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Strengthened Export Controls: Pakistan's Export Control Experience,
Current and Future Challenges and Options

SAFEGUARDS AGAINST ILLICIT TRANSFERS:
PAKISTAN'S INSTITUTIONAL RESPONSE

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Pakistan's Non-Proliferation Principles

The principles of Pakistan's nuclear non-proliferation policy and its adherence to the ideals and norms of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) of 1968 - have been frequently stated by different policymakers from time-to-time despite Pakistan's non-acceptance of the Treaty.¹ This is due to Pakistan's realisation of the significance of nuclear security, and its adherence to the norms of non-proliferation. Pakistan had instituted a series of measures with a view to extensively reorganise the different departments dealing with the nuclear facilities in order to enhance their security aspects, and to shoulder its obligations as a responsible nuclear weapon state.² Pakistan had consistently endeavoured to fulfil its obligations under the different non-proliferation regimes, including the UN Security Council Resolution 1540 of 28th April 2004. In consonance with the 1540, Pakistan had instituted a host of measures. While some export control channels were evolved soon after the 1998 nuclear tests,³ to prevent

¹ <http://www.fas.org/nuke/control/npt/text/npt2.htm>. Pakistan had refused to sign the NPT due to discriminatory nature of the Treaty, and the threat emanating from India's nuclear weapons plan. This had compelled Pakistan to go nuclear in 1998 in order to safeguard its security and sovereignty that was repeatedly endangered since independence, including dismemberment of Pakistan in 1971.

² Kenneth N. Luongo and Isabelle Williams, 'Seizing the Moment: Using the US-Indian Nuclear Deal to Improve Fissile Material Security,' *Arms Control Today* (May 2006), pp. 3-4. According to Muhammad Afzal, some of the measures and reorganisations that Pakistan had instituted included: introduction of domestic legislations about the export control of sensitive technologies; enhancing the physical security of sensitive facilities; enforcement of personnel reliability programme; storage of nuclear materials to more secure locations; and the removal of personnel involved in the proliferation scam; see Muhammad Afzal, 'Cooperation in Fissile Material Management: The View From Pakistan,' paper presented at the Institute for Nuclear Materials Management Annual Meeting, 12 July 2005.

³ For instance, the Strategic Plans Division (SPD) and the National Command Authority were established in 1999 and 2000, respectively. These were competent institutions to further institutionalise and regulate the functioning of the Pakistan Atomic Energy Commission, Khan Research Laboratories, and other

the illicit proliferation of WMD-related technologies and their means of delivery to any entity, including, of course, to the non-state actors.⁴ Pakistan's efforts to establish a nuclear export regime and its commitment to nuclear non-proliferation has been widely appreciated, including by the Nuclear Suppliers Group (NSG) delegation's visit to Pakistan in April 2005.⁵

Nowadays, the legitimacy of export control is exclusively derived from the legally mandatory international treaties and norms. These regimes, including the NPT, Biological Weapons Convention (BWC), Chemical Weapons Convention (CWC), Missile Technology Control Regime (MTCR), and the NSG have “underpinnings of international law to complement purely national security concerns.”⁶ Therefore, it is important to have a consistent “application of treaty rules and norms” both by the suppliers and the recipient states vis-à-vis the dual-use technologies.⁷

- ✓ Thus, it is vital to strengthen the international regimes' verification and intelligence gathering assets to supervise the transfer of dual-use technologies to the member states after acquiring the “legal assurances about end use must be based upon the processes set in

nuclear and missiles facilities. See, Christopher O. Clary, *The AQ Khan Network: Causes and Implications* (Monterey, California: Naval Postgraduate School, Master of Arts thesis, December 2005), pp. 16-17.

⁴ According to IAEA definition – “illicit trafficking applies primarily to trafficking across borders, the term unauthorized acts is used...to expand the concept to possession, handling and use of nuclear and other radioactive material within a state,” *Handbook on Combating Illicit Trafficking in Nuclear and other Radioactive Material* (IAEA publication, Version 4, May 2006), p. 7.

⁵ See, ‘NSG appreciates Pakistan's steps for nuclear export regime,’ *Daily Times* (Islamabad), 12 April 2005.

⁶ ‘Technology Access For The Developing World: Reconciling Global Regimes And National Security Mandates,’ *Policy Bulletin, The Stanley Foundation* (Muscatine, IA: 26-28 April 2002), pp. 1-2.

⁷ *Ibid*, p. 2.

place by supplier states when bilateral trade deals are first negotiated.”⁸

- ✓ Unilaterally interdicting the cargoes of other states under the Proliferation Security Initiative (PSI) type regimes as “a part of the solution”⁹ - is in contravention to the International Law, including that of the International Law of the Sea that was codified in the 1958 Geneva Conventions, and the Law of the Sea Convention (LOSC) of 1982.¹⁰ (However, Pakistan had attended three exercises of the PSI member states as an observer.) Because, anticipatory self-defence does not have a “solid historical foundation in international law,” and it is also questionable to apply it under the UN Charter’s Article 51 that speaks of “inherent right” to self-defence, but, *not to an anticipatory self-defence*.¹¹

In spite of the discriminatory nature of the international non-proliferation regimes, Pakistan has consistently followed a strict policy of non-proliferation of sensitive technologies.

⁸ Ibid.

⁹ *The Proliferation Security Initiative*, US Department of State, (<http://www.state.gov/np/rls/other/34726.htm>, p. 1. On 1 November 2006, five permanent members of the UN Security Council along with Germany, Italy, Canada, Japan, Canada, Turkey and Morocco established another multilateral regime and announced the Statement of Principles of the Global Initiative to Combat Nuclear Terrorism. This regime was established in the light of the initiative that was announced by U.S. President George W. Bush and Russian President Vladimir Putin just before the G-8 July 2006 Summit in St. Petersburg, Russia; see the US Department of State’s Press Release of 31 October 2006, <file:///I:\Statement> of Principles by Participants in the Global Initiative to Combat Nuclear Terrorism...

¹⁰ Daniel H. Joyner, ‘The PSI And International Law,’ *The Monitor*, Vol. 10, No. 1 (Spring 2004), p. 7. According to Chinese perspective: “The interdiction principles and activities may run counter to or seriously violate provisions of existing international legal instruments such as the UN Convention on the Law of the Sea and the Convention for Suppression of Unlawful Acts against the Safety of Maritime Navigation concerning innocent passage on high seas.... By pressing the Security Council to adopt a resolution on WMD proliferation, the United States has seemingly admitted that it needs a UN mandate to legitimise PSI interdictions;” Ye Ru’an and Zhao Qinghai, ‘The PSI: Chinese Thinking And Concern,’ *The Monitor*, Vol. 10, No. 1 (Spring 2004), p. 23.

¹¹ Daniel H. Joyner, op. cit., p. 7.

International Response

Logically, the world should rationalise its diplomacy vis-à-vis Pakistan, because it can only realistically rationalise and effectively enforce its non-proliferation credentials and enforce its elaborate export control mechanism once its legitimate status of a declared nuclear weapon state is accepted and, is taken on board as a responsible nuclear state.

- For that reason, consistent portrayal of Pakistan as if it was the only state responsible for the nuclear proliferation, is in clear contravention to the spirit of the International Law and the UN Security Council Resolution 1540 that encourages collaborative efforts by all the states to uproot the threat emanating from the worldwide nuclear proliferation networks.
- In fact, even before the end of the Second World War, the West had pioneered the pilferage of WMD-related technologies, when the “Chosen, rare minds” of the collapsing Third Reich’s scientific community, including its engineers and technicians along with the “technical booty” were smuggled out to other states.¹² Therefore, the prevalent misperception on the illicit nuclear proliferation that, Dr. AQ Khan Network was allegedly exclusively responsible for masterminding the worldwide nuclear trade is out of step with the

¹² Christopher Simpson, *Blowback: America’s Recruitment Of Nazis And Its Effects On The Cold War* (New York: Weidenfeld & Nicolson, 1988), p 30. According to Christopher Simpson, the US and the former Soviet Union had competed with each other to transfer the “partially assembled V-2 rockets, technical documentation, and about 1,200 captured German rocketry experts. By 1946 the Pentagon’s Joint Intelligence Objectives Agency (JIOA) began pushing for a revised and bigger program of recruiting German scientists.... The JIOA now wanted 1,000 former enemy specialists. More important, it wanted authority to grant them American citizenship as an inducement to participate in the program.... The JIOA needed President Truman’s direct authorization precisely because so many of the German scientists and technicians had once been Nazi party members and SS officers.... President Truman accepted the idea of putting selected Germans back to work on America’s behalf during the cold war, as long as the effort could remain secret from the public,” pp. 34-35. For the chronology of nuclear proliferation see, Richard Rhodes, ‘The Bomb: 60 Years Later Who Has It. Who Wants It,’ *National Geographic* (August 2005), pp. 99-113.

historical and the ground realities.¹³ Because, in illegal transfers, a score of individuals and the non-state entities of over two dozen countries were also involved.¹⁴ Therefore, it is imperative that, these states also carryout similar investigations in their countries instead of exclusively focussing on ‘Dr. A Q Khan Network.’¹⁵ For example, from 1993 to 2005 “a total of 827 confirmed incidents” of trafficking of nuclear-related materials were reported by the IAEA Illicit Trafficking Database (ITDB) and, none “were attributed to Pakistan.”¹⁶

Institutional Response

Pakistan would constantly support all the international arms control and disarmament initiatives, provided they were universal and non-discriminatory in character. There is a general misperception that, Dr. AQ

¹³ According to Christopher Clary, “Khan did not create the world marketplace for dual-use and proscribed goods...; see Christopher Clary, op. cit., p. 21. Also See, Bill Powell and Tim McGirk, ‘The Man Who Sold the Bomb,’ *Times* (14 February 2005), pp.16-25. President Pervez Musharraf also states that the “nationals of Switzerland, Holland, Britain, and Sri Lanka” were also involved. That, “Several of these individuals based in Dubai and Europe were simultaneously also pursuing their own business agendas independently. Ironically, the network based in Dubai had employed several Indians, some whom have since vanished. There is a strong probability that the Indian uranium enrichment program may also have its roots in the Dubai-based network and could be a copy of the Pakistani centrifuge design. This has been recently alluded to by an eminent American non-proliferation analyst;” Pervez Musharraf, *In The Line Of fire: A Memoir* (New York: Simon & Schuster, 2006), p. 293.

¹⁴ Bill Powell and Tim McGirk, op. cit. Michael Hirsh et al., commenting on North Korean nuclear test of 9 October 2006, wrote that despite Pyongyang’s “deep isolation, the Hermit Kingdom is known or suspected have received nuclear assistance from 14 countries: Russia, China, Austria, France, Canada, Romania, Germany, Pakistan, India, Japan, Iran, Ukraine, Kazakhstan and the Democratic Republic of Congo;” see Michael Hirsh et al., ‘We Are A Nuclear Power,’ *Newsweek*, 23 October 2006, p. 24.

¹⁵ Ibid.

¹⁶ ‘IAEA Clears Pakistan of N-Material Trafficking,’ *The Kuwait News Agency*, 16 September 2006. Pavel Felgenhauer quoting the Russian Federal Minatom Minister Victor Mikhailov stated that there is “over 500 tons of arms-grade plutonium and uranium were stored in Russia in conditions that ‘do not meet international safety standards.’ As the dismantling of the Soviet nuclear arsenal continued, warhead assembly factories, which did not have adequate storage facilities, were saturated with nuclear materials. More than 20,000 nuclear weapons can be made out of 500 tons of arms-grade plutonium and uranium;” see Pavel Felgenhauer, ‘Stymied by nuclear secrecy,’ *Moscow Times* article reproduced in the *Daily Times* (Islamabad), 27 April 2005.

Khan had proliferated with the knowledge of the Government of Pakistan, is absolutely false.¹⁷ The illicit proliferation had taken place only on the direct orders and supervision of Dr. A. Q. Khan.¹⁸ The proliferation probably took place from the late 1980s onwards right until Dr. AQ Khan's retirement from the Khan Research Laboratories (KRL) in 2001.¹⁹ Since AQ Khan's confession in February 2004 of illegally trading the nuclear technology, Pakistan has introduced and strictly enforced an elaborate legal and legislative architecture, to prevent and to plug the loopholes, if any, in its export control regime. *Some of the measures that Pakistan had instituted included are shown in Table-1.*

- ❖ Pakistan has a robust system in place under the umbrella of the *National Command Authority (NCA)*, which is assisted in its functioning by the *Strategic Plans Division (SPD)* – that acts as its Secretariat in conjunction with the other *Strategic Commands* that

¹⁷ Christopher Clary commenting on the possibility of alleged complicity of the Government of Pakistan in AQ Khan's proliferation activities writes that, "Khan likely exceeded whatever mandate he received from Pakistani leadership." Writing on AQ Khan's proliferation to North Korea with the alleged connivance of the government, Clary wrote that: "Why would Pakistan be forced to barter sensitive nuclear technologies for decades-old liquid-fuel missile technology?" See Christopher Clary, op. cit., pp. 89-90. In this context, President Musharraf writes in his memoir that, "Pakistan had contracted a government-to-government deal with North Korea for the purchase of conventional ballistic missiles, including transfer of technology for hard cash. It did not – repeat, not – involve any deal whatsoever for reverse transfer of nuclear technology, as some uninformed writers have speculated;" see Pervez Musharraf, op. cit., p. 286.

¹⁸ According to Craig S. Smith, "The Pakistani scientist Abdul Qadeer Khan has been demonised in the West for selling atomic secrets and equipment around the world, but the trade began in Europe, not Islamabad...". See Craig S. Smith, 'Roots Of Pakistan Atomic Scandal Traced To Europe', *The New York Times*, February 19, 2004. President Musharraf writes that: "Our investigations revealed that A.Q. had started his activities as far back as 1987, primarily with Iran. In 1994-1995 A.Q. had ordered the manufacture of 200 P-1 centrifuges that had been discarded by Pakistan in the mid-1980s.... Overall, the picture that emerged was not pretty: A.Q. was running a personal underground network of technology transfers around the world from his base in Dubai;" see Pervez Musharraf, op. cit., p. 291.

¹⁹ For the nuclear chronology of AQ Khan, see, 'AQ Khan Nuclear Chronology,' *Issue Brief*, Vol. VIII, No. 8 (7 September 2005), Carnegie Endowment for International Peace, www.CarnegieEndowment.org. According to President Musharraf: "On March 30, 2001, Dr. A.Q. Khan was retired as chairman of KRL, effectively cut off from his base.... I was concerned that A.Q. might have been involved in illicit activities before March 2001, but I strongly believed we had now ensured that he could not get away with anything more, and that once he was removed, the problem would stop. I was wrong. Apparently, he started working more vigorously through the Dubai branch of his network;" see Pervez Musharraf, op. cit., pp. 288-289.

functions within the defence establishment to maintain a dynamic command and control system of its strategic forces. This system is operational since 2nd February 2000. In addition, since 1999, SPD was also functional with its own elaborate system of security and the organisation to prevent the proliferation of sensitive materials and technologies.

- ✓ The NCA has two decision-making bodies, the *Employment Control Committee* and the *Development Control Committee*. The *Development Control Committee* cannot procure any technology or sensitive material without the approval of the committee, which is headed by the President and the Prime Minister.²⁰
- ✓ While the *Arms Control and Disarmament Agency* of the Strategic Plans Division coordinates with the armed forces and the other strategic organizations for training, preparation of standard operating procedures (SOPs) and the implementation of policies.
- ✓ In addition, on the security side, it is further augmented through a robust apparatus of the *Security Division* (of SPD). The “good security” architecture is “20 percent equipment and 80 percent people” and,²¹ in this context the Security Division has a potent force of over 8000-9000 personnel to enforce a multiple layered defence of Pakistan’s nuclear facilities, including an elaborate architecture of personnel reliability programme (PRP), material control and accounting, and the relating standard operating

²⁰ See, Peter Lavoy and Feroz Hassan Khan, ‘Rogue or Responsible Nuclear Power? Making Sense of Pakistan’s Nuclear Practices,’ *Strategic Insights*, Vol. III, Issue 2 (February 2004), p. 4; ccc@nps.navy.mil.

²¹ General Eugene Harbiger, a former head of the US Department of Energy and the US strategic forces, cited in Matthew Bunn and Anthony Wier, *Securing the Bomb: An Agenda for Action* (Cambridge, MA: Belfer Center for Science and International Affairs, Harvard University, May 2004), p. 50, http://bcsia.ksg.harvard.edu/BCSIA_content/documents/securing_the_bomb.pdf.

procedure of regular security screenings, monitoring and clearances.

- ❖ On 25 September 2004, Pakistan adopted a legislation - “*Export Control on Goods, Technologies, Materials and Equipments related to Nuclear and Biological Weapons and their Delivery Systems Act, 2004*” - “to provide for export control on goods; technologies, material and equipment related to nuclear and biological weapons and their delivery systems.”²² This Act has a stringent mechanism to criminalise and to prosecute the individuals and the non-state actors involved in the illicit transfers of technologies.
- ❖ In addition, in October 2005, the Government of Pakistan issued fresh lists of technologies and materials related to the nuclear and biological weapons that will be subject to an *intrusive export control system*. A comprehensive *National Control List* (NCL) of various controlled items, based on the European Union (EU) system of classification/model, Australia Group, NSG and the MTCR lists, was issued after a long (over four years) process. The NCL can be reviewed periodically, revised or updated and notified accordingly.

Table-1

Pakistan’s Export Control/Implementation Architecture

<u>Institution/Regime</u>	<u>Subsidiary Institutions/Bodies/Basic Principles</u>
<i>National Command Authority – NCA</i>	<ul style="list-style-type: none"> ✚ Strategic Plans Division – SPD ✚ Strategic Commands ✚ Security Division ✚ Employment Control Committee ✚ Development Control Committee

²² INFCIR/636 of 23 November 2004.

	<ul style="list-style-type: none"> ✚ Arms Control & Disarmament Agency
<i>Pakistan Nuclear Regulatory Authority – PNRA</i>	<ul style="list-style-type: none"> ✚ Licensing of all the nuclear/radiological facilities <ul style="list-style-type: none"> ✓ Safety and security of facilities ✓ Functions under the President/PM Offices ✓ Augments Nuclear Safety Convention ✓ Signed Illicit Trafficking Data Base-IAEA to share data on seizures
<i>Container Security Initiative – CSI</i>	<ul style="list-style-type: none"> ✚ Pakistan was designated the Model State for the Pilot Programme of the CSI <ul style="list-style-type: none"> ➤ Pakistan-US Customs ➤ Declaration of Principles of the CSI ➤ Manning of scanners at entry/exit points ➤ Pakistan-US Customs direct network links ➤ Intelligence Agencies ➤ Boarder/coast guards/maritime agencies
<i>Mega Port Initiative - MPI</i>	<ul style="list-style-type: none"> ✚ Consultations in progress
<i>Export Control Act 2004</i>	<ul style="list-style-type: none"> ✚ Mechanism to criminalise/prosecute offenders <ul style="list-style-type: none"> ✓ Imprisonment up to 14 years ✓ Fine of up to Rs. 5 million ✓ Confiscation of property/assets
<i>Statutory Regulatory Orders – SROs</i>	<ul style="list-style-type: none"> ✚ In vogue since the early 1950s <ul style="list-style-type: none"> ➤ Relevant Customs acts
<i>National Control List – NCL</i>	<ul style="list-style-type: none"> ✚ Based on the EU/NSG/Australia Group/MTCR Models <ul style="list-style-type: none"> ❖ Listing of NBC-related technologies/materials ❖ Periodical reviewing/updating
<i>Chemical Weapons Convention Implementation Ordinance - 2000</i>	<ul style="list-style-type: none"> ✚ Pakistan is party to the CWC <ul style="list-style-type: none"> ➤ Strengthens export/re-export/trans-shipment/transits of goods ➤ Jurisdiction over overseas Pakistanis as well ➤ Regulates technologies/materials/equipments ➤ Possesses National Authority on CWC in Foreign Office
<i>BWC – signed in 1974</i>	<ul style="list-style-type: none"> ✚ Pakistan is party to the BWC <ul style="list-style-type: none"> ✓ Meets all the existing obligations ✓ However, no mechanism is embedded in the BWC to verify compliance by the state parties ✓ Biological/delivery aspects covered by the Export Control Act 2006
<i>Strategic Export Control Division – Approved by the Government of Pakistan in 2007</i>	<ul style="list-style-type: none"> ✚ To ensure the overall implementation of the Export Control Act 2004 & Export Policy Procedure Order 2006 ✚ It would also have an independent <i>Oversight Board</i> to supervise the implementation of Export Control Act 2004 <ul style="list-style-type: none"> ❖ Initially function under the Foreign Office ❖ Subsequently, to take a shape of an independent division

❖ Furthermore, before adoption of these legislations with a view to regulate and to prevent the proliferation of sensitive technologies, Pakistan possessed a comprehensive export control laws. Pakistan's export control architecture included the various *Statutory Regulatory Orders* (SROs), which took into account the Western initiatives,

including the system that of the Nuclear Suppliers Group (NSG) and the Missile Technology Control Regime (MTCR) – despite Pakistan’s exclusion from the multilateral weapon and technology export control regimes.²³

- ❖ In the same context, Pakistan is also in a process of establishing a *Strategic Export Control Division* under the Ministry of Foreign Affairs, which would also have an *Oversight Board* that would independently supervise the implementation of the Export Control Act 2004 and, the other laws/legislations relating to the illicit trafficking and export control mechanisms. Furthermore, Pakistan is consistently endeavouring to improve its existing export control regulations and the related architecture.
- ❖ Similarly, Pakistan has already promulgated the *Chemical Weapons Convention Implementation Ordinance 2000*, to strengthen controls on the export, re-export, trans-shipment and transit of goods and technologies, materials and equipments related to the nuclear and biological weapons and their delivery systems. The law carries wide jurisdiction, including over the overseas Pakistanis.
- ❖ Pakistan joined the US-sponsored *Container Security Initiative (CSI)* during President Bush’s visit to Pakistan in March 2006. In this connection, four-five scanners are being installed at Port Qasim, Karachi (one fixed scanner is already functional at the port), and at other dry ports - namely Wagh, Torkham, Chaman, Sust (all re-locatable/mobile scanners) in order to strictly regulate the imports and exports of sensitive technologies, including the means of delivery

²³ The multilateral regimes included: Zanger Committee, NSG, MTCR, Australia Group and Wassenaar Arrangement; see, Jozef Goldblat, *ARMS CONTROL: The New Guide To Negotiations And Agreements* (London: SAGE Publications Ltd., 2002), pp.370-371.

- systems relating to the NBC (nuclear, biological and chemical) weapons.
- ❖ Pakistan signed the *Declaration of Principles* of the CSI in March 2006.
 - ❖ Pakistan has been selected as a model state by the US Customs for the *Pilot Programme of the CSI*, which, if successful, would be replicated by other member states. In this connection, *Pakistan Customs* and the *US Customs* are testing a Non-Integrated Inspection (NII) and Radiological Portal Monitor (RPM) programmes in Pakistan, to ensure prevention of illicit transfers of any radiological substances, materials and technologies. The NII would streamline the IC³ (Integrated, Cargo, Container and Control) system, which would be jointly viewed at the time of screening at Port Qasim, Karachi, which will be manned by Pakistan Customs and the US Customs through a network/internet architecture. Subsequently, it would enable all the US bound cargoes to reach their respective destinations without further checking by the US Customs.
 - ❖ Furthermore, a five-member US Department of Energy's delegation visited Pakistan on 24-26 August 2006, for an ongoing dialogue on the US Mega Ports Initiative (MPI).
 - ❖ Earlier (in 2005), in accordance with Pakistan's Nuclear Security Action Plan (of the PNRA), Islamabad signed an Illicit Trafficking Data Base (ITDB) agreement with the International Atomic Energy Agency (IAEA) to share data on seizures with the Agency.

This demonstrates that, Pakistan's export control mechanisms are judiciously conceived and are under tight institutional control.

Pakistan's Nuclear Diplomacy

Although Pakistan has not signed the NPT, yet, it has always respected the non-proliferation principles and the norms of this Treaty. Pakistan's signing of the NPT in its current form is out of question, as it does not recognize Pakistan's declared nuclear status. Although, lately thinking had evolved in the Western world, both at the governmental and the think tank levels, to bring the non-NPT nuclear weapon states – India, Pakistan and Israel on board the non-proliferation regime with a view to end their isolation from the mainstream international non-proliferation regimes like the NPT.²⁴ Pakistan's stance on the *Comprehensive Test Ban Treaty* (CTBT), *Comprehensive Test Ban Treaty* (CTBT), *Fissile Material Cut-Off Treaty* (FMCT), *Chemical Weapons Convention* (CWC), *Biological Weapons Convention* (BWC), *Partial Test Ban Treaty* (PTBT), and the March 2006 Indo-US Nuclear Agreement is reflected in Table-2.

- ❖ However, Pakistan is not opposed to the objectives of the *Comprehensive Test Ban Treaty* (CTBT); but, Islamabad's position is that, *it was not the first to test, nor shall it be the first one to resume testing in South Asia.*
- ❖ On *Fissile Material Cut-Off Treaty* (FMCT), Pakistan's stance is that, it could get into negotiations, as long as it remains non-discriminatory, verifiable, multilateral and universal.

²⁴ George Perkovich et al., *Universal Compliance: A Strategy For Nuclear Security* (Washington DC: Carnegie Endowment for International Peace, March 2005), pp. 45-49. According to Alexander H. Montgomery, "Pakistan (as well as India and Israel) should be brought inside the nuclear non-proliferation regime, possibly by relaxing the member standards for nuclear export control consortia, including the Zangger Committee and the Nuclear Suppliers Group;" see Alexander H. Montgomery, 'Ringing in Proliferation,' *International Security*, Vol. 30, No. 2 (Fall 2005), p. 185.

- ❖ Pakistan is a state party to the *Chemical Weapons Convention* (CWC), and is determined to remain a non-chemical weapons possessor state, and fulfils all the national obligations concerning its implementation. A *National Authority on CWC* is functioning under the Ministry of Foreign Affairs.
- ❖ The *Biological Weapons Convention* (BWC) contains no mechanism to verify compliance by the state parties. Pakistan is a party to this Convention and meets all the existing obligations, and is consistently endeavouring to strengthen its administrative and legal structure in order to meet its commitments.
- ❖ However, despite Pakistan's consistent efforts to adhere to the international non-proliferation principles in vogue - the March 2006 Indo-US Nuclear Agreement will tend to destabilise the South Asian nuclear paradigm. Because, open ended US (NSG, when exception is accorded to India) supply of fuel to India will enable India's indigenous uranium stocks to be diverted to weaponisation objectives, thereby disturbing the strategic balance of the region.²⁵ Besides, it would seriously undermine the global nuclear non-proliferation regimes. In fact, the principles of cooperation for peaceful usage of

²⁵ According to P. R. Chari, "India has gained recognition as a quasi nuclear weapon state, and been pledged receiving nuclear technology, materials and equipment without joining the Non-Proliferation Treaty or accepting fullscope safeguards over its entire nuclear programme.... The supply of enriched and natural uranium to India, moreover, would free up its own resources for making nuclear weapons. Besides, a large proportion of India's nuclear programme remains outside the safeguards and inspection regime; fast breeders producing more fissile material than they consume are also outside safeguards-incidentally, breeder technology has always been anathema to the non-proliferation lobby;" see P. R. Chari, 'Parsing The Separation Plan: The Indo-US Subsidiary Deal,' *IPCS Issue Brief 36* (March 2006), Institute of Peace and Conflict Studies, New Delhi, pp. 1 and 4. George Perkovich commenting on the deal writes that "India will designate some facilities as military and that these will remain free of international safeguards or monitoring.... The retention of unsafeguarded military facilities means that this arrangement is *not* full-scope safeguards, contrary to statements by uniformed experts and even top US officials," see George Perkovich, 'Faulty Promises: The US-India Nuclear Deal,' *Policy Outlook* (September 2005), Carnegie Endowment for International Peace, www.CarnegieEdndowment.org, p. 9.

nuclear energy should be applicable to all the countries, including both to India and Pakistan.

Table-2

Pakistan's Stance on Different Regimes

<u>Treaty/Accord</u>	<u>Pakistan's Stance</u>
<i>BWC – signed in 1974</i>	<ul style="list-style-type: none"> ✚ Pakistan is party to the BWC <ul style="list-style-type: none"> ○ Consistently endeavouring to meet all the existing obligations ○ No mechanism in BWC to verify compliance by the state parties
<i>CWC - signed in 1997</i>	<ul style="list-style-type: none"> ✚ Pakistan is party to the CWC <ul style="list-style-type: none"> • Determined to remain a non-chemicals possessor state • Possesses National Authority on CWC in Foreign Office
<i>1967 Outer Space Treaty (OST- signed in 1968) & the PAROS</i>	<ul style="list-style-type: none"> ✚ Pakistan is party to the 1967 Outer Space Treaty (OST) <ul style="list-style-type: none"> ○ Opposed to weaponization of space under the Prevention of an Arms Race in Outer Space (PAROS) ○ OST is against the deployment of WMD
<i>CTBT</i>	<ul style="list-style-type: none"> ✚ Not opposed to the objectives of the Treaty <ul style="list-style-type: none"> ▪ <i>Pakistan was not the first to test</i> ▪ <i>Pakistan shall not be the first one to resume testing</i>
<i>FMCT</i>	<ul style="list-style-type: none"> ✚ Pakistan is prepared to get into negotiations <ul style="list-style-type: none"> ○ Provided regime was non-discriminatory, verifiable, multilateral & universal
<i>Partial Test Ban Treaty – PTBT - signed in 1988</i>	<ul style="list-style-type: none"> ✚ Pakistan is party to the PTBT of 1963 <ul style="list-style-type: none"> ○ Adheres to non-testing of nuclear weapons in the outer space
<i>2006 Indo-US Nuclear Agreement</i>	<ul style="list-style-type: none"> ✚ Agreement tend to destabilise S. Asian nuclear balance <ul style="list-style-type: none"> • NSG India-specific exception would erode non-proliferation ideals/regimes • Augment Indian nuclear weapons capabilities

Concluding Remarks

The foregoing efforts are reflective of Pakistan's commitment to uphold the international non-proliferation ideals. Unfortunately, 'Dr. A Q Khan Network,' though an individual act that had no connection whatsoever with the direct or an indirect complicity of the state; had seriously undermined

Pakistan's image and standing.²⁶ It would be imperative to clarify a basic fact that, "AQ Khan and his network did not have access to the entirety of a nuclear weapons" plan of Pakistan and, had cleverly "managed to build himself up into Albert Einstein and J. Robert Oppenheimer rolled into one."²⁷ Therefore, a misperception that AQ Khan had allegedly sold the entire bomb-related technologies, materials along with the relevant expertise, is out of step with the ground realities. Therefore, a distinction should be made when discussing the illicit trafficking of sensitive technologies and materials by some individuals, or by the non-state actors in clear contravention to their states' outlined policies and the laid-down procedures. For an individual act, or a crime, the entire state's credibility and its non-proliferation credentials, rationally speaking, cannot be questioned or undermined.²⁸

²⁶ According to US Ambassador to Pakistan, Ryan C. Crocker, "We have full confidence in the mechanism and the safeguards" instituted by the Government of Pakistan. "No one has the full story and it is not for Pakistan to get to the bottom. The matter is in their hands.... Ongoing proliferation is now closed;" see, 'Ongoing Proliferation issue closed: Crocker,' *Daily Times* (Islamabad), 4 October 2006. Describing AQ Khan's individual proliferation activities, President Musharraf writes that: "Funds were placed at A.Q.'s disposal, no audits were carried out, and security was left to A.Q. himself.... On the basis of the thorough probe that we conducted in 2003-2004, and on the basis of the information that has since been collected (and fully and truthfully shared with the IAEA and international intelligence agencies), I can say with confidence that neither the Pakistan Army nor any of the past governments of Pakistan was ever involved or had any knowledge of A.Q.'s proliferation activities. He simply lost sight of the national interest that he had done so much to protect;" see Pervez Musharraf, op. cit., pp. 285 and 292.

²⁷ According to Christopher O. Clary, Khan "provided used centrifuge parts to Iran, North Korea, and Libya. With regard to Iran, he provided significant quantities of disassembled centrifuges," see Christopher O. Clary, op. cit., p. 87. In this context, Alexander H. Montgomery writes, "Although AQ Khan supplied both plans and parts, it appears that without the tacit knowledge required to produce nuclear weapons, the successful development of a nuclear capability requires much trial and error.... The parts that Iran brought on the black market for its centrifuges (outside the AQ Khan network) were of highly variable quality; neither the sellers nor the Iranians knew how to judge their quality;" see Alexander H. Montgomery, op. cit., p. 177. President Musharraf has commented on the role of AQ Khan in Pakistan's nuclear weapons programme by stating that: "The truth is that he was just a metallurgist, responsible for only one link in the complex chain of nuclear development. But he had managed to build himself up into Albert Einstein and J. Robert Oppenheimer rolled into one;" see Pervez Musharraf, op. cit., p. 292.

²⁸ President Musharraf stated that the scientists involved in the proliferation scam were the "enemies of the state," see, Peter Lavoy and Feroz Hassan Khan, op. cit., p. 2.