

## Creating a Nuclear Security Framework Convention

Chang-Hoon Shin

Good afternoon. I am Chang-Hoon Shin from the Asan Institute for Policy Studies, an independent think-tank based in Seoul, the Republic of Korea. Today, I am mandated to address the topic of a nuclear security framework convention. My talk will be why we need the framework convention and what elements should be included in the Framework Convention. Before getting to the points, I want to clarify that the option of a framework convention is one of the long-term options that should be explored for establishing a robust and sustainable nuclear security regime.

With regard to the necessity for the framework convention, let me first say that the current international framework for nuclear security is too fragmented, being composed of a piece-meal mixture of hard laws and soft laws. No comprehensive treaty has been elaborated with regard to nuclear security.

Let us examine nuclear safeguards and nuclear safety. They are regulated by comprehensive and legally binding international treaties such as NPT and the Convention on Nuclear Safety. However, nuclear security does not have such a comprehensive international treaty mechanism.

With regard to nuclear safeguards, international obligations are imposed upon States, but it is well known that the responsibility for nuclear safety solely rests with individual sovereign States. Nonetheless, our international community has agreed to have the Convention on Nuclear Safety concluded under the auspices of the IAEA. In other words, on the issue of nuclear safety, while reaffirming the responsibility of individual sovereign States, the international community has also gone beyond individual state's responsibility by concluding a comprehensive international treaty. The responsibility for nuclear security also rests with individual sovereign States, like the responsibility for nuclear safety, but why should we be satisfied with a collection of fragmented norms and standards, and why should we remain satisfied with the patchwork approach without any comprehensive international treaty?

The patchwork approach to nuclear security should be ameliorated. However in what format or solution can it be ameliorated? I don't think that the appropriate format or solution is to move forward just with voluntary measures as those contained in the Nuclear Security Summit process. We should begin with more aggressive voluntary actions but it must also evolve beyond voluntary commitments and standards, if we eager to establish sustainable nuclear security after the summit process.

I want to argue that we need a framework convention, if we eager to achieve sustainable nuclear security regime after the summit process.

Due to the Washington and the Seoul Nuclear Security Summits, the issue of nuclear security has gained wide-spread public attention as well as attention at the highest political levels. Without mentioning cooperation at the intergovernmental level, expert networks engaged in cooperation and operating with a global scope have emerged in civil society as well. Since nuclear security is

a global issue or concern that transgresses national boundaries, it is difficult to regulate through traditional international law. National laws arising from the traditional concept of the responsibility of individual sovereign states seem insufficient due to the transnational nature of nuclear security.

So far, we have witnessed particularly in the field of trade, environment, human rights, and crime prevention that networks of cooperation have been evolving and have led to the adoption of norms and rules among like-minded States. They have also adopted forms of behaviour or comprehensive solutions in order to coordinate or harmonize national or regional laws and regulations. Getting back to the current nuclear security architecture or governance, we have been concerned about the patchwork approach, I mean, the fragmentation of relevant rules and regulations. For example, let me put a simple question as a disadvantage of the fragmented international rules and regulations. They do not have any clear relationship to each other and the parties to the relevant international treaties are different. As a result, one may argue that the only way to reach harmonization of national implementation laws among the States is the universal ratification of all the relevant international treaties. Given the fact that we have over ten international treaties relevant to nuclear security, do you think this will be accomplished in a real world?

There must be a certain umbrella or framework approach that helps consolidate and formalize the current patchwork approach into a comprehensive nuclear security regime that is based on the obligations and actions contained in the relevant legally binding international instruments.

The Washington and the Seoul communiqués, the products of the two nuclear security summits, encourage universal ratification of the Convention on the Physical Protection of Nuclear Material (CPPNM) and its amendment and the International Convention for the Suppression of Acts of Nuclear Terrorism. As you know, since the CPPNM amendment has not yet entered into force, the Seoul communique requested states to accelerate their domestic approval of the 2005 Amendment to the CPPNM, seeking to bring the Amendment into force by 2014.

Some may say that a Framework Convention could get in the way of states ratifying the amendment. I also agree that the amendment is very crucial for the goals of nuclear security. However, we should bear in mind that it is also one of the components of our nuclear security architecture or governance. It cannot be a panacea for global nuclear security architecture or governance, especially when looking into the way it is being implemented – no sufficient ratification of the amendment and non-use of some of the convention's mechanisms for example for information sharing and regular meetings of the parties.

The FC will be open for signature by all the States in our international community. This will be a requisite for making our global nuclear security governance sustainable, because this may overcome the lack of universal participation of States, irrespective of whether they have been invited to the NSS or not, irrespective of whether they have nuclear fissile materials or not, irrespective of whether they have nuclear weapons or not.

The objective of the FC is clear and simple. It will provide for regular peer review mechanisms for enhancing transparency in nuclear security. This objective is not an obstacle to the universal

ratification of the CPPNM/A. It is an enhancement to the amendment. The FC is not a mere collection of all the obligations contained in the fragmented relevant international legal instruments and this will not be possible in practice. Instead, the FC will provide for a forum to convene the parties for peer reviewing their situation and progress of their national nuclear security regime. The FC will provide the parties with a regularized forum for discussing the issue of nuclear security and deciding what to do for nuclear security.

We, some of the members of the NSGEG, have been engaged in drafting the Framework Convention as a brainstorming exercise. The major focus is not on creating a new obligation but on how to regularize a peer review mechanism to strengthen transparency in nuclear security without prejudice to sovereign State's individual rights and responsibilities in this area.

In addition, we, the colleagues involved in the drafting process, are thinking of the following elements as well.

First, we are thinking of building capacity, so that all the State Parties establish effective national nuclear security implementation regimes;

Second, setting priorities in international assistance, so that international assistance may be streamlined to the States in need of financial and technical assistance;

Third, engaging stakeholders so as to facilitate cooperation with each other, enabling a wide variety of States and non-State actors to bring to bear their resources and expertise for our shared goals in nuclear security;

Since the Nuclear Security Summit is a process that is comprised of various voluntary commitments, no obligatory measures or actions can be expected to emerge. However, if the Hague summit ends up with a formal recognition of the exploration of the need for a FC with the goal of entry into force by 2020, this will definitely be conducive to achieving a sustainable mechanism for nuclear security without losing the political momentum generated by the Summit process.

Thank you so much indeed for your attention.