

1999 NPT PrepCom: Keys to success

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For the health of the international non-proliferation regime, it is vital that the 1999 Preparatory Committee (PrepCom) lay the groundwork for a successful 2000 NPT Review Conference. To be successful, the Review Conference must “look forward as well as back”.¹ Given the outcome of the 1995 NPT Review and Extension Conference, the most logical and strengthening outcome is for the 2000 Conference to generate two documents:

1. A 2000 “Principles and Objectives for Nuclear Non-Proliferation and Disarmament,” to set goals for next steps in nuclear non-proliferation and arms control, including a detailed “program of action” for nuclear disarmament.
2. A review of the past five years of implementation of the Treaty and of the 1995 “Principles and Objectives for Nuclear Non-Proliferation and Disarmament.”²

To reach agreement on these documents, the 1999 PrepCom must reach consensus on the operating procedures, purpose and goals of the new review process. The 1998 PrepCom broke down because of the lack of agreement on these issues.

Specifically, states parties must agree on the significance and meaning of the 1995 agreements on “Strengthening the Review Process” and “Principles and Objectives.” Principally, this will require the nuclear-weapon states to endorse some of the possibilities inherent in the 1995 decisions. Equally important, outside the PrepCom, the nuclear-weapon states, in particular Russia and the United States, must demonstrate further progress in nuclear disarmament.

One of the challenges facing the new review process is the lack of political investment in it, particularly from the nuclear-weapon states. To remedy this, states parties should raise the profile of the 2000 Review Conference by opening it with a session at the foreign minister level and closing it with one for heads of state. The 1999 PrepCom should begin preparations for this step.

A Brief History of the NPT

The Treaty on the Non-Proliferation of Nuclear Weapons, commonly known as the Non-Proliferation Treaty, or NPT, has more states parties, at 187, than any other international treaty. Only Cuba, India, Israel, and Pakistan remain outside the Treaty. Under the NPT, the five countries that conducted nuclear tests before 1 January 1967 are declared nuclear-weapon states.³ Every other state that joined the NPT committed to never acquire or manufacture nuclear weapons. In return, those states received two commitments: access to the peaceful uses of nuclear technology, and the pursuit by all parties of “negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament ...”⁴

The NPT includes a provision that required, 25 years after its entry into force, a conference to determine the fate of the Treaty: whether to extend it temporarily, make it permanent, or end it entirely. Thus, the NPT Review and Extension Conference was held in 1995 at the United Nations in New York. At that conference, states parties agreed a package of three decisions simultaneously and without a vote:

- “Strengthening the Review Process for the Treaty” created a new, more substantive review process for the Treaty.
- “Principles and Objectives for Nuclear Non-Proliferation and Disarmament” set out a program of action for full implementation of the NPT.
- “Extension of the Treaty on the Non-Proliferation of Nuclear Weapons” made the Treaty permanent.⁵

Immediately thereafter, states parties agreed a fourth document without a vote:

- “Resolution on the Middle East” called for a nuclear-weapon-free zone in the region.⁶

Each of these inextricably linked agreements was critical to the success of the 1995 Conference. While only the decision to make the Treaty permanent is a legal commitment,

the other agreements are politically binding on all states parties. UN Under-Secretary Jayantha Dhanapala, who was President of the 1995 Conference, frequently describes the decision on extension as indefinite and conditional. If the agreements on “Strengthening the Review Process” and “Principles and Objectives” are unfulfilled, the entire decision could unravel.

The New Review Process

“Strengthening the Review Process” mandates a new review process for the NPT. It specifies that the Review Conferences originally outlined in the NPT will continue to be held every five years, with the next one in 2000. However, the agreement strengthens and expands the roles of both the Review Conferences and PrepComs.

The original purpose of Review Conferences was to review the operation of the NPT with a view to assuring that the purposes of the Preamble and the provisions of the Treaty were being realized.⁷ That purpose was expanded in “Strengthening the Review Process:”

...Review Conferences should look forward as well as back. They should evaluate the results of the period they are reviewing, including the implementation of undertakings of the States parties under the Treaty, and identify the areas in which, and the means through which, further progress should be sought in the future. Review Conferences should also address specifically what might be done to strengthen the implementation of the Treaty and to achieve its universality.⁸

The only precedent for Review Conferences looking forward is the 1995 “Principles and Objectives” agreement. Thus, it follows that the 2000 Review Conference should adopt a similar document.

In “Strengthening the Review Process,” PrepComs were assigned the task of considering “principles, objectives and ways in order to promote the full implementation of the Treaty, as well as its universality, and to make recommendations thereon to the Review Conference.”⁹ The 1995 “Principles and Objectives” was specifically included as a topic for PrepComs to consider. Furthermore, the preamble of “Principles and Objectives” states that its contents should be evaluated periodically within the review process.

Progress to Date

The new review process is in jeopardy. After a reasonable start at the 1997 PrepCom, the 1998 PrepCom failed almost across the board. States parties clearly did not share a common understanding of the purpose and goals of the new process. Several countries, in particular Canada and South Africa, put forth proposals for new initiatives for PrepComs, only to have them rejected by one or more of the nuclear-weapons states. The PrepCom broke down over a dispute between the United States and Arab countries, led by Egypt, over the significance of and place for the 1995 resolution on the Middle East. However, even without this failure, little substantive progress would have been achieved at the PrepCom because of the lack of basic agreement on goals.

The Need for a New “Principles and Objectives”

In 1995, states parties to the NPT achieved a harmonious outcome by carefully crafting an agreement that the vast majority felt strengthened the entire non-proliferation regime. The components were intended to increase opportunities to hold the nuclear-weapon states accountable for their commitments under the Treaty, through the strengthened review

process, and to establish a set of yardsticks to measure progress, through the “Principles and Objectives.”

Explicitly stated in those agreements was the need for continued forward-looking initiatives. As described above, both “Strengthening the Review Process” and “Principles and Objectives” mandate efforts to agree ways and means to promote the full implementation of the Treaty. Without these components, the 1995 extension decision loses its political integrity. If an agreement is not made in 2000 on a new “Principles and Objectives,” the majority of states parties will be forced to consider what benefits they obtained in the bargain on extension. The NPT, and the non-proliferation regime as a whole, will be in question.

Ambassador Mark Moher, Canada’s permanent representative to the Conference on Disarmament, made this point clearly:

There are some very significant challenges in front of this regime. I do not think anyone should ever operate on the assumption that a treaty is above question. As long as people see a reasonable return on their investment, they will continue to participate. If they perceive that the Treaty is not living up to their expectations, they may reconsider.¹⁰

“Principles and Objectives” Before Treaty Review

To strengthen the non-proliferation regime, it is more important to try to get consensus on appropriate next steps – the forward-looking elements of the Review Conference – than on the review document. Efforts should be made to produce a review document, but the history of this endeavor – where three out of five Review Conferences have failed to reach agreement – does not engender confidence. The 1985 final document, which was agreed only by including a variety of often divergent viewpoints, may be a model for the 2000 Review Conference. Beyond this type of agreement, however, more time would be spent seeking consensus than the effort would reward. In this light, the goals of the PrepCom and the Review Conference are clear. States parties should prioritize an agreement on a forward-looking 2000 “Principles and Objectives” document.

“Yardsticks” for the 2000 Principles and Objectives

What goals should be established in the 2000 “Principles and Objectives”? The 1995 “Principles and Objectives” established the precedent, and is a useful benchmark to begin outlining a 2000 version. In the eyes of many, it was meant as a “living document” that could be continuously updated. However, given the lack of progress in the PrepComs, the focus should shift toward creating a new document for 2000. This allows the 1995 version to stand as an example and create the model in which all future review conferences produce a new “Principles and Objectives” document.

The 1995 document is divided into seven sections and twenty points. Sections on non-proliferation, nuclear-weapon-free zones, and peaceful uses of nuclear energy can remain largely unchanged. The language on safeguards should be updated to encourage all states to agree to the new model protocol with the International Atomic Energy Agency. The section on security assurances could now include reference to the 1998 establishment of an ad hoc committee on negative security assurances in Geneva.¹¹

The section on universality may require updating. The nuclear tests in South Asia place a profound challenge before the non-proliferation regime, and the implications have not yet been fully realized. It may even be appropriate for the Review Conference to issue a resolution on this issue.

The reference to the Middle East will also be a focal point of tension, as the debate over

the 1995 Middle East resolution will certainly continue. Before the PrepCom, Egypt and the United States – the two parties most concerned – should make every effort to find a resolution to this issue. The Chair of the 1999 PrepCom has an important role to play in facilitating such a solution.

However, it is the commitments on nuclear disarmament that attract the most interest and controversy, and it is this section that will be the focus of debate at the 1999 PrepCom and the 2000 Review Conference. The 1995 document called for a “program of action” that included:

- completion of a Comprehensive Nuclear Test-Ban Treaty (CTBT) by 1996;
- agreement on a convention banning the production of fissile materials (a fissile material cut-off treaty, or FMCT); and
- “The determined pursuit by the nuclear-weapon states of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons, and by all states of general and complete disarmament under strict and effective international control.”¹²

This agenda has had mixed success. The greatest achievement was the 1996 agreement on the CTBT and its opening for signature. This is an important milestone in global disarmament efforts. However, the Treaty is a long way from entering into force. Negotiations on the FMCT began at the Conference on Disarmament in 1998, but have not yet resumed in 1999.

Updates to these two items are straightforward. They would include a call for rapid ratification and entry-into-force of the CTBT, and a call for resumption and conclusion of negotiations on the FMCT. One valuable suggestion would set a timeframe for conclusion of the FMCT, in the same fashion that the 1995 “Principles and Objectives” set one for the CTBT.

Disappointingly, however, there is little if any evidence of “systematic and progressive efforts” to reduce nuclear weapons globally. The US-Russian process is stalled, with few prospects for improvement. To redress this failure, an effort should be made at the 1999 PrepCom to outline more specifically steps that can be taken to reduce nuclear arsenals, to distill the “systematic and progressive efforts”. These steps would then be submitted to the 2000 Review Conference.

The work of the New Agenda Coalition, culminating to date in the UN General Assembly Resolution 53/77Y, provides a well-thought out and broadly supported set of disarmament initiatives. Among non-nuclear NATO states, only Turkey voted against it, despite the adamant opposition of the France, the United Kingdom, and the United States to the resolution.

Resolution 53/77Y called on the nuclear-weapon states to take the following disarmament measures, among others:

- reduce reliance on non-strategic nuclear weapons and pursue “negotiations on their elimination as an integral part of their overall nuclear disarmament activities”;
- de-alert nuclear weapons and remove nuclear warheads from delivery vehicles; and
- integrate seamlessly all five Nuclear-Weapon States into the process leading to the total elimination of nuclear weapons.¹³

Each of these steps would significantly advance nuclear disarmament, reduce the current reliance on nuclear weapons in security policy, and strengthen the international non-proliferation regime.

Another useful step would be to remove the word “ultimate” from the goal of eliminating nuclear weapons. This step has been opposed by the nuclear-weapons states, who continue to proclaim the need for nuclear arsenals for the foreseeable future.¹⁴ However, the 1996 advisory opinion of the International Court of Justice, which found that the NPT commitments include one to “bring to a conclusion” negotiations on nuclear disarmament makes the case for dropping the word “ultimate.”¹⁵

Steps at the 1999 PrepCom

It will be difficult to get agreement on the above principles, and most likely impossible to do so at the 1999 PrepCom. The lack of common understanding about the goals and procedures of the new review process makes any agreement arduous. At the 1998 PrepCom, the nuclear-weapon states blocked a variety of proposals put forth by states such as Canada and South Africa. At the same time, there has not been a clear consensus among non-nuclear weapon states either, leading to a lack of focus in the PrepCom as a whole.

Thus, the 1999 PrepCom should begin discussions on substantive recommendations to the 2000 Review Conference. However, it is more important to get states parties in agreement on the expected outcome of the 2000 Review Conference. The case for a new "Principles and Objectives" is very strong, but if there is not agreement on this, the review process may founder as proposals and counter-proposals wind through the new "substantive" debate.

Increasing the level of political investment in the new review process would also expand opportunities for success. At the PrepCom, states parties should begin discussions on opening the 2000 Review Conference with a foreign ministerial session and closing with a heads of state event.

Beyond the PrepCom

To set the stage for a successful Review Conference, more is required than an auspicious PrepCom. There must be additional substantive progress on nuclear disarmament. Ambassador Thomas Graham, US Special Representative of the President for Arms Control, Non-Proliferation, and Disarmament from 1994-1997, has made this point explicitly:

I believe that the NPT regime will be in grave jeopardy if significant progress is not made toward the Article VI disarmament obligations by the five nuclear weapon states parties by the 2000 Review Conference.¹⁶

Unfortunately, at present there are few signs of progress, particularly in the bilateral US-Russian process. A vote on ratification of START II has been repeatedly postponed in Russia's Duma, twice in response to either US or NATO military action, in Iraq and Kosovo. Treaty supporters now lack confidence that START II will ever be ratified in Russia. Even if it is, it must return to a hostile US Senate for additional votes on protocols on the ABM Treaty and demarcation limits.

Thus, the nuclear disarmament process is stalled at best, and failing in real terms since 1995.¹⁷ The one multilateral success has been the signing of the Comprehensive Nuclear Test Ban Treaty (CTBT). However, because of the onerous entry-into-force requirements demanded by several nuclear-weapon states, the CTBT faces a long struggle before it can take full effect.¹⁸

To overcome this impasse, the nuclear-weapon states should undertake any or all of a range of proposals to advance nuclear disarmament outside the bilateral US-Russian process. Leading proposals include the following:

1. Commit to and take programmatic action towards the elimination of nuclear weapons;
2. Reduce the alert status of nuclear weapons;
3. End the deployment of non-strategic nuclear weapons;
4. Declare a "no-first-use" policy similar to that of China; and
5. Begin multilateral talks on nuclear disarmament in one or more forums.

Each of these steps, except disarmament talks, could be taken by one or more nuclear-weapon states, either unilaterally or together. Several recent studies have argued persuasively for these steps, from the report of the Canberra Commission on

the Elimination of Nuclear Weapons to the US National Academy of Sciences report. Governmental support for these steps has grown, from the New Agenda Coalition of European and non-aligned states to non-nuclear NATO members. According to official sources, the UK is already proposing informal talks on nuclear disarmament among the five, but is meeting opposition from the others.

If no progress develops on any of these steps before the 2000 Review Conference, there is a real danger that international confidence in the NPT will begin to erode.

NATO and the NPT

At its upcoming Summit in Washington, NATO is expected to approve a revised Strategic Concept – the Alliance’s mission statement. In recent months, a public debate over the nuclear aspects of the Concept developed, led by Germany and Canada. However, most observers now expect only modest changes, if any, in NATO’s nuclear doctrine. Instead, at the Summit, NATO will agree to undertake a discussion on this issue over the following months. It is unclear, however, what form this discussion will take, how public it will be, and what mandate it will have.

Other NPT parties will closely observe any changes – or lack thereof – in the Alliance’s nuclear doctrine. At the April 1998 NPT PrepCom, the 113 member states of the Non-Aligned Movement (NAM) recommended that all nations should “refrain from, among themselves, with non-nuclear weapons states, and with States not party to the Treaty, nuclear sharing for military purposes under any kind of security arrangements.”¹⁹ NATO doctrine is the only current instance of nuclear sharing. Based on this NAM position, and debates raised in 1995 and 1997 NPT forums, it is clear that there is no common understanding among Treaty parties on the legality of NATO nuclear sharing under the NPT.

Thus, NATO nuclear doctrine will almost certainly be raised at the 1999 PrepCom. If NATO does not address this issue, either at its Summit or the PrepCom, it may become a controversy at the 2000 Review Conference. To address this, NATO has two options: either begin discussions with NPT parties to clarify the legality of the nuclear sharing arrangements, or end the arrangements, thus closing out any disagreement. (For a detailed discussion on this issue, see the forthcoming BASIC / BITS / CESD paper on NATO nuclear sharing and the NPT.)

Conclusion

The fate of the non-proliferation regime is at stake. When the NPT was being negotiated in the late 1960s, many states were concerned that 20 or more nuclear-weapon states might appear within a decade. The NPT has been enormously successful at restraining that trend. The bargain made in 1995 sought to reinforce that pattern. If the bargain collapses, the non-proliferation regime itself will be threatened.

To avoid that fate, the 1999 PrepCom should focus on agreeing the mandate and the goals for the 2000 Review Conference. If this does not take place, then the “substantive” debate that has transpired at the first two PrepComs will be entirely wasted. The three decisions at the 1995 NPT Review and Extension Conference created the opportunity for a stronger Treaty and for concrete progress in advancing nuclear disarmament. This opportunity must not be wasted.

Endnotes

- 11995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document: Part I – Organization and Work of the Conference, Decision 1, “Strengthening the Review Process for the Treaty,” (United Nations, New York: 1995), Annex, p. 8
- 2Ibid., Decision 2, “Principles and Objectives for Nuclear Non-Proliferation and Disarmament,” Annex, pp. 9-12.
- 3The five are China, France, Russia, the United Kingdom, and the United States.
- 4”The Treaty on the Non-Proliferation of Nuclear Weapons,” Treaty Series, Vol. 729 (United Nations, New York).
- 51995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document: Part I – Organization and Work of the Conference, Decision 3, “Extension of the Treaty on the Non-Proliferation of Nuclear Weapons,” Annex, pp. 12-13.
- 6Ibid., “Resolution on the Middle East,” Annex, pp. 13-14.
- 7Op. Cit., “The Treaty on the Non-Proliferation of Nuclear Weapons,” Article VIII, para 3.
- 8Op. Cit., Strengthening the Review Process.
- 9Ibid., para 4.
- 10Interview with the author, 15 February 1999.
- 11To date, the Conference on Disarmament has not been able to agree its program of work, and thus has not resumed this work in 1999.
- 12Op. Cit., “Principles and Objectives”, para 4c.
- 13”Towards a Nuclear Weapon Free World: The Need for a New Agenda,” U.N Resolution 53/77Y, adopted 3 December 1998.
- 14For example, “While large nuclear arsenals and risks of proliferation remain, our minimum deterrent remains a necessary element of our security.” From “The Strategic Defense Review,” UK Secretary of State for Defence, July 1998, Cm 3999, London, p. 17.
- 15International Court of Justice, Advisory Opinion, “Legality of the Threat or Use of Nuclear Weapons,” 8 July 1996.
- 16Letter from Ambassador Thomas Graham, Jr., to NATO Heads of Government, 2 November 1998.
- 17This overlooks the modest cuts in nuclear arsenals made by France and the United Kingdom since 1995. While praiseworthy, these reductions are dwarfed by the remaining US and Russian arsenals.
- 18The entry-into-force condition for the CTBT requires the ratification of 44 named countries – all those that have nuclear reactors on their territory. To date, India, Pakistan and North Korea have not even signed the Treaty, although the South Asian pair has pledged to ratify it this fall.
- 19”Working Paper Presented by the Members of the Movement of Non-Aligned Countries Parties to the Treaty to the 2nd PrepCom for the NPT Review Conference 2000,” Geneva, 28 April 1998.
- This BASIC Paper was written by Stephen Young, Senior Analyst.
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- Additional Readings**
- ”The 1999 NPT Prepcom,” by Tariq Rauf and John Simpson, in *The NonProliferation Review*, Winter 1999, Center for Nonproliferation Studies, Monterey Institute of International Studies.
- ”Use 1999 To Rescue the NPT Review Process” by Rebecca Johnson, in *Disarmament Diplomacy*, Issue No 33, Dec. 98/Jan. 99, Acronym Institute.