Council permanent members)—showed little interest in taking further steps toward fulfillment of the pledge, contained in Article VI of the NPT, to reduce stockpiles and eventually disarm. Nor did they make any effort to try to bring the three nuclear powers outside the NPT—India, Pakistan, and Israel—into the fold. India was actually rewarded with a civilian nuclear cooperation deal with the United States in 2005. More worrisome, North Korea's 2003 decision to withdraw from the treaty—and its subsequent nuclear tests in 2006 and 2009—as well as Iran's concealment of sensitive nuclear activities made a mockery of the NPT nonproliferation safeguards.

Then some signs of improvement began to show. Evoking the dream of a world free of nuclear weapons, U.S. President Barack Obama renewed American commitment to the NPT regime. At the 2010 NPT Review Conference (RevCon), a final document was adopted by consensus that contained a number of steps NPT state parties committed to taking in the disarmament and nonproliferation fields. Five years on, what does the picture look like?

The bright spots are all on the side of nonproliferation. Upon U.S. initiative, like-minded countries have regularly met, at summit level, to discuss ways to secure nuclear material around the world. More important, after years of false starts, the negotiation over Iran's nuclear program between Iran itself and the P5+1 (China, France, Russia, the United Kingdom and the United States plus Germany and the European Union) has accelerated and is expected to deliver a final agreement by June 2015.

The picture is rather more mixed as far as disarmament is concerned. The U.S.-Russia New Strategic Arms Reduction Treaty (New START) stands out as an isolated success. Stockpiles remain unchanged, NWS' military doctrines continue to emphasize the role of nuclear weapons, nuclear powers' arsenals are being modernized, and the promised conference to establish a Nuclear Weapons-Free Zone (NWFZ) in the Middle East has not been held and it is uncertain it ever will. All these issues exacerbate tensions with the nonnuclear-weapon states (NNWS),

which are growing increasingly tired of what they perceive as the NWS' failure to meet their disarmament obligations.

### **Nonproliferation: Progress in Sight**

The ongoing Iran nuclear talks achieved a major breakthrough in Lausanne, Switzerland, in early April, when the P5+1 and Iran agreed on the parameters of a Joint Comprehensive Plan of Action (JCPOA)—a final deal. This can contribute to creating a more positive atmosphere at the 2015 NPT RevCon, which has just started its work at the time of writing. However, measuring the actual impact on the nonproliferation regime of a prospective JCPOA is an exercise subject to a good deal of arbitrariness.

The Iran case—an NPT member state in violation of its transparency and cooperation obligations with the International Atomic Energy Agency (IAEA)—might not be unique. But the ad hoc solution to the dispute certainly is. Thus, there is not much of the JCPOA, provided of course it is eventually agreed to, that can be universalized. The NNWS will in all likelihood not see Iran's agreement to put its uranium enrichment program (a process that can serve both peaceful and military purposes) under severe, though temporary, limitations as a precedent valid for others, too. The NPT does not formally forbid uranium enrichment and the NNWS will not accept further constraints on their "nuclear rights" in the face of the NWS' failure to follow through on their disarmament pledges. Similarly unfit for generalization is the vastly intrusive inspection regime Iran is said to have agreed to. The IAEA will have access to the whole supply chain supporting Iran's nuclear program, in some cases (uranium mines) for up to twenty-five years. After that, Iran will be subject permanently to the IAEA Additional Protocol, a 1997 text that expands the IAEA's inspection powers. The NNWS will hardly agree that such an intrusive inspection regime will be elevated to international-standard status.

Although the JCPOA verification system is unlikely to become the norm, however, it could still be used as a point of reference in potential future proliferation disputes similar to Iran's. The same goes for the mechanisms that Iran and the IAEA will have to set up in order to clarify the potential military dimensions (PMDs) of Iran's nuclear program. Iran is expected to address the IAEA's concerns about the PMDs in a confidential manner to avoid blame for openly violating the NPT. If the mechanism works, the IAEA could use something similar in the future.

The establishment of the Nuclear Security Summits (NSS) in 2010 is another important recent development in nonproliferation. This biennial summit has the objective of facilitating consensus and cooperation on preventing nuclear smuggling and, consequently, risks of nuclear terrorism. The focus is on reducing the overall quantity of highly enriched uranium (HEU) and plutonium (the fissile materials needed for a bomb) and improving the security of depots where such materials are stored. Also thanks to the NSS, fifteen tons of HEU (sufficient for several hundred warheads) have been blended down into low-enriched uranium (LEU, which is a much lower proliferation concern).

In addition, twelve countries have removed all HEU in their possession, and others are in the process of doing so. Some progress has also been made on converting proliferation-prone nuclear reactors into more proliferation-resistant facilities.

Personal investment in the NSS by political leaders has ensured that nonproliferation action has been mainstreamed into international security discourse and practices. Noteworthy in this regard is that all NWS, including the three extra-NPT powers, have attended all meetings so far. This positive trend is unlikely to continue, however, as Russia has announced its intention not to take part in the 2016 Washington Summit. Russia has also decided to interrupt the twenty-year-old cooperation with the United States on securing nuclear materials and safety under the Cooperative Threat Reduction program.

On another negative note, North Korea continues its work on nuclear weapons. The Six Party Talks on the denuclearization of the Korean peninsula (comprising the two Koreas, China, Japan, Russia and the United States) remain technically operational but, in practice, they have been dormant since 2008.

### **Disarmament: The Great Divide Lingers On**

Good news on the disarmament front has been scant since New START entered into force in February 2011. Such a lack of progress has solidified a fundamental disagreement between nuclear haves and have-nots. The former see the NPT Article VI disarmament commitment as a road map. The latter want to see some tangible signs that disarmament is not just a chimera.

The nuclear have-nots have legitimate reasons to be impatient. The United States and Russia have failed to follow up New START with talks over further reductions of nuclear weapons, despite a promise to do so. The United States, to its credit, has said it is ready to trim down the number of deployed strategic warheads by a further third, but Russia seems uninterested. The other NWS insist that they are not ready to discuss disarmament as long as Russia and the United States continue to have arsenals over ten times larger than theirs. The only exception is the United Kingdom, which has slightly reduced its deployed strategic warheads, albeit more for budgetary reasons than because of a commitment to disarmament. Moreover, none of the extra-NPT nuclear powers, not to mention North Korea, is willing to engage in arms reduction, which further complicates the matter.

Nuclear weapons continue to feature in the military doctrines of the NWS. Russia is increasingly relying on tactical nuclear weapons to offset shortages in conventional capabilities, and Pakistan has built more weapons. No better news comes from side measures that could boost the disarmament cause. The Comprehensive Test Ban Treaty (CTBT) continues to languish in a perennial wait for all NWS (plus others) to ratify it. Of the nuclear haves, only France, Russia, and the United Kingdom have done so. The Fissile Material Cutoff Treaty (FMCT) fares even worse, as the Geneva Conference on Disarmament keeps talking about it without ever getting close to an acceptable text. Again, resistance from nuclear haves (Pakistan in particular) carries the blame.

Finally, the much-debated conference establishing a NWFZ in the Middle East remains as distant as ever in spite of the 2010 pledge to hold it in 2012. The Middle East NWFZ is a signature initiative for the Arab countries because they see it as the one means for pressuring Israel to come clean on its nuclear arsenal (which the Israelis notoriously do not acknowledge officially). In the past, Egypt, the most vocal supporter of the NWFZ in the Middle East, seized on the issue to chastise the NWS, and especially the United States, for applying double standards to Israel. Egypt is reportedly more worried about the potential flaws in the Iran nuclear deal than it is with the lack of progress on the Middle East NWFZ, so the issue might be less of a problem this year than many anticipated. Yet, NNWS will continue to see stalemate in the process as a further sign that the deal they signed off on when they acceded to the NPT is paying off less and less.

It is because the appeal of NNWS status is diminishing that Russia's invasion of Ukraine is so damaging to the NPT regime. The annexation of Crimea is a blatant violation of Russia's 1994 pledge to respect Ukraine's territorial integrity in exchange for Kiev foregoing its Soviet-era nuclear arsenal. Moscow has thus undermined the credibility of the "negative security assurances," a sort of guarantee that NWS give NNWS that agree to disarm or enter NWFZs. For the law of the communicating vessels, the appeal of NWS status has increased as that of NNWS has fallen, since many wonder if Russia would have acted so brazenly if Ukraine still possessed nuclear weapons.

The NPT states with nuclear weapons have set up the so-called P5 process to coordinate moves on disarmament issues. Yet, the process has so far been long on meetings but short on results. The most the P5 can offer is an agreement on a standard reporting form to account for changes in their military doctrines, fissile material stocks, disarmament measures, and an agreed glossary on nuclear-related terms. Given that China in particular is reluctant

to share information about its arsenal, reporting will not be uniform, which reduces the outcome of the P5 process to terminological agreements. Although important, it is hardly going to impress any of the NNWS.

The NNWS community has been quite active in recent years. The latest attempt to bring forward the disarmament agenda has shifted focus onto the humanitarian consequences of the use, deliberate or accidental, of nuclear weapons. With human security rather than national security at the center of the debate, the hope is that it will be harder for the NWS to procrastinate further on their Article VI commitments. The strategy seems to have scored some points, in the sense that more and more states are buying into the idea, with participation in ad hoc conferences (three from 2013 to 2014 alone) steadily on the rise—158 countries took part in the last one, held in Vienna in December 2014. Whether greater pressure will indeed make the NWS more forthcoming, however, remains very much in doubt. So far, the humanitarian initiative has created more discontent than concrete results, as the NWS see it as an improper measure to put them into the spotlight and indirectly undermine more pressing nonproliferation objectives.

## **Conclusions**

The nonproliferation regime, after a rocky period in the early 2000s, has shown some important signs of recovery. The nuclear talks between Iran and the P5+1 are in an advanced phase and are likely—though not certain—to result in a long-term agreement. The prospective JCPOA could reverse central parts of Iran’s nuclear program (although some only temporarily) while also establishing an intrusive inspection system. Given the damage an Iranian withdrawal would inflict on the NPT, the JCPOA could end up being the most important nonproliferation progress in a generation.

The fact that the Nuclear Security Summits have now become a routine practice is another positive development. Mainstreaming nuclear security into the agenda of all countries that, for one reason or another, are relevant to nonproliferation goals is a guarantee that the issue will not fade away once its main promoter, the Obama administration, completes its second term.

The NSS have so far focused on ways to secure nuclear materials better, but they can also evolve into a broad framework in which other proliferation and disarmament issues are debated and agreed to. Steve Pifer from the Brookings Institution and James Goodby from the Hoover Institution have suggested that like-minded states with impeccable nonproliferation credentials use the NSS framework to establish a “joint enterprise” for disarmament. This initiative could comprise steps such as a freeze on nuclear warhead stocks and more transparency on national holdings of fissile material. More ambitious measures could be agreed to at a later stage, including reducing stocks of nuclear warheads (deployed and not deployed), removing weapons from prompt launch status, and supporting regional forums enabling arms control and disarmament initiatives.

One of the merits of proposals such as the one by Pifer and Goodby is that they insist that like-minded states take action irrespective of what others do. This is no minor point, as NWS regularly justify inaction on the disarmament front by pointing to other NWS’ lack of commitment. Some experts have levelled this charge against the P5 process. By excluding key NNWS as well as the extra-NPT nuclear powers, the P5 process might end up being a way to build intra-NWS solidarity rather than reinforce their commitment to disarming.

Some asymmetry, even unilateral action by some nuclear powers, is indeed inescapable if the disarmament agenda is to move forward. With Russia leaving the NSS framework, the odds of concerted action are low. Yet, the nuclear powers should take steps to soothe an increasingly restive NNWS community, including by reaffirming the credibility of the negative security assurances jolted by Russia’s incorporation of Ukraine. Prompt ratification by the U.S. Senate of the protocols to the NWFZs in Africa, the South Pacific and Central Asia would be a start, as such protocols contain assurances that NWS would not use or threaten to use nuclear weapons against the NWFZ

member states. Although not as important as the Iran nuclear deal, such measures are nonetheless necessary. The NWS have grown accustomed to easily getting away with their lackluster commitment to disarmament, but the NNWS will not be accommodating forever.



Panelist Paper

*The Nonproliferation Treaty and the Eurasian Balance*

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The quinquennial review of the Treaty on the Nonproliferation of Nuclear Weapons, currently underway in New York, has become an occasion for reviewing not just the functioning of the treaty but the state of the nuclear order. This year, pessimists are raising alarm about renewed nuclear threats to international peace and security while optimists want the review conference to take up ambitious proposals for reducing nuclear dangers. With multilateralists from various foreign offices inside the conference room and peace activists on the outside, legalism and normative emphases will prevail at the review conference. Imposing too many demands on the NPT, however, inevitably leads to disappointment. An objective reading of the NPT reveals that the treaty has more than met its objectives and has been a success beyond anyone's expectations when the treaty was unveiled forty-five years ago. This paper examines the effectiveness of the treaty, questions the premise of the interrelationship between nonproliferation, disarmament, and peaceful uses of nuclear energy, and concludes with the proposition that sustaining great power cooperation and maintaining a stable balance of power in different parts of Eurasia are the principal strategic challenges facing the NPT system today.

**An Impressive Record**

The 1990s and 2000s saw a significant strengthening of the NPT system. For one, formal great power consensus behind the NPT became complete. France and China, which chose to remain outside the system during the Cold War despite the recognition of their legal standing as nuclear weapon states, joined the treaty in the early 1990s. President George W. Bush facilitated a political accommodation between the nonproliferation regime and India, one of its trenchant and long-standing critics. American political initiatives ensured that the collapse of the Soviet Union, one of the founding members of NPT and the arms control system, did not lead to a breakup of its large nuclear arsenal. Russia became the sole nuclear successor of the Soviet Union and the other states were persuaded to renounce nuclear weapon ambitions and bring the variety of nuclear material and facilities there under international control. Unified Germany's disavowal of nuclear weapons made sure that one of the original intentions of the NPT—to prevent Berlin from becoming nuclear—was reinforced.

The last two decades also saw the near universalization of NPT membership. Many key nations joined the treaty, including Brazil, Argentina, and Saudi Arabia, which remained outside the treaty during the Cold War. The support of the major developing states was critical to the indefinite extension of the NPT in 1995. In 2015, there are only two major countries—Israel and Pakistan—outside the nonproliferation system. Few international treaties have enjoyed this near-universal membership. The last two decades also saw the successful roll-back of nuclear weapons programs either amid internal political change (South Africa) or international pressure (Iraq and Libya). Many critical

provisions of the NPT have been significantly strengthened since the early 1990s. These include the tightening of Article III, through such measures as the Additional Protocol, which verifies the obligations of states not to acquire nuclear weapons and to keep their strategic programs under international supervision.

By any standard this scorecard, which is by no means comprehensive, is an impressive one. The NPT was not conceived in the 1960s as a perfect fix against the further spread of nuclear weapons. The objective was to limit and slow down the proliferation of nuclear weapons to additional states. The NPT's success in this regard has been remarkable. The NPT has also been boosted by a number of steps taken outside the treaty in the form of export controls, securing of sensitive material, and mechanisms for interdicting illegal trade in materials that could be used to produce weapons of mass destruction, to name a few.

### **The Presumed Tripod**

Both the critics and supporters of the NPT argue that the treaty involves the balanced pursuit of three sets of objectives: nonproliferation, disarmament, and peaceful uses of nuclear energy. Although all three figure in the treaty, any suggestion that the three objectives have the same weight in the treaty is a latter day political construct that misrepresents the treaty and its purpose. Even a simple reading suggests the main objective of the NPT is nonproliferation. Article VI was a grudging acknowledgment of the need for general and complete disarmament and can by no means be interpreted as the central objective of the treaty. More importantly, the widespread emphasis on the linkage between nonproliferation and disarmament does not withstand analytical scrutiny.

Aspiring nuclear-weapon powers have often used the argument that NPT has “double standards” to justify their own nuclear-weapon programs. But it needs a leap of faith to believe that countries acquire nuclear weapons because the P5 have not kept their promises under Article VI. The choice to acquire or abjure nuclear weapons is based on considerations of national security rather than an evaluation of great power compliance with the NPT. It is the immediate regional environment that shapes these national security considerations rather than the structure of the international nuclear order. Similarly, Washington and Moscow have significantly reduced their nuclear stockpiles since the end of the Cold War because of the political changes in bilateral relations caused by the internal transformation of Russia. Their presumed obligations under the NPT have had little to do with the downsizing of the super powers' nuclear arsenals.

Similarly the debate on the rights of nonnuclear-weapon states to develop the full fuel cycle tends to generate more heat than light. To suggest that countries have given up their nuclear option in order to gain unfettered access to civilian nuclear energy is not supported by historical record. After all, there was nothing in the treaty text that prevented advanced countries from collaborating with nonmember states in the development of civil nuclear programs. The restrictions on cooperation with non-NPT members came only in 1992—a full twenty-two years after the treaty came into force. The formal prohibitions limiting the transfer of sensitive elements of the nuclear fuel cycle came only in the early 2000s and set off an important argument between the international community and Iran. The advanced nations argued that there must be limits on the interpretation of Article VI, which referred to the inalienable right to develop peaceful nuclear programs and participate in the “fullest possible” exchange of equipment, technology, and material for civilian uses. Iran insisted on its rights under Article VI to justify the development of its uranium enrichment program. In the end, the interim nuclear agreement between Iran and the major powers was based on a political accommodation between the two positions. That in turn underscores the importance of political factors in shaping the future of the NPT.

### **Political Challenges**

Two important political factors were critical for the success of the NPT over the last half century. One was the shared interest among the great powers on the objective of nonproliferation. The other was the stability of the

regional balance of power in different parts of Eurasia. Both these factors are now under stress and will need much political tending to preserve the NPT system. This is not to downplay a range of other issues—technical, legal, and institutional—that is being debated at the NPT review conference. The objective here is to point to the potential threats to the very foundations of the NPT system.

Although the NPT is a multilateral instrument, it was the product of a great power understanding, especially between the United States and Russia. Despite their all-encompassing rivalry during the Cold War, the two powers actively cooperated in sustaining the NPT. After the Cold War, Russia and a rising China largely accepted American leadership in reforming and restructuring the nonproliferation order. That period might be coming to an end amid the mounting tensions in U.S. bilateral relations with Russia and China. Worse still, the widespread sense of American decline and the domestic pressures on Washington for a measure of retrenchment are likely to add to the difficulties of sustaining great power cooperation in managing the NPT system.

Meanwhile the three major sub-regions of Eurasia are seeing new geopolitical turbulence that threatens to undermine nuclear stability. In Europe, long seen as the most stable of the sub-regions in the world's heartland, questions relating to nuclear deterrence, political order, and alliances have returned to center stage since the Russian annexation of Crimea and the continuing crisis in Ukraine. In East Asia, the rise of China and its growing military power are testing the sustainability of American forward military presence and the credibility of U.S. nuclear assurances to allies. A breakdown of the regional order in East Asia could well provide the greatest impetus for the spread of nuclear weapons in Asia. In the Middle East, the growing hopes for nuclear accommodation between the United States and Iran have also frightened many countries in the region, some of whom are said to be taking a fresh look at their nuclear options. Renewing great power cooperation and structuring a stable balance of power in Eurasia, then, becomes the overarching challenge before the NPT system.



Panelist Paper

*Controlling Nuclear Weapons: Reviewing the Nonproliferation Treaty*

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**How Effective Is the NPT in Preventing Proliferation?**

Many have argued that both the failure at negotiating a nuclear settlement with North Korea and the process of the P5+1 with Iran point to the weaknesses and inadequacies of the NPT as a framework for managing the global nuclear order. Yet, such interpretation is misleading for three major reasons. First, although the North Korean case highlights the limitations inherent to the NPT, in attributing failure observers are forced to acknowledge those instances of success. The fact of the matter is that nuclear proliferation is far less prevalent today than leaders in the West expected in the 1960s and 1970s. As in-depth case studies in the scholarly literature have shown, this is in no small measure due to the relatively effective constraints on national nuclear intentions established by the letter and the spirit of the NPT.

Second, the P5+1 process is surely different from the NPT, but it would be a mistake to suggest that the negotiating parties are acting outside the framework of the NPT. The most cursory glance at the language of the negotiation and the alternative methods for verification and controls on the table at the moment derive directly from the letter and spirit of the NPT. Furthermore, it is the continuing reference to the NPT and the multilateral nonproliferation regime that has allowed the Iranian leadership to both engage in negotiations and legitimate those negotiations domestically. An agreement Tehran can sign is one that leaders there can present to their people not as the imposition of major powers on a weaker nation, but one that derives from multilaterally negotiated rules that grant Iran sovereign independence.

Third, for all its limitations—and there are many—the NPT today remains the sole platform where nuclear-weapons states and nonnuclear-weapons states can meet to frame their dispute over the terms of technological dissemination and disarmament. The dispute is there and it will remain there—in world politics, dispute is all there is. What the NPT has done with varying degrees of success is frame and tame that struggle, providing a common set of principles that all parties can embrace. It is a minimum common denominator, to be sure, but the emphasis is not so much on “minimum,” but “common.”

**How Can the Tension Between Nuclear-Weapons States and Nonnuclear-Weapons States and Organized Civil Society Be Resolved?**

In assessing this question it is useful to draw a distinction. To be sure, the recurring tension between NWS and NNWS is here to stay. But the relationship between NNWS and organized civil society is far from straightforward

and productive. We should not assume that NNWS and organized civil society will align at all times or even at most times, and the tensions there will have to be factored in when looking to the future of global nuclear governance.

Managing the tension between NWS and NNWS will depend to a large extent on the degree to which major powers on both sides of the fence manage to express a sense of progress toward some degree of global nuclear justice. Although justice in a nuclear world will never be defined in terms of equality among nations, for that would imply universal proliferation, it can be defined in terms of justice as redistribution.

In such a world, major nuclear powers (that include but are not limited to nuclear-weapons states) would uphold some commitment to the utopian goal of nuclear zero in an undetermined future, but would also move boldly toward applying greater controls and transparency to their national nuclear systems. Nuclear powers would also counterbalance the tendency in the nuclear private sector to form cartels of companies that are closed off to latecomers and they would make a serious effort to help finance and develop the peaceful uses of nuclear energy for developing countries that want it.

In turn, nonnuclear-weapons states would make further commitments to transparency and stronger national regulations on the nuclear fuel cycle. This is particularly relevant in authoritarian states and in those states where organized civil society remains either weak or marginal in national nuclear policymaking. The reason is that one of the most perverse effects of global nuclear inequality for nonnuclear-weapons states is that national establishments across the world can get away with conducting opaque nuclear policies at home. They can claim, as they often do, that opacity at home is the only way to sustain national nuclear industries in the face of a nasty global system dominated by major nuclear powers that will do what they can to prevent nonnuclear-weapons states from ever acquiring or developing their own peaceful nuclear technologies.