

THREATS AND CHALLENGES IN INTERNATIONAL PUBLIC LAW: A WORLD WITHOUT ARMS LIMITATION TREATIES

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The international arms control regimes are not experiencing a very good period nowadays, which makes international community to think about promising ways to preserve this element of the structure of international security. What could be the world without such treaties?

There are several huge challenges arose in 2019 regarding the international security:

- the Treaty on Intermediate-Range and Shorter-Range Nuclear Forces is moving at full speed to its end
- the prospects for measures for the further reduce and limit of strategic offensive arms (START-III) are shrouded in mist
- there is virtually no positive agenda for the next Review Conference on the Non-Proliferation of Nuclear Weapons Treaty.

Moreover the issues of the militarization of outer space are not solved in any way, which obviously leads to the development of anti-satellite systems. New subspecies of strategic armaments appeared, suitable for use in both nuclear and conventional combat equipment. All this is combined with the rapid development of rocket (and anti-rocket) technologies by various countries, and is also further enhanced by building up the potential of "non-kinetic" effects (including using cyber-weapons) on fire and control systems.

In the future, the world's military-political situation is moving towards over-saturation of certain regions of the planet with mutually intersecting "layers" of offensive and defensive potentials. The risks of an accidental escalation, an incorrect assessment of the intentions of the enemy are growing. A serious threat is the possibility of perceiving certain demonstrative actions (for example, hacking into networks of research organizations allegedly associated with the intelligence community, or promises of their fighters in enemy airspace), regardless of their reality, as preparation for a massive attack.

In such a situation, the value of limitations and transparency in the field of armaments (primarily strategic, but the definition of such is very different for various regions and groups of countries) seems to be very significant.

Arms control allows countries to avoid unnecessary expenses, get a better idea of the possibilities of potential adversaries, and just talk to counterparties using more or less common terminology.

Unilateral solutions

However, today it is difficult to talk about the prospects for concluding new legally binding treaties, especially multilateral ones. Thus, the only way is the creation of a certain architecture of unilateral political commitments, ideally including specific confidence-building measures, which provide partners with an understanding of the reality and authenticity of self-restraints being undertaken.

The most striking step in this direction could be further detailing, and ideally, codification of measures to “not deploy the first” medium- and short-range missiles in certain regions of the world, promulgated by Vladimir Putin on February 2, 2019. This initiative is complicated by the fact that many states believe that Russia has already deployed such a missile - in the form of rocket 9M729, the characteristics of which, according to the United States and its allies, violate the provisions of the Intermediate-Range Nuclear Forces Treaty. It's fair to highlight that one of the ways to resolve this contradiction would be to shift the focus from the rocket, according to the characteristics of which consensus is hardly possible, to a launcher - theoretically capable of launching other products that really have a large fuel tank and are able to “fly away” for two seconds more than a thousand kilometers. Thus, a certain symmetry can be built up with the situation around the ground “cells” of the Aegis Ashore anti-missile defense complex: no one seems to be loading and are not planning to load the missiles actually violating the Intermediate-Range Nuclear Forces Treaty, but the parties are ready to take into account the concerns of the international community regarding potential threats.

This accounting can take the form of some geographic and verifiable (for example, in the format of inspection flights under the Open Skies Treaty) restrictions on the deployment of new “humpback” launchers in the Iskander-M Army Tactical Missile System in exchange for confidence-building measures and transparency in monitoring “Content” launchers Aegis Ashore.

In the context of the START III treaty (Strategic Arms Reduction Treaty), in the event of its non-renewal and the lack of prospects for the prompt conclusion of his “heir”, some “governmental written political commitments” could be the way forward. There is a presumably agreement in principle on the controversial issues already existing with regard to arms reduction in accordance with this treaty from the Russian side. If in this way unilaterally to codify the preservation of at least some of the provisions of START III (Strategic Arms Reduction Treaty), the negative consequences of its termination would be minimized.

Force disarmament

At the same time, the issue of security in the absence of universal regimes deserves special attention. Of course, the existence of valid legally binding agreements in the field of arms control regimes does not guarantee the absence of threats. Within the framework of military construction, as a rule, "hedging of risks" is applied in case of the withdrawal of counterparties from agreements or the unpredictable development of the international military-political situation leading to the appearance of new threats. However, in the case of unilateral political commitments, it makes sense to immediately voice and readiness for unilateral coercive measures - first of all with regard to third countries that are not bound by restrictions and who obviously want to get an advantage through this.

An example of such an approach may, with some stretch, be Israeli actions regarding the emergence of potentially threatening ballistic missiles in Syria, and the most striking episode of "forceful non-proliferation" also took place with the participation of these powers in 2007, when Israeli aircraft destroyed the nuclear reactor under construction. Today in the world, for example, Ukraine's desire to obtain medium-range missiles that could threaten Russian cities may well lead to the need for a preventive limitation of rocket technologies by attacking the appropriate development and production infrastructure.

It is possible that in the event of the final failure of the American-North Korean dialogue, forceful disarmament will return to the agenda in Northeast Asia.

Bridge to the future

Thus, a combination of one-sided (and mutual!) Restraint and readiness for one-sided actions to maintain regional stability can serve as a useful "bridge" to the formation of more universal, comprehensive and multilateral arms control regimes. At the same time, it is possible that in the context of increasingly frequent political crises, including in seemingly established democratic states, this path may turn out to be quite long. At least in the case of the United States, where the party confrontation (multiplied by the lobbying of the military-industrial complex) is one of the main obstacles to the promotion of legally binding agreements in the field of arms control regime.

At the same time, this article does not call for the complete replacement (and cancellation) of working mechanisms: the Vienna Document, the Open Skies Treaty, various formats within the OSCE and other regimes (of different legal force) should continue to be respected and used.

This is primarily about creating a kind of "crutches" for the period of the crisis in relations between Russia and the USA (obvious leaders and trendsetters in the field of arms control regime) and the unpreparedness of other nuclear powers for serious legally binding steps. Moreover, with regard to the latter (first of all, China), it seems that unilateral initiatives seem to be the only currently acceptable

option for the gradual inclusion of new players in the process of control and restrictions on various classes of weapons.

List of sources used

1. Ministry of External Affairs of Russian Federation: On Russian assessments of the US State Department report on compliance with agreements and commitments in the field of arms control, non-proliferation and disarmament (April 24, 2018) [online] Available at: http://www.mid.ru/foreign_policy/news/-/asset_publisher/cKNonkJE02Bw/content/id/3192916 (Accessed: March 26, 2019)
2. Mayor's office of Magadan City: The basis of our policy should be an ideology, in the center of which is a person [online] Available at: http://www.magadan.ru/pressa/4792-osnovu_nashejj_politiki_dolzhna_sostavit_ideologija_v_centre_kotoroj_chelo vek.html (Accessed: March 26, 2019)
3. Unilateral control: a world without arms limitation treaties (March 18, 2019) [online] Available at: <https://iz.ru/856861/dmitrii-stefanovich/odnostoronnnii-kontrol-mir-bez-dogovorov-ob-ogranichenii-vooruzhenii> (Accessed: March 26, 2019)