

**EU Non-Proliferation and Disarmament Consortium**

*Promoting the European network of independent  
non-proliferation and disarmament think tanks*



# UN Security Council's Waning Role in Addressing Nuclear Nonproliferation

Doniyor Mutalov

Supervised by Ettore Greco, *Istituto Affari Internazionali* (IAI) Rome, Italy

May 2025

***Disclaimer:*** This paper is part of an internship undertaken with the Istituto Affari Internazionali in Rome as well as being funded by the European Union (EU) Non-Proliferation and Disarmament Consortium (EUNPDC). This is part of a larger EU educational initiative aimed at building capacity in the next generation of scholars and practitioners in non-proliferation policy and programming. The views expressed within this paper are solely those of the author and do not necessarily reflect those of the Istituto Affari Internazionali in Rome, the EUNPDC, or other participating members of the network.

*Doniyor Mutalov is a graduate student at the Fletcher School of Law and Diplomacy at Tufts University, concentrating in International Organizations and International Legal Studies. His research interests include arms control, nonproliferation, and public international law. He conducted research remotely at the Istituto Affari Internazionali (IAI) as part of the EUNPDC Next Generation Paper.*

## Introduction

The proliferation of nuclear weapons and their delivery means (primarily missiles) is one of the greatest dangers of our times. The UN Security Council (UNSC) is one of the six principal organs of the United Nations and is specifically tasked with “primary responsibility for the maintenance of international peace and security”<sup>1</sup>. The body consists of 15 member states, 10 of which are elected based on a two-thirds vote of the UN General Assembly<sup>2</sup>, and five are permanent members (U.K., U.S., France, China, Russia)<sup>3</sup>. The five permanent members (P5) also have special status in the nuclear Nonproliferation Treaty (NPT), as the only states that possessed nuclear weapons when the Treaty went into force in 1970.<sup>4</sup> Thus NPT has two types of parties: nuclear weapon states and non-nuclear weapon states. The main obligation on the non-nuclear powers is to not acquire, manufacture or possess such weapons and to accept a system of International Atomic Energy Agency safeguards on all peaceful nuclear activities. The nuclear powers in turn commit not to transfer nuclear weapons or devices to any recipient, while agreeing to assist in the peaceful development of nuclear energy by sharing of nuclear equipment, materials and technology. To further balance the equation between nuclear haves and have-nots, the former undertake to pursue negotiations in good faith towards nuclear disarmament.

During the Cold War, the superpower rivalry severely restrained the UN Security Council’s ability to respond to proliferation crises around the world. The only case in which it was able to adopt restrictive measures against a proliferator state was apartheid South Africa<sup>5</sup>, which, by 1992, is reported to have built 6 nuclear explosive devices and is understood to have disarmed itself following the transition to majority rule<sup>6</sup>.

The end of the Cold War unleashed the full potential of the Security Council in the nonproliferation realm. It adopted unprecedented measures against Iraq following its invasion of Kuwait, including a demand that it dismantle all of its weapons of mass destruction programs, overseen by the International Energy Agency and the UN Special Commission (UNSCOM)<sup>7</sup>. This was the first

---

<sup>1</sup> Charter of the United Nations (hereinafter, UN Charter), art. 24, June 26, 1945, 59 Stat. 1031, T.S. No. 993, 3 Bevans 1153.

<sup>2</sup> UN Charter, Art. 18

<sup>3</sup> UN Charter, Art. 23

<sup>4</sup> Treaty on the Non-Proliferation of Nuclear Weapons (hereinafter, NPT) art. IX(3), July 1, 1968, 21 U.S.T. 483, 729 U.N.T.S. 161.

<sup>5</sup> S.C. Res. 418, ¶ 4, U.N. Doc. S/RES/418 (Nov. 4, 1977), S.C. Res. 591, ¶ 5, U.N. Doc. S/RES/591 (Nov. 28, 1986)

<sup>6</sup> Olli Heinonen, Verifying the Dismantlement of South Africa’s Nuclear Weapons Program, in *Materials Unaccounted For* 163 (Henry Sokolski ed., 2014).

<sup>7</sup> S.C. Res. 678, U.N. Doc. S/RES/678 (Nov. 29, 1990), S.C. Res. 687, U.N. Doc. S/RES/687 (Apr. 3, 1991).

time the SC took up an enforcement role stipulated in WMD non-proliferation and disarmament treaties. Since then, it also played a proactive role in proliferation crises in Iran and the Democratic People's Republic of Korea (DPRK) and adopted far-reaching decisions suppressing the further dissemination of weapons of mass destruction. This paper will explore two different functions (enforcement and management) that the Council plays in countering proliferation, using two case studies of Iran and North Korea. Its central argument is that current political perturbations hinder its ability to adequately address nuclear proliferation.

## **Case Study: DPRK and the Security Council**

### *History of North Korea's NPT membership (1985—2003\*)*

DPRK acceded to the NPT in 1985 and even after joining the treaty, there were suspicions about its nuclear ambitions. These fears were reinforced after DPRK took another 6 years after ratification of the NPT to agree on the Comprehensive Safeguards Agreement (CSA) with the International Atomic Energy Agency (IAEA). Arguably, this stalling was in itself a violation of NPT, which requires that such agreements be concluded within 18 months<sup>8</sup>. Shortly after North Korea's declaration of nuclear assets and activities in 1992, IAEA inspectors found gaps and inconsistencies in the declaration, namely that some facilities were not declared, including a reprocessing facility being built at the time and irradiated plutonium from the Yongbyon plant. Some sources also note that the environmental sampling of the declaration document itself also proved the presence of undeclared materials<sup>9</sup>. The IAEA immediately demanded clarification regarding surreptitious activities and gave North Korea the benefit of the doubt for a few months. After North Korea's continued non-cooperation and refusal of a "special inspection" request, in February 1993, the IAEA Board of Governors (BoG), one of the main policymaking bodies of the organization, censured the DPRK for lack of cooperation and presented it with a final opportunity to grant access to additional information and two more sites<sup>10</sup>. In order not to escalate the situation, the BoG's resolution intentionally did not use the word "non-compliance" despite the overwhelming incriminating evidence. A finding of "non-compliance" automatically triggers an obligation to report the situation to the Security Council and General Assembly of the UN, pursuant to art. XII(c) of the IAEA Statute<sup>11</sup> and art. 19 of the CSA between DPRK and IAEA<sup>12</sup>.

---

<sup>8</sup> NPT, Art III(4).

<sup>9</sup> Author's discussions with Tariq Rauf and Professor Matthew Bunn

<sup>10</sup> IAEA Board of Governors, Implementation of the Agreement Between the Agency and the Democratic People's Republic of Korea for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, IAEA Doc. GOV/2636 (Feb. 25, 1993)

<sup>11</sup> Statute of the International Atomic Energy Agency art. XII(C), Oct. 26, 1956, 276 U.N.T.S. 3

<sup>12</sup> Agreement of 30 January 1992 Between the Democratic People's Republic of Korea and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, art.

Notwithstanding such caution, North Korea strongly reacted to BoG's decision, announcing that it was withdrawing from the NPT on the basis of Art. X(1) of the NPT, which provides that:

*“Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.”*

As a legal justification, it argued that the resumed military drills between the United States and the Republic of Korea, in addition to the “unjust” resolution of the Board of Governors, had “jeopardized the supreme interests of the country”<sup>13</sup>. There has been an interesting, debate as to whether this termination provision is self-judging (“if it decides”) or whether it permits second-guessing by other state parties or by the Security Council itself<sup>14</sup>. According to the Vienna Convention on the Law of Treaties (VCLT), which provides general rules of interpretation, a treaty should be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose<sup>15</sup>. The ordinary meaning of the text clearly provides that only event(s) “related to the subject matter of this treaty” could be the reason for withdrawal. Thus, military drills mentioned by North Korea would not be dispositive since they are not related to the subject matter of the NPT, and even more so since the complete withdrawal of US tactical nuclear weapons from the peninsula in late 1991<sup>16</sup>. With regard to the 2<sup>nd</sup> contention raised by North Korea (the ‘unjust’ IAEA resolution), any such concern could only be addressed in close consultations with the IAEA, especially given that enhanced scrutiny of the DPRK was because it had earlier been found in breach of its obligations.

Following the failure to settle the dispute through negotiations and dialogue, in April 1993, the IAEA BoG found DPRK in “non-compliance” with its obligations under the CSA concluded with the Agency and referred the matter to the Security Council and General Assembly, the first time

---

19, IAEA Doc. INFCIRC/403 (Apr. 10, 1992)

<sup>13</sup> Letter from the Minister for Foreign Affairs of the Democratic People's Republic of Korea to the President of the Security Council (Mar. 12, 1993), U.N. Doc. S/25405

<sup>14</sup> Bunn, George, and John B. Rhinelander. “NPT Withdrawal: Time for the Security Council to Step In.” *Arms Control Today*, May 2005, pp. 6–12, <https://www.armscontrol.org/act/2005-05/features/npt-withdrawal-time-security-council-step>. See also, Joyner, Dan. “What If Iran Withdraws from the Nuclear Non-Proliferation Treaty?” *EJIL: Talk!*, 9 Jan. 2013, <https://www.ejiltalk.org/dan-joyner-on-what-if-iran-withdraws-from-the-nuclear-non-proliferation-treaty/>.

<sup>15</sup> Vienna Convention on the Law of Treaties art. 31(1), May 23, 1969, 1155 U.N.T.S. 331.

<sup>16</sup> U.S. to Pull A-Bombs From South Korea, *N.Y. Times*, Oct. 20, 1991, at A1

IAEA had done so<sup>17</sup>.

Before we go into analysis of the Security Council actions, a number of principles should guide of how to interpret Security Council resolutions in order to differentiate when the political body is in fact invoking its authority to make binding decisions under the UN Charter from the usual administrative functions or virtue signaling. One particular important difference is in the language of resolutions, choice of leading words – typically verbs at the beginning of each operative paragraph matter a great deal. Some of these leading words are understood to incur legal obligation, “decides”, “demands” and infers drafters intentions in that regard, while others “urges”, “recommends”, “calls upon” have been ordinarily construed as not to create legal rights or obligations for UN member states. Art. 25 of the UN Charter speaks that the member states agree to carry out the “decisions” of the Security Council. Some states have interpreted this provision broadly, namely that any resolution of the Security Council is binding, since it is a decision in a normal sense, other states including the United States, however, have insisted that only resolutions containing leading word “decides” or its equivalent constitute a binding decision.

The Security Council first reacted in a presidential statement by “expressing concern” over the situation and reaffirming the importance of adhering to the NPT<sup>18</sup>. After a month of consultations, a formal resolution of the Council was adopted that “called upon” the DPRK to reconsider its denunciation, honour its obligations under the NPT, and comply with the previous BoG resolutions<sup>19</sup>. Accordingly, the SC Res 825 was not a binding resolution.

In light of diplomatic openings and opportunities for negotiation, on the day before DPRK’s withdrawal was to take effect in June 1993, North Korean authorities “suspended the effectuation” of their withdrawal from NPT<sup>20</sup>.

#### Agreed Framework (1994-2002)

In 1994, thanks to a diplomatic breakthrough and the shuttle diplomacy of former U.S. President Carter, a bilateral deal, also known as the Agreed Framework, was negotiated between the US and North Korea. The agreement, along with political normalization, involved the provision of

---

<sup>17</sup> IAEA Board of Governors, Implementation of the Agreement Between the Agency and the Democratic People's Republic of Korea for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, IAEA Doc. GOV/2645 (Apr. 1, 1993)

<sup>18</sup> U.N. Security Council Presidential Statement, U.N. Doc. S/25562 (Apr. 8, 1993)

<sup>19</sup> S.C. Res. 825, U.N. Doc. S/RES/825 (May 11, 1993).

<sup>20</sup> Jean du Preez & William Potter, *North Korea's Withdrawal from the NPT: A Reality Check*, James Martin Center for Nonproliferation Studies (Apr. 8, 2003), <https://nonproliferation.org/north-koreas-withdrawal-from-the-npt-a-reality-check/>.

proliferation-resistant reactors in exchange for a “freeze” on North Korean nuclear activities. Most observers concur that the Agreed Framework effectively precluded one of two pathways to a nuclear bomb, namely the plutonium pathway<sup>21</sup>; the Yongbyon plutonium plant was under constant IAEA supervision between 1994 and the early 2000s. The amount of undeclared plutonium was minimal. However, the Agreed Framework failed to detect the illicit uranium enrichment program launched in the late 1990s. The deal broke down soon in the early 2000s, with US official statements that North Korea had a surreptitious uranium enrichment program and the work on light water reactors was suspended.

Following the breakdown of the deal, North Korean authorities announced in January 2003 that they had cancelled their “suspension” of withdrawal from the NPT, a denunciation that they purported to have had immediate effect since 89 days had already passed in 1993. This interpretation was almost universally rebuked, and most legal experts concluded that “reasonable time” must accompany any sunset clause to honor the principle of good faith.

North Korea’s termination was never formally accepted by the international community. Security Council shortly thereafter “demanded” that DPRK immediately retract its announcement of withdrawal and regardless of one’s interpretation of such wording (“demand”), the Council in a more equivocal verbiage also “decided” to impose terms and conditions of the model CSA on North Korea, legally reinstating all the provisions of the safeguards regime<sup>22</sup>. DPRK to this day remains defiantly non-compliant with those proclamations.

### *Six-Party Talks (2003-2008)*

Shortly after, the UN Security Council met to discuss the hermit kingdom's renewed attempt to leave the NPT, just as it had in 1993. But this time, the discussion was limited to a mere presidential statement in which the body similarly “expressed its concern” and said it would closely “follow developments on the matter”. The Security Council did not impose any sanctions in order to create some space for diplomacy.

To address this East Asian crisis, China organized, hosted, and chaired Six-Party Talks between August 2003 and December 2008, which included three permanent members of the UNSC, namely the United States, Russia, China, and also the ROK, Japan, and the DPRK. One of the most significant outcomes of the process was the September 2005 Joint Statement<sup>23</sup>. As part of the

<sup>21</sup> Jeffrey Lewis, *Revisiting the Agreed Framework*, 38 North (May 15, 2015), <https://www.38north.org/2015/05/jlewis051415/>.

<sup>22</sup> S.C. Res. 1718, U.N. Doc. S/RES/1718 (Oct. 14, 2006).

<sup>23</sup> Joint Statement of the Fourth Round of the Six-Party Talks Beijing, September 19, 2005, U.S. Dep't of State (Sept. 19, 2005), <https://2001-2009.state.gov/r/pa/prs/ps/2005/53490.htm>.

September deal, North Korea agreed to abandon all nuclear programs, return to the NPT, and re-subscribe to the safeguards of the IAEA. In return, the US, ROK, Japan, China, and Russia stated their willingness to provide energy assistance and promote economic cooperation with DPRK. In addition, the US promised not to attack or invade DPRK and, together with Japan, committed to normalizing political and economic relations. The Six Parties also reaffirmed the importance of consensus in line with the “commitment for commitment, action for action” principle. This moment of hope, however, was short-lived and did not result in any significant change or disarmament push, not the least because of varying priorities between each of those states.

### *Enter Sanctions (2006-2017)*

The situation returned to the Security Council agenda relatively quickly in July 2006. Japan, as an elected member of the Council and whose territorial sovereignty is occasionally impacted by missile test (e.g., the Taepodong Incident in 1998), brought to world’s attention the DPRK’s multiple ballistic missile launches into the ocean. The 2005 Joint Statement does not address missiles and neither does the NPT, and in international law there is no customary or treaty prohibition on missile testing or proliferation. The only applicable instrument is the Hague Code of Conduct against Ballistic Missile Proliferation (HCoC), which urges participating states to exercise “maximum restraint” with regard to missile development and procurement and requires them to pre-notify all launches of ballistic missiles and space vehicles<sup>24</sup>. However, DPRK is not among the subscribing states of the Code and is actually one of two states (the second being Iran) that vote against recurrent UN General Assembly resolutions affirming the HCoC<sup>25</sup>.

The Council, this time, however, decided to act vigorously in light of the unsuccessful diplomatic trek, and it adopted a formal decision that censured missile tests and “demanded” that the DPRK halt all activities related to its ballistic missile program<sup>26</sup>. The resolution also adopted proto-sanctions provisions, urging all states to exercise due diligence and utmost caution when dealing with the transfers and trade with the DPRK. At the insistence of Russia and China, this resolution was not under Chapter VII of the UN Charter because they feared that it would be seized by the U.S. as a basis for unilateral enforcement by economic or military means. That omission, however, is notable since “non-forcible measures”, i.e. economic sanctions, clearly fall under Chapter VII powers of the Council. That being said, Resolution 1695 nevertheless has been interpreted as a

---

<sup>24</sup> Hague Code of Conduct against Ballistic Missile Proliferation, Nov. 25, 2002, available at <https://www.hcoc.at/>

<sup>25</sup> U.N. GAOR, 79th Sess., Supp. No. 49, U.N. Doc. A/RES/79/29 (Dec. 2, 2024). See also, UN General Assembly Resolutions, Hague Code of Conduct against Ballistic Missile Proliferation, <https://www.hcoc.at/background-documents/un-general-assembly-resolutions.html> (last visited Jan. 26, 2025).

<sup>26</sup> S.C. Res. 1718, U.N. Doc. S/RES/1718 (Oct. 14, 2006).



legally binding resolution, notwithstanding the absence of Chapter VII mandate, by state representatives<sup>27</sup> as well as legal scholars<sup>28</sup>.

North Korea decried such a decision and soon signalled its resolve by announcing that it planned to conduct an underground nuclear test at Punggye-ri, the first nuclear test in the world since 1998. The Security Council again cautioned against such a test in a presidential statement<sup>29</sup>. It warned the DPRK of dire consequences if the detonation happened, in contravention of the norm against testing that had been respected since the CTBT was adopted in 1996. North Korea went on to test the nuclear explosive device, anyway, prompting the Security Council to adopt the first of the eleven Chapter VII resolutions on the DPRK nuclear file. Resolution 1718 adopted sanctions against DPRK, including an arms embargo and a ban on the export of luxury goods (cars, yachts, jewelry). It also established a Committee for the supervision of sanctions by broader membership of the United Nations. These sanctions were designed to serve a multitude of goals, such as reversing North Korea's policies, constraining its capabilities, signalling support for non-proliferation norms, and creating favourable conditions for Six-Party Talks. Those restrictive measures were ratcheted up further in the following years; Resolution 1874 (2009) permitted the maritime interdiction and inspection of ships suspected of breaching the sanctions regime<sup>30</sup>. It also prohibited the provision of financial services related to or associated with DPRK's conventional or WMD programs. This prohibition was only strengthened in Resolution 2094 (2013)<sup>31</sup>.

The years 2016 and 2017 were notable for the significant expansion of the restrictive measures against the DPRK. The reasons for this are two-fold. The first was the increasing development and sophistication of North Korea's nuclear and missile programs. The successful tests of an indigenous thermonuclear bomb in January 2016 and September 2017<sup>32</sup>, along with repeated unnotified missile launches into the Sea of Japan<sup>33</sup>, raised the saliency of this issue globally and attracted consensus at the UN Security Council. A second reason is the attempt by the Trump administration early in its 1st term to ratchet up restrictions and use the relief of such sanctions as a bargaining chip in diplomatic negotiations for the complete, verifiable, and irreversible dismantlement (CVID) agenda that has been a consistent U.S. position to the Korean peninsula.

---

<sup>27</sup> U.N. SCOR, 61st Sess., 5490th mtg., U.N. Doc. S/PV.5490 (July 15, 2006), available at <https://www.securitycouncilreport.org/atf/cf/%7B65BFCF9B-6D27-4E9C-8CD3-CF6E4FF96FF9%7D/Chap%20VII%20SPV%205490.pdf>.

<sup>28</sup> Michael Wood & Eran Sthoeger, *The UN Security Council and International Law*, 42 (Cambridge Univ. Press 2022),

<sup>29</sup> Statement by the President of the Security Council, U.N. Doc. S/PRST/2006/41 (Oct. 6, 2006).

<sup>30</sup> S.C. Res. 1874, U.N. Doc. S/RES/1874 (June 12, 2009).

<sup>31</sup> S.C. Res. 2094, U.N. Doc. S/RES/2094 (Mar. 7, 2013).

<sup>32</sup> Victor Cha & Joseph Bermudez, *The Latest North Korean Nuclear Test*, Center for Strategic and International Studies (Sept. 9, 2016), <https://www.csis.org/analysis/latest-north-korean-nuclear-test>.

<sup>33</sup> Euan McKirdy & K.J. Kwon, *North Korea Fires Three Ballistic Missiles, South Korea Says*, CNN (Sept. 5, 2016), <https://www.cnn.com/2016/09/05/asia/north-korea-ballistic-missiles/index.html>.

Measures adopted in this period included a complete sectoral ban on resource and mineral exports from DPRK, which accounted for notable amounts of state income. For instance, in 2016, coal accounted for \$1.2 billion of DPRK exports or 40% of total export revenue<sup>34</sup>. To deny North Korea those resource revenues, UN members were prohibited from procuring copper, nickel, silver and zinc from the DPRK by Resolution 2321 (2016)<sup>35</sup>. Moreover, exports of coal, iron and iron ore were first capped in Resolution 2321 (2016) and then totally prohibited by Resolution 2371 (2017)<sup>36</sup>. There is also an import cap on crude oil and natural gas to DPRK, currently at 500,000 barrels per year<sup>37</sup>.

Resolution 2371 (2017) also started to target DPRK nationals abroad, namely, overseas labor workers who sent remittances back to North Korea. Since remittances are controlled and streamlined by the NK government, they are most likely to end up enriching the personalist regime of Kim Jong Un.<sup>38</sup> To put a stop to those measures, joint ventures and any increase in work authorizations were forbidden. A few months later, the UN Security Council, in Resolution 2397 (2017), agreed to a comprehensive ban on the provision of work authorizations and required all states to repatriate all nationals back to DPRK by 2019<sup>39</sup>. This stringent provision is astonishing, considering that nearly 50,000 overseas workers were in China and around 30,000 in Russia alone, according to 2017 statistics, and the North Korean regime is alleged to be heavily taxing \$500 million of the labour migrant income<sup>40</sup>.

### Collapse of Consensus

The sanctions regime was periodically violated from the start. For instance, neither Russia nor China seriously considered repatriating all income-earning DPRK nationals<sup>41</sup>. Nor did they comply with the 500,000 barrels of crude oil import limit; as reported in 2019, the number of barrels of oil imported surpassed the limit by seven times, with China and Russia as primary exporters<sup>42</sup>.

---

<sup>34</sup> U.S. Energy Information Administration, *U.N. Cap on North Korean Coal Exports Could Decrease North Korean Export Earnings*, Today in Energy (Dec. 12, 2017), <https://www.eia.gov/todayinenergy/detail.php?id=31572>.

<sup>35</sup> S.C. Res. 2321, U.N. Doc. S/RES/2321 (Nov. 30, 2016).

<sup>36</sup> S.C. Res. 2371, U.N. Doc. S/RES/2371 (Aug. 5, 2017).

<sup>37</sup> S.C. Res. 2397, U.N. Doc. S/RES/2397 (Dec. 22, 2017).

<sup>38</sup> S.C. Res. 2371, U.N. Doc. S/RES/2371 (Aug. 5, 2017).

<sup>39</sup> S.C. Res. 2397, U.N. Doc. S/RES/2397 (Dec. 22, 2017).

<sup>40</sup> U.S. Mission to the United Nations, *Fact Sheet: UN Security Council Resolution 2397 on North Korea*, <https://usun.usmission.gov/fact-sheet-un-security-council-resolution-2397-on-north-korea/>.

<sup>41</sup> Hyung-Jin Kim, *Chinese Fishing Vessels Used North Korean Crews in Breach of UN Bans, Report Says*, Associated Press (Feb. 24, 2025), <https://apnews.com/article/north-korea-fishermen-chinese-vessels-80f49d6eb3d84431121b67fc15a4321c>.

<sup>42</sup> Edith M. Lederer, *Russia, China Block UN From Saying North Korea Violated Sanctions*, The Diplomat (June 19, 2019), <https://thediplomat.com/2019/06/russia-china-block-un-from-saying-north-korea-violated-sanctions/>.

However, in the period between 2017 and 2021, it is fair to say that the intention of Russia and China was not to dismantle the entire system of UN sanctions but rather to find a way out within the ambit of the current limits on oil imports. That is apparent by their collective push to lift some sanctions on the margins of the restrictions, such as statutes and seafood, but not to dismantle the whole regime of UN sanctions<sup>43</sup>.

The consensus at the UN Security Council on DPRK has all but collapsed. The nonproliferation norm is not seen as robust as it was decades or even years ago. There are several reasons for that. First, it is now widely accepted that sanctions can only succeed if part of broader political and diplomatic strategy. The problem is that, in the North Korea case, political negotiations are difficult because of the wide disparity of views among major powers, as demonstrated by Six-Party Talks. Second, the DPRK, having learnt both forcible and peaceful “disarmament” lessons from Iraq and Libya respectively, is increasingly reluctant to put any limits on its missile or nuclear programs, let alone fully disarm and commit to all international treaties banning WMDs<sup>44</sup>. The North Korean regime is aware that sometimes promises or pledges from guarantor states are easily scuttled in moments of political exigency. Not much trust or confidence is put in foreign counterparts. Thirdly, the increasingly hostile geopolitical environment, including Russia’s aggression against Ukraine and North Korea’s assistance in replenishing Moscow’s military arsenals, have dramatically improved the relations of the North Korean regime with one of the permanent members of the Security Council, and Russia seems impervious to criticism on an international arena<sup>45</sup>.

Using this opportunity and potential cover at the international bodies, in 2022, DPRK conducted 90 missile tests, the highest number it has ever undertaken in a single year, in further blatant disregard of its obligations as a UN member state<sup>46</sup>. As a reprisal for noncompliance, Resolution 2397, however, provided that in “the event of a further DPRK nuclear test or launch” or “if the DPRK conducts a launch of ballistic missile system capable of reaching intercontinental ranges”, then the Security Council “will take action to restrict further the export of oil to DPRK”<sup>47</sup>. The UN Security Council did inevitably react to relentless missile tests by DPRK, and the U.S. put forward a proposal further limiting 500,000 oil barrels cap<sup>48</sup>. However, circumstances in 2022 were different than in

---

<sup>43</sup> Michelle Nichols, *China, Russia Revive Push to Lift UN Sanctions on North Korea*, Reuters (Nov. 1, 2021), <https://www.reuters.com/world/asia-pacific/china-russia-revive-push-lift-un-sanctions-north-korea-2021-11-01/>.

<sup>44</sup> Nick Miller, *Why North Korea Is Angered by 'Libya Model' in Nuclear Talks*, Sydney Morning Herald (May 17, 2018), <https://www.smh.com.au/world/why-north-korea-is-angered-by-libya-model-in-nuclear-talks-20180517-h10674.html>.

<sup>45</sup> Daniel R. DePetrus, *Russia-DPRK Relations: Strategic Partnership or Opportunistic Alliance?*, 38 North (Oct. 25, 2024), <https://www.38north.org/2024/10/russia-dprk-relations-strategic-partnership-or-opportunistic-alliance/>.

<sup>46</sup> Yoonjung Seo & Brad Lendon, *North Korea's Record-Breaking Year of Missile Testing*, CNN (Dec. 26, 2022), <https://www.cnn.com/2022/12/26/asia/north-korea-missile-testing-year-end-intl-hnk/index.html>.

<sup>47</sup> S.C. Res. 2397, U.N. Doc. S/RES/2397 (Dec. 22, 2017).

<sup>48</sup> Josh Smith, *Security Council Split Spells End of an Era for U.S.-Led Sanctions on North Korea*, Reuters (May 27, 2022), <https://www.reuters.com/world/security-council-split-spells-end-an-era-us-led-sanctions-nkorea-2022-05-27/>.

2017. Russia and China, for the first time, vetoed a draft resolution on the NK, that would have escalated sanctions, further reducing oil export limits. But it did not end there; Russian and Chinese representatives stressed that sunset clauses should be introduced in all DPRK sanctions resolutions, that they should be time-bound and should expire absent affirmative approval of the Council every once in a while. This is not the first time they have attempted to introduce such resolutions to the Council agenda<sup>49</sup>. Also, Russia exercised its veto power in March 2024 to dissolve a panel of experts tasked with overseeing compliance with sanctions against the DPRK<sup>50</sup>. The panel recorded extensive economic/military links between Russia and DPRK and accused Russia of breaching the sanctions regime and thus was perhaps seen as an incriminating evidence-gathering entity by Moscow.

It is apparent that Russia and North Korea are increasingly benefiting from this newly found ad-hoc partnership: Russia by getting enough military supplies to continue waging war against Ukraine, and North Korea by getting a shield from accountability at the UNSC. Russia-North Korean relations are reported to have reached their apex with the signing in June 2024 of the DPRK-Russia Treaty on Comprehensive Strategic Partnership, which in article 4 provides a collective defence alliance<sup>51</sup>:

*“If one of the Parties is subjected to an armed attack by any state or several states and thus finds itself in a state of war, the other Party will immediately provide military and other assistance with all means at its disposal in accordance with Article 51 of the UN Charter and in accordance with legislation of the Democratic People’s Republic of Korea and the Russian Federation.”*

It was not long until such military assistance arrived from DPRK to Russia’s immediate help. Some sources estimate that approximately 11,000 or 12,000 North Korean troops were sent to Russia to help in its war of aggression, marking a new period of their relations<sup>52</sup>.

### Regionalization or coalitions of the willing for nonproliferation

This increasing military cooperation and allied relations between DPRK and Russia makes any

<sup>49</sup> Anton Sokolin, *Russia Calls Sanctions Panel an 'Obedient Tool' of North Korea's Foes After Veto*, NK News (Apr. 1, 2024), <https://www.nknews.org/2024/04/russia-calls-sanctions-panel-an-obedient-tool-of-north-koreas-foes-after-veto/>.

<sup>50</sup> Eric Ballbach, *After Russia’s Veto: The Future of the Sanctions Regime Against North Korea*, 38 North (Apr. 12, 2024), <https://www.38north.org/2024/04/after-russias-veto-the-future-of-the-sanctions-regime-against-north-korea/>.

<sup>51</sup> Jeongmin Kim & Joon Ha Park, *Full Text: North Korea’s New 'Comprehensive Strategic Partnership' with Russia*, NK Pro (June 20, 2024), <https://www.nknews.org/pro/full-text-north-koreas-new-comprehensive-strategic-partnership-with-russia/>.

<sup>52</sup> Jim Garamone, *Pentagon Says 10K North Korean Troops in Kursk Oblast*, U.S. Department of Defense (Nov. 4, 2024), <https://www.defense.gov/News/News-Stories/Article/Article/3955757/pentagon-says-10k-north-korean-troops-in-kursk-oblast/>.

action at the UN Security Council all but unlikely at the present juncture. DPRK has acquired a powerful backer at the Council. This, however, does not mean that interested states are not precluded from forming their own coalitions of the willing to enforce existing resolutions or to expose any violations. One such coalition has already been in the making, the Multilateral Sanctions Monitoring Team (MSMT), inaugurated in October 2024<sup>53</sup>; it is the multilateral/regional oversight mechanism for compliance with UN sanctions on DPRK, established following Russia's disbandment of the UN panel of experts in March 2024. The MSMT currently includes RoK, Japan, Australia and New Zealand from the Asia Pacific region, along with five Western European states and Canada. Mechanisms such as MSMT may represent a future step in nonproliferation. At times when universalist institutions or organizations are unable to deliver tangible results in reinforcing the nonproliferation regime, a regional or ideologically close grouping of states may be the second best alternative in deterring nonproliferation and exposing breaches of the norm. An early example of such an initiative is the Proliferation Security Initiative (PSI) of 2003, which was conceived to put an end to the proliferation of weapons of mass destruction and missiles on high seas. PSI was established after the So Sen incident, in which an unflagged North Korean ship was found to be carrying 15 Scud-B missiles to Yemen. Since applicable international maritime law (UNCLOS and Geneva Conventions of 1958) did not provide any basis to confiscate/seize missiles, the ship and its cargo were ultimately released to its destination. However, a group of interested states led by the US sought to address the lacuna – and developed a set of non-binding principles to exchange information, and improve national laws to facilitate and support interdiction activities. It also introduced legally binding ship boarding agreements: bilateral treaties that established procedures to authorize the boarding, searching and detention of ships of either party suspected of carrying WMD-related cargo.

That being said, a primary challenge at the heart of such minilaterals and coalitions of the willing is that they most often lack universal adherence. Several influential states (India, China and Indonesia) not only did not sign into PSI Interdiction Principles but vehemently oppose it as contradicting binding maritime law treaties, in particular art. 87 (freedom of navigation on high seas), and art. 92 (exclusive jurisdiction of the flag state), along with the specific regime of art. 23 (specific rules for nuclear-powered ships and vessels carrying radioactive materials on high seas). Objecting states also assert that the exceptions to exclusive flag jurisdiction are limited and exhaustive as set in art. 110 and do not include proliferation concerns or anything of that nature. They, therefore, conclude that any “inspection” should first seek and obtain the consent of the flagging state and that mere suspicions are not sufficient to override inherent state sovereignty and jurisdiction, which extends

---

<sup>53</sup> Karl Dewey & Zuzanna Gwadera, *A New Mechanism for North Korean Sanctions Monitoring*, International Institute for Strategic Studies (Dec. 13, 2024), <https://www.iiss.org/online-analysis/online-analysis/2024/12/a-new-mechanism-for-north-korean-sanctions-monitoring/>.

to vessels themselves.

Moreover, some developing countries also notice that only 11 “core” states, with membership similar to MSMT, had any say over the actual drafting of the provisions of PSI; no countries of Global South are on that list. Countries outside of the “core”, even influential ones, were represented with only two options: either (i) join the instrument agreed upon and negotiated by others, which may not reflect or account for that country’s interests in a proper manner, or (ii) remain outside of such mechanisms, and have no say over future developments, and possible hardening of the provisions, at least if applied cumulatively with UNSC’s embargoes.

So, MSMT, PSI and other regional or like-minded coalitions, without a UN mandate, will continue to struggle for legitimacy since the process behind their inception is often exclusive, despite the fact that they are likely to implicate the vast majority of states and oblige them to undertake more tasks. Absent an acceptable level of buy-in from non-aligned states, cooperation with investigations or implementation of recommendations may be challenging. This legitimacy crisis is going to be further affected by the fact that they are going to rely on national technical means, i.e. intelligence sources, for verification purposes.

### **Case Study: Iran and the Security Council**

#### *History of Iran’s membership in the NPT*

Iran was among the first signatories of the nuclear Non-Proliferation Treaty, having signed it on July 1, 1968, and ratified it in Feb. 1970. Similar to DPRK, Iran took more than permitted 18 months to conclude the Comprehensive Safeguards Agreement (CSA) with the International Atomic Energy Agency, and it was finalized only in June 1973.

Unlike DPRK, however, Iran remained in compliance with CSA for decades. It was only in the early 2000s when first reports about breaches of CSA started to surface. Most famously, in 2002, the National Council of Resistance alleged that Iran may be constructing undeclared enrichment facilities in Natanz and a heavy water reactor in Arak. Although there were regular national reports about possible undeclared nuclear activities previously and after the start of construction of the Bushehr nuclear power plant in the 1990s, this time, the nature of the allegations was much more substantiated than ever before.

The IAEA started to get involved with Iran immediately, with the first report being considered at the November 2003 session of the IAEA BoG. The report indicated that the environmental samples



(“swipes”) at two undeclared sites, Kalaye Electric Company and Natanz, demonstrated that the nuclear material had been used/introduced in the centrifuge testing and confirmed the presence of low-enriched and high-enriched uranium particles in violation of their safeguards agreement, which requires to inform the IAEA about the facility 180 days prior the introduction of nuclear material<sup>54</sup>. Iran went on to claim that the centrifuge technology had been imported and hence may carry the footprint of the importing country. This complicated the work and the mission of the IAEA since the importing country turned out to be a non-NPT state, Pakistan. The matter was resolved only in 2004 when Pakistan voluntarily offered to give environmental samples from its alleged lab, and the particles turned out to be identical.

### *Iran and E3 (2003 – 2006)*

In the meantime, Iranian negotiations with the E3 (France, Germany and the United Kingdom), went ahead and progressed. In Oct 2003, the four governments reached an interim agreement, also known as the Tehran Declaration, which reaffirmed Iran’s commitment to resolve all outstanding issues with the IAEA and provisionally apply the Additional Protocol of 1997 and noted Iran’s voluntary suspension of all uranium enrichment and reprocessing activities<sup>55</sup>. In exchange, the E3 reiterated the “inalienable” right of Iran to peaceful nuclear energy under Art. 4 of the NPT and agreed to a dialogue that would provide “satisfactory assurances” and, once those are settled, easier access to modern technology and supplies<sup>56</sup>. The absence of the US from negotiations, however, put significant limits to the efficacy of such talks and even the UK’s shuttle diplomacy and coordination were not sufficient. In November 2004, Iran and E3 agreed on a Paris Agreement, a further elaboration of the Tehran Declaration, providing a more succinct description of all enrichment-related and reprocessing activities that Iran undertakes to suspend during the time of negotiations. In exchange, E3 offered mutually acceptable agreements on “firm guarantees” on nuclear, technological and economic cooperation and “firm commitments” on security issues<sup>57</sup>. The consensus was possible because it did not deny enrichment rights to Iran but only spoke of “objective guarantees” of the exclusively peaceful nature of the nuclear program, the goals that the enhanced inspections regime of the IAEA would well serve<sup>58</sup>. The November meeting of the Board of Governors endorsed the Paris Agreement and paved

---

<sup>54</sup> IAEA went on to modify that 1976 provision of the subsidiary arrangements under the CSA in the 1990s to require that notice to be made “as soon as the decision to construct, or to authorize the construction of, a nuclear facility has been taken”. See also, Andrea Stricker, *Iran Must Notify About New Enrichment Facilities*, Foundation for Defense of Democracies (July 7, 2023), <https://www.fdd.org/analysis/2023/07/07/iran-must-notify-about-new-enrichment-facilities/>.

<sup>55</sup> Nazila Fathi, *Iran's Pact: Full Cooperation*, N.Y. Times (Oct. 21, 2003), <https://www.nytimes.com/2003/10/21/international/irans-pact-full-cooperation.html>.

<sup>56</sup> Ibid.

<sup>57</sup> Communication Dated 26 November 2004 Received from the Permanent Representatives of France, Germany, the Islamic Republic of Iran and the United Kingdom Concerning the Agreement Signed in Paris on 15 November 2004, IAEA Doc. INFCIRC/637 (Nov. 26, 2004), <https://www.iaea.org/sites/default/files/publications/documents/infcircs/2004/infcirc637.pdf>.

<sup>58</sup> Ibid.

the way for clarifying all misunderstandings with the IAEA<sup>59</sup>. Even more, at the March 2005 BoG meeting, given Iran's compliance with the Paris Agreement and extensive cooperation with the IAEA, Iran's nuclear program was not on the agenda for the first time since the 2002 revelations<sup>60</sup>. However, the more time it took for E3 to present their final position, the more agitated Iranians became, not the least because of the forthcoming presidential elections in Iran. E3 had promised to share a detailed plan in August 2005, two months into the presidency of newly elected hardliner Mahmoud Ahmadinejad. The proposed plan, however, was a piecemeal offer that turned out to be vague in incentives but highly developed in terms of Iran's obligations<sup>61</sup>. Unlike the original Agreement, this proposed deal resulted in the de-facto ban on nuclear fuel cycle activities, a position that was not acceptable to Iran. Hence, they rejected this meagre deal and reestablished conversion at one of their plants. This had made referral action to the UN Security Council imminent.

### *Iran at the Council Agenda (2006 – 2015)*

Interestingly, in the period between 2003 and 2006, the Director-General (DG) Muhammad El-Baradei also tried to avoid the automaticity of referrals to the UN Security Council as provided in the IAEA Statute and IAEA CSA with Iran. Hence, he opted for the use of terms such as “violation”, “breach” or “repeated breaches of the obligation to comply” instead of the standard “non-compliance” term since he did not want to trigger a referral obligation<sup>62</sup>. That reluctance is understandable given the momentum of the U.S. invasion of Iraq over bogus WMD claims and DPRK's withdrawal from NPT. Another reason for differential treatment is that in previous cases (Iraq, North Korea and Romania), there had been consensus at the Board and among P5 members that “non-compliance” occurred, this was not the case for Iran, at least in the initial period (2003-2006)<sup>63</sup>.

However, after Iran's resumption of enrichment activities at Natanz in early 2006, the Board of Governors first pointed out the “non-compliance” of Iran with its obligations and, in February 2006, referred the Iranian file to the UN Security Council<sup>64</sup>. The voting results at the 35-member body were mixed, with five nations abstaining, three voting against, and twenty-seven voting in favour. Iran shot back by immediately terminating its voluntary implementation of the Additional Protocol, which

---

<sup>59</sup> Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, IAEA Doc. GOV/2004/90 (Nov. 29, 2004), <https://www.iaea.org/sites/default/files/documents/gov2004-90.pdf>.

<sup>60</sup> Mohamed ElBaradei, *The Age of Deception: Nuclear Diplomacy in Treacherous Times* (2011).

<sup>61</sup> E3 Proposal to Iran, August 5, 2005, Acronym Institute for Disarmament Diplomacy, <https://www.acronym.org.uk/old/archive/docs/0508/doc03.htm>. See also Communication Dated 1 August 2005 Received from the Permanent Mission of the Islamic Republic of Iran to the Agency, IAEA Doc. INFCIRC/648 (Aug. 1, 2005), <https://www.iaea.org/sites/default/files/publications/documents/infcircs/2005/infcirc648.pdf>.

<sup>62</sup> Mohamed ElBaradei, *The Age of Deception: Nuclear Diplomacy in Treacherous Times* (2011).

<sup>63</sup> Trevor Findlay, *Proliferation Alert! The IAEA and Non-Compliance Reporting*, Belfer Center for Science and International Affairs, HKS (Oct. 2015), <https://www.belfercenter.org/publication/proliferation-alert-iaea-and-non-compliance-reporting>.

<sup>64</sup> Implementation of the NPT Safeguards Agreement in the Islamic Republic of Iran, IAEA Doc. GOV/2006/14 (Feb. 4, 2006), <https://www.iaea.org/sites/default/files/documents/gov2006-14.pdf>.



previously gave IAEA enhanced inspection rights and access<sup>65</sup>. There was a last-minute effort by the E3 to negotiate a political settlement and Iran's plea for more time (until August 2006) to reply to the E3 offer. Nonetheless, less than a month before Iran promised its response, the UN Security Council had adopted its first decision on the topic, Resolution 1696 (2006) and, using its extraordinary powers under Chapter VII of the UN Charter, "*demand*ed" that Iran shall suspend all enrichment-related and reprocessing activities, including research and development, to be verified by the IAEA<sup>66</sup>. It also threatened "appropriate measures" under Article 41 of Chapter VII of the Charter of the United Nations in case of Iranian non-compliance with the resolution. Article 41, as was mentioned above, is the primary treaty source for the UN economic sanctions. Resolution 1696 (2006) was the first of six resolutions adopted between 2006-2015 targeting Iran's nuclear program and demanding that it should cease enrichment.

It is also incredibly interesting how Russia and China agreed to such an extraordinary resolution in 2006 against Iran, considering that in the same year, they watered down a similar resolution against DPRK (Res. 1695), the country that proclaimed it has developed nuclear weapons and indeed has withdrawn from NPT.

Iran immediately decried such a resolution, calling it "*ultra vires*", namely outside of the legal capacity of the UN Security Council, and reaffirmed that it would not comply with the "unlawful" resolution<sup>67</sup>. However, it is important to note that all UN member states "agree to accept and carry out decisions" of the UNSC and obligations under the UN supersede other obligations under any other international agreements, Art 25 and Art 103 of the UN Charter, respectively.

In light of the Iranian non-compliance with the binding decision of the Council, a follow-up action, Resolution 1737 (2006), was passed<sup>68</sup>. It fulfilled the "appropriate measures" promised and imposed the first UN sanctions against Iran. It "decided" that all states shall prevent the supply of proliferation-sensitive material and ballistic missile technology and implement asset freezes of certain companies and individuals associated with the Iranian nuclear program. Resolution 1737 (2006) also established a Committee to monitor compliance and oversee the implementation of the sanction's regime, also known as the 1737 Committee. Sanctions were ratcheted up in subsequent years, Resolution 1747 (2007), banned arms imports from Iran and urged "vigilance and restraint" in the supply, sale, or transfer of major military weapons systems. It also strengthened financial sanctions and travel bans<sup>69</sup>.

---

<sup>65</sup> *Iran's Nuclear Program Peaceful: Official*, Islamic Republic News Agency (Feb. 5, 2006), <https://www.globalsecurity.org/wmd/library/news/iran/2006/iran-060205-irna01.htm>.

<sup>66</sup> S.C. Res. 1696, U.N. Doc. S/RES/1696 (July 31, 2006)

<sup>67</sup> Dan Joyner, *Iran's Nuclear Program and International Law*, 5 Penn St. J.L. & Int'l Aff. 123 (2013), <https://elibrary.law.psu.edu/cgi/viewcontent.cgi?article=1054&context=jila>.

<sup>68</sup> S.C. Res. 1737, U.N. Doc. S/RES/1737 (Dec. 23, 2006)

<sup>69</sup> S.C. Res. 1747, U.N. Doc. S/RES/1747 (Mar. 24, 2007).

Interestingly, the now publicly available U.S. National Intelligence Estimate of December 2007 declared with “high confidence” that Tehran halted its nuclear weapon program<sup>70</sup>. Therefore, momentum for new restrictive measures was undercut as some Council members questioned the necessity of further sanctions. Hence, Resolutions 1803 (2008)<sup>71</sup> and 1835 (2008)<sup>72</sup> contained only some new suggested measures and very few mandatory obligations. Arguably, they are one of the weakest resolutions adopted on Iran, meant to declare the unity of the Security Council in addressing the Iranian file rather than substantially tightening restrictions or making room for diplomacy. This is understandable, considering the timing, the global financial crisis was roaming around the world at the time, and US presidential elections took up much of the political space.

Shortly after President Barack Obama's election, months of intense and bitter diplomacy ensued. The U.S. wanted to comprehensively address the Iranian nuclear program and delivery means, but Russia and China were initially reluctant to support such tightening of sanctions. The situation started to change after Iran failed to comply with its safeguards obligation again and did not report a Fordow enrichment facility at Qom<sup>73</sup>. The Resolution 1929 (2010) was adopted with intensive consultations among the P5 but limited cooperation among non-permanent members, as visible in the voting record, with Brazil and Turkey voting against and Lebanon abstaining<sup>74</sup>. The Resolution 1929 constituted one of the most robust sanctions decisions, establishing an unconditional arms embargo against Iran, significantly expanding the list of prohibited items and requiring consultations with the 1737 Committee in case of doubt. The Resolution also added new provisions, for instance, “deciding” that Iran shall not undertake any launches using ballistic missile technology capable of delivering nuclear weapons. Likewise, it imposed inspections on vessels and cargo to and from Iran if there are “reasonable grounds” to believe that it transports prohibited items. It finally “called upon” corporations and banks to limit their interactions with Iranian financial institutions. This goal was achieved following the May 2012 decision by SWIFT, a Belgian association connecting 10,000 financial institutions across myriad jurisdictions, to expel all Iranian finance establishments, including the Central Bank, from the network<sup>75</sup>. Needless to say, this was an unprecedented step and a significant expansion of the UN sanctions regime.

Resolution 1929 also created a Panel of Experts to monitor compliance and assist the 1737 Committee

---

<sup>70</sup> Gregory F. Treverton, *CLA Support to Policymakers: The 2007 NIE on Iran's Nuclear Intentions and Capabilities*, Center for the Study of Intelligence, Central Intelligence Agency (May 2013), <https://www.cia.gov/resources/csi/books-monographs/cia-support-to-policymakers-the-2007-nie-on-irans-nuclear-intentions-and-capabilities/>.

<sup>71</sup> S.C. Res. 1803, U.N. Doc. S/RES/1803 (Mar. 3, 2008).

<sup>72</sup> S.C. Res. 1835, U.N. Doc. S/RES/1835 (Sept. 27, 2008).

<sup>73</sup> Ivanka Barzashka, *The Revelation of Fordow: What Does It Mean?*, Federation of American Scientists (Apr. 1, 2010), <https://fas.org/publication/the-revelation-of-fordow10-what-does-it-mean/>.

<sup>74</sup> S.C. Res. 1929, U.N. Doc. S/RES/1929 (June 9, 2010).

<sup>75</sup> Rick Gladstone & Stephen Castle, *Global Network Expels as Many as 30 of Iran's Banks, Hindering Tehran's Ability to Conduct International Business*, N.Y. Times (Mar. 15, 2012), <https://www.nytimes.com/2012/03/16/world/middleeast/crucial-communication-network-expelling-iranian-banks.html>.

in carrying out its mandate. The Panel of Experts was also made responsible for publishing recommendations and reports on the status of restrictive measures.

After the Resolution 1929, the U.S., however, realized that there were limits to the Chinese and Russian support at the UN Security Council, and they would not support any drastic expansion of sanctions to cover the oil sector, financial sector, or transit and transshipment<sup>76</sup>. Hence, the focus between 2010 and 2015 shifted to unilateral sanctions, which the UN Security Council did not approve and that are beyond the scope of my research.

### Enter JCPOA

However, the election of Iranian President Hassan Rouhani presented a new opening for nuclear diplomacy. To capitalize on moderates taking power in Tehran, President Obama authorized secret meetings between Iran and the US in Oman. The P5+1 (France, Germany, United States, Russia, China, United Kingdom) countries, this time including the US representatives, also seized the moment. In November 2013, the sides agreed to an interim deal that froze certain aspects of the Iranian nuclear program<sup>77</sup>. As part of the deal, Iran undertook to halt enrichment beyond 5% and agreed to abide by the Additional Protocol and not to expand any of the nuclear facilities. In return, P5+1 agreed to waive certain sanctions affecting auto and civil aviation industries and pledged that no additional sanctions would be imposed for the time of negotiations.

The interim deal ultimately resulted in the Joint Comprehensive Plan of Action (JCPOA) of July 2015, also known as the Iran nuclear deal, which limited Iran's enrichment rights to 3,67%, with all nuclear facilities converting into other uses, with the exception of Natanz, where enrichment would continue under strict inspections<sup>78</sup>. The deal also introduced a new set of inspections, so with regard to Iran, three sets of inspection regimes applied: (i) those originating from CSA signed in 1970, (ii) those arising from the provisional application of Additional Protocol, (iii) ad-hoc inspections, that were introduced by the JCPOA. Those sweeping rights granted the IAEA the unprecedented right of access to Iran's most sensitive military and nuclear sites.

P5+1 agreed to lift all nuclear-related sanctions immediately after certification of the IAEA and imposed sunset clauses for all other provisions of sanctions; for instance, the arms embargo was to be lifted 5 years after, in October 2020, and ballistic missile restrictions were to continue until October

---

<sup>76</sup> *Russia Rejects New Iran Sanctions*, The World (Aug. 14, 2013), <https://theworld.org/stories/2013/08/14/russia-rejects-new-iran-sanctions>.

<sup>77</sup> *The Text of the Iran Nuclear Agreement*, Wall Street Journal (Nov. 24, 2013) <https://www.wsj.com/articles/BL-WB-42034>

<sup>78</sup> *The Joint Comprehensive Plan of Action (JCPOA) at a Glance*, Arms Control Association (Feb. 2025), <https://www.armscontrol.org/factsheets/joint-comprehensive-plan-action-jcpoa-glance>.

2023<sup>79</sup>. All sanctions were expected to expire by Oct 2025, ten years after the deal.

However, since only the Security Council can decide for itself, such cancellation could only be effectuated by SC action. That is why, in July 2015, the Council adopted Resolution 2231, which cancelled all previous six sanctions resolutions targeting Iran but, as a safeguard, did carve into an innovative “snapback” provision in case of Iranian non-compliance<sup>80</sup>. Snapback would reintroduce all previous sanctions adopted and would not be a subject of the veto.

### After JCPOA

In May 2018, the US, under President Trump, announced its intention to withdraw from the JCPOA following a failed attempt to renegotiate the terms of the deal. In November 2018, Trump administration reimposed all sanctions that were suspended during JCPOA, in a ‘maximum pressure’ campaign to coerce Iran to renegotiate the deal that would address Iran’s regional proxies and activities.

In its notice of withdrawal, the US claimed that Iran was not in compliance “with the spirit of the deal” and made generic complaints about non-JCPOA-related issues, such as Iranian proxies and fomenting instability in the Middle East<sup>81</sup>. There is no evidence, nonetheless, to suggest that Iran was reneging on the deal at the time, and IAEA confirmed Iran’s full compliance with the JCPOA, both in 2018 and 2019<sup>82</sup>. Starting with 2019, nonetheless, Iran slowly started to restart its enrichment activities, expecting other parties of the JCPOA to bring the US back to the table<sup>83</sup>. Ultimately, this also proved unsuccessful despite certain bona fides efforts by the EU to preserve JCPOA, such as creating the Instrument in Support of Trade Exchanges (INSTEX), a payment processing system that allowed EU enterprises to continue engaging in business with Iran without breaching US sanctions<sup>84</sup>. The E3 was also essential in rebuking an attempt by the Trump administration in Aug 2020, to invoke the aforementioned “snapback” to keep sanctions on Iran, as the first sunset clause on exports of

---

<sup>79</sup> *Explainer: Timing of Key Sunsets in Nuclear Deal*, Iran Primer (Jan. 11, 2023), <https://iranprimer.usip.org/blog/2023/jan/11/explainer-timing-key-sunsets-nuclear-deal>.

<sup>80</sup> S.C. Res. 2231, OP 11-13, UN Doc. S/RES/2231, (20 July 2015)

<sup>81</sup> *Ceasing U.S. Participation in the JCPOA and Taking Additional Action to Counter Iran’s Malign Influence and Deny Iran All Paths to a Nuclear Weapon*, White House (May 8, 2018), <https://trumpwhitehouse.archives.gov/presidential-actions/ceasing-u-s-participation-jcpoa-taking-additional-action-counter-irans-malign-influence-deny-iran-paths-nuclear-weapon/>.

<sup>82</sup> *Iran Remains in Compliance with Nuclear Deal: UN Watchdog*, Middle East Eye (Feb. 22, 2019), <https://www.middleeasteye.net/news/iran-remains-compliance-nuclear-deal-un-watchdog>.

<sup>83</sup> *Fact Sheet on Iran’s Reduction of Some JCPOA Commitments*, Iran Watch (May 8, 2019), <https://www.iranwatch.org/library/governments/iran/ministry-foreign-affairs/fact-sheet-irans-reduction-some-jcpoa-commitments>.

<sup>84</sup> Stephanie Zable, *INSTEX: A Blow to U.S. Sanctions?*, Lawfare (Feb. 8, 2019), <https://www.lawfaremedia.org/article/instex-blow-us-sanctions>.

conventional arms was due to expire on Sept 2020<sup>85</sup>. All other JCPOA states rejected the US attempt and asserted that it had no standing to invoke snapback sanctions, having previously terminated participation in the JCPOA. As a result, the US draft resolution was overwhelmingly defeated, with only Dominican Republic joining the US in favour and all other 13 states of the Council either abstaining or voting against the US-tabled proposal<sup>86</sup>.

Trump's successor, President Joe Biden (2021-2025) sought to resurrect the deal in his time in office but without success. The effort to revive the deal was among the two nonproliferation casualties of Russia's war in Ukraine. Despite a previous history of cooperation and helpful technical interventions by Russian experts over the years of negotiation, already by March 2022, Russian officials were putting new obstacles in the way of the Iranian deal by adding new demands and conditions, including a pledge that Western sanctions won't impact Russian trade with Iran<sup>87</sup>. The relationship between the two pariah states grew stronger following Russian procurement of Iranian missiles, shells and kamikaze drones at a time of great peril for Vladimir Putin's regime in Russia<sup>88</sup>. Since then, Russia has voted against five Board of Governors resolutions on Iran and has joined China and Iran in issuing joint statements blaming the US for the breakdown of the 2015 Iran nuclear deal<sup>89</sup>. The relationship between Russia and Iran does not arise to the level of an alliance, as demonstrated by the recent Iranian–Russian Treaty on Comprehensive Strategic Partnership, which in Art.3(3) speaks only of the negative obligation not to support aggression either militarily or otherwise against a contracting party<sup>90</sup> a sharp contrast to positive obligations under Art.5 of the North Atlantic Treaty and many other mutual defence treaties<sup>91</sup>. Obligations not to aid or assist internationally wrongful act (that aggression is), however, is an existing rule of customary international law. Articles on State Responsibility Internationally Wrongful Acts (2001) confirm that in Art. 16<sup>92</sup>. Such a narrow clause, yet may indicate that Iran is not the same case as North Korea. The latter country is unlikely to denuclearize in any foreseeable future, while the former may be seeking a fair deal that all parties would respect. Therefore, action in the Security Council is not entirely blocked, and the interests of permanent members could again intersect in preserving nonproliferation goals. Iran's status as a

<sup>85</sup> *Trigger Warning: The Consequences of Snapping Back Sanctions on Iran*, Iran Watch (Aug. 20, 2020), <https://www.iranwatch.org/our-publications/policy-briefs/trigger-warning-consequences-snapping-back-sanctions-iran>.

<sup>86</sup> Michael Schwirtz, U.N. Security Council Rejects U.S. Proposal to Extend Arms Embargo on Iran, N.Y. Times (Aug. 14, 2020), <https://www.nytimes.com/2020/08/14/world/middleeast/UN-Iran-embargo.html>.

<sup>87</sup> Colum Lynch, *Russia's 'Eleventh-Hour' Interference in the Iran Deal*, Foreign Pol'y (Mar. 9, 2022), <https://foreignpolicy.com/2022/03/09/russia-nuclear-deal-jcboa-iran-eleventh-hour-interference/>.

<sup>88</sup> Hanna Nottle & Jim Lamson, *The Uncomfortable Reality of Russia and Iran's New Defense Relationship*, War on the Rocks (July 24, 2024), <https://warontherocks.com/2024/07/the-uncomfortable-reality-of-russia-and-irans-new-defense-relationship/>.

<sup>89</sup> *Iran, Russia, China Issue Joint Statement on JCPOA*, Mehr News Agency (June 5, 2024), <https://en.mehrnews.com/news/216104/Iran-Russia-China-issue-joint-statement-on-JCPOA>.

<sup>90</sup> *Treaty on Comprehensive Strategic Partnership between the Islamic Republic of Iran and the Russian Federation*, Iran-Russ., Jan. 17, 2025, available at <https://president.ir/en/156874>.

<sup>91</sup> *North Atlantic Treaty* art. 5, Apr. 4, 1949, 63 Stat. 2241, 34 U.N.T.S. 243., *Inter-American Treaty of Reciprocal Assistance* art.4, Sept. 2, 1947, 62 Stat. 1681, 21 U.N.T.S. 77., *Collective Security Treaty* art.4, May 15, 1992, 1894 U.N.T.S. 165

<sup>92</sup> *Draft Articles on Responsibility of States for Internationally Wrongful Acts*, art. 16 (2001)

non-nuclear weapon state is settled, and international community have been wary of the attempts to re-establish that status. Attitudes among Iran's neighbours and permanent SC members regarding the prospect of a nuclear-armed Iran have generally been in unison.

Moreover, according to Resolution 2231, the UN Security Council will close Iran's nuclear file by October 2025. Until that time, E3 could employ the snapback mechanism to reimpose all previous sanctions against Iran. Iranian officials, however, have cautioned that in this eventuality, they would have no choice but to withdraw from the JCPOA and NPT and terminate safeguards agreements with the IAEA<sup>93</sup>. As previously mentioned, states are not prohibited from withdrawing from NPT under art.X(1) provided that they comply with procedural requirements, such as a three-month notice to the depositories and UN Security Council, and give justification for extraordinary events behind the withdrawal. Russia and China have so far abstained from blocking Iran-related nonproliferation actions at the Security Council. That may change in the upcoming months as Russia is increasingly prioritizing purported geopolitical struggles over nonproliferation principles, or it could revert to its cooperative mode if the conflict over Ukraine settles or some ceasefire is achieved. Either way, the Security Council will be in the front seat of all those discussions and determinations.

## Conclusion

In the foreseeable future, cooperation on nonproliferation is likely to be linked to broader geopolitical issues and considerations and is highly implausible at the UN Security Council, as political perturbations hinder its ability to respond to crises. But the world sometimes surprises. In an unlikely scenario of a post-war settlement in Ukraine and a reduction of Russia's reliance on DPRK and Iran arms shipments, the UN Security Council could recover its prominent role as an ultimate enforcement body of nonproliferation. An opportunity to do so may arise as soon as later this year, with impending Termination Day on October 18, 2025, and many hard choices that policymakers have to grapple with.

---

<sup>93</sup> *Iran Threatens to Withdraw from NPT if Sanctions Snap Back*, Iran Int'l (Dec. 4, 2024), <https://www.iranintl.com/en/202412043901>.