

SUMMARY REPORT OF THE SEMINAR BRIEFING

“THE 1999 NPT PREP COM: TOWARDS THE 2000 REVIEW CONFERENCE” 24 MARCH 1999 - HOTEL PRÉSIDENT WILSON, GENEVA

The following is a summary of the seminar briefing organised by the Centre for European Security and Disarmament, in co-operation with the Quaker United Nations Office and the Berlin Information-center for Transatlantic Security. The document provided is a general synopsis of the session and does not represent an exhaustive description of the seminar content.

Speakers
<p>‘The role of the nuclear-weapon states in the NPT review process’ <i>Camille Grand, Lecturer, Institut d’Etudes Politiques de Paris and Ecole Spéciale militaire de St Cyr, France</i></p>
<p>‘Possible outcomes for the 1999 and 2000 NPT sessions’ <i>Darach MacFhionnbhairr, Head of Disarmament and Nonproliferation, Department of Foreign Affairs, Dublin</i></p>
<p>‘The Middle East resolution and the review process’ <i>Tariq Rauf, Director of the International Organizations and Nonproliferation Project (IONP) at the Centre for Non-Proliferation Studies, Monterey Institute of International Studies, California</i></p>
Chair
<p>‘NPT Overview 1995-1998’, Introduction <i>Rebecca Johnson, Director, Acronym Institute, London</i></p>

Introduction

With the third Preparatory Committee of the nuclear Non-Proliferation Treaty (NPT) approaching rapidly, this third annual seminar on the NPT and its new review process attempted to address some of the challenging topics facing the 1999 session, gave a brief analysis of events since 1995 and suggested possible avenues for future action. The three topics highlighted were: possible outcomes for 1999 and 2000; the Middle East resolution and the role of the NWS in the NPT process. Speakers attempted to clarify this topics, identify some areas for future discussion and where possible, make recommendations for action.

SHARON RIGGLE (*Centre for European Security and Disarmament*)

Welcome to event and introduction of seminar concept, and the chair and speakers.

REBECCA JOHNSON (Chair)

Executive Director, Acronym Institute, London

NPT Overview 1995-1998

In 1970, when the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) entered into force, one of the provisions was that in 25 years’ time the states parties would meet and decide whether the treaty ‘shall continue in force indefinitely, or shall be extended for an additional fixed period or periods’¹. The 1995 NPT Review and Extension Conference (NPTREC) fulfilled this mandate. At the end of a month of arduous negotiations, states parties failed to agree a final document reviewing the previous five years, but significantly four documents were adopted by all ‘without a vote’.

Looking back to 1995, one has to ask the question: why were *four* decisions taken when only *one* was required? What are the implications of this for the NPT and for the non-proliferation regime in the future? Some call it a ‘package of 3+1’, while others say a ‘package of 4’.

The first document was the ‘Strengthening the Review Process for the Treaty’ decision, which provided for 3-4 Preparatory Committee meetings (PrepComs) between the five-yearly review conferences. It laid out the

mechanisms for this and specified that this procedure should be more than a review, and be able to look *forward* as well. The task was essentially to make recommendations to the Review Conference, but it was not clear exactly on what.

The second was the 'Principles and Objectives for Nuclear Non-Proliferation and Disarmament', which was intensively negotiated among the 'friends of the Chairman' (25+ delegations). It was comprised of 20 paragraphs that went into some detail on a range subjects covered by the NPT, but were more specific than the treaty language itself.

The indefinite extension decision was the third document adopted, which renewed the treaty permanently.

Fourth was the Resolution on the Middle East. It was originally proposed by Egypt on behalf of 14 Arab countries, but finally introduced by the three depositary governments (Russia, US and UK). It was adopted as part of the rest of the package.

The nuclear weapon states (NWS) knew they had enough for a majority vote, but wanted avoid undermining credibility of the treaty with certain states or regions voting against. Those who were against indefinite extension did not want to lose their leverage if the treaty were renewed indefinitely. They saw the 4-document package as putting some of that leverage back in.

It is clear that without these other documents, it would have been impossible to get an indefinite extension by consensus, although it may have been possible through voting. These other decisions were absolutely integral to get indefinite extension without a vote.

In 1997, the first of these new PrepComs took place. Chairman Pasi Patokallio (Finland) came to it with a number of ideas and proposals and produced a good common paper at the end of the session. There was also a paper issued by South Africa on allocation of time, especially regarding negative security assurances (NSAs), fissile material cut-off treaty (FMCT) and the Middle East. The agreements were reached by consensus, and despite some last-minute complications, most walked away feeling cautiously positive about the first PrepCom of the new review process.

In 1998, however, it all fell apart. There were cluster debates on three areas of work: nuclear disarmament, safeguards and peaceful uses of nuclear energy—along the lines of the Main Committee structures found in the

Review Conferences (RevCons). Among the proposals was a Canadian paper on the role of PrepComs in commenting on current events, so the outside world could see what the process was doing and how it was relating to the concerns of the day. For example, a statement to call for the ratification of the Comprehensive Test Ban Treaty (CTBT), or remarking on the START process, also comments on the three areas singled out for special work.

South Africa also proposed a mechanism including a subsidiary body to address nuclear disarmament, taking advantage of a provision in the Strengthening the Review Process document of 1995. It would be more than just a monologue of national statements, but would address it in more specific ways. This idea referenced the Principles and Objectives (P&Os) from 1995, whose paragraph 4 talked about a Programme of Action which identified: a CTBT by 1996, a FMCT as soon as possible, and nuclear disarmament – with new and stronger language than Article VI, 'The determined pursuit by the nuclear-weapon States of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goals of eliminating those weapons, and by all States of general and complete disarmament under strict and effective international control.' South Africa argued that there should be a way to identify issues that could be dealt with within that subject area, not necessarily the subject of negotiations, but as an encouragement for the NWS to make progress.

In the end, 1998 was ostensibly deadlocked on the Middle East, but if it had not been that it would have been on nuclear disarmament or other issues. Basically there were clashing perspectives about how much delegations wanted to achieve with this new review process. That goes back to the question to 'who thought they were agreeing to what in 1995?'

Some agreed to the package because they thought it was the maximum they could get, while other voted for it because it they saw it as the minimum achievable. And that is really at the crux of the problems we are having now.

Now the third PrepCom will take place 10-21 May 1999 in New York, chaired by Amb Camilio Reyes (Colombia). Much is riding on it, and it has many tasks that it must fulfil. Not only procedural tasks for 2000, like documentation, choosing the chair, funding, establishing an agenda. But there are also non-procedural tasks, like defining what this new review process is really all about. In 1999, however, our key task will be to *identify what 'products' do we want?*

CAMILLE GRAND

Institut d'Etudes Politiques de Paris and Ecole Spéciale militaire de St Cyr, France

The role of the nuclear-weapon states in the NPT review process

The nuclear weapon states have special obligations. Unlike the Biological and Chemical Weapons Conven-

tions which are non-discriminatory, the NPT is based upon the logic of inequality. First, the NWS pledge 'not

to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices'.²

Secondly, the NWS agree to engage in good faith negotiations on nuclear disarmament, the subject of Article VI of the treaty. The non-nuclear-weapon states (NNWS) have a role to play in both of these special tasks.

These pledges were renewed in 1995 at the NPTREC. Since 1995, several events have happened that impact the treaty. If we look at the overall situation and were to give a grade to the NWS, we could say, 'better than expected but more could be done without much effort'.

Since 1995:

- CTBT – achieved in 1996, as outlined in the 1995 Decision on Principles and Objectives for Nuclear Non-Proliferation and Disarmament. It was eventually achieved, although the French and Chinese nuclear tests were a setback. The EIF should be a priority in the coming months, perhaps getting it by 2000.
- FMCT – still being discussed. To-date, 4 out of the 5 NWS have stopped their production. We are not sure about China. The question of 'irreversibility' in an FMCT is very important. It will need to be verified in an equal manner, with the NWS accepting inspections—which is new for them.
- Nuclear disarmament – regarding the two largest NWS, the START process has moved a bit, but there are a lot of problems there. It is clear that we need to move with or without a functioning START process. Regarding France and the UK, there have been some serious unilateral reductions. They have reduced to about a third of previous arsenal levels. That good will has to be taken into account. Regarding China ... question mark.
- Nuclear-weapon-free zones (NWFZs) – have had some movement, but the review is mixed. Pelindaba is waiting to enter into force, and Bangkok is still waiting to solve some problems.
- Transparency – the UK is ahead, but for the other it is mixed.

- NSAs – there has been nothing.

Shortcomings: the commitment to eliminate nuclear weapons is missing, and lack of progress (now or probably in future) in South Asia.

The NWS genuinely think they have achieved quite a lot. But they constantly think that 'whatever we do it is never enough'.

One has to recognise the huge differences between the NWS. It is very difficult to label them as a 'group'. There is no true 'P5 unity'. The informal meetings between them are usually the last link in the chain to twist arms over a certain proposal. Their commonalities are that they reluctant to multilateralise and to undertake deep cuts in arsenals.

We should be looking at what they realistically can and cannot do.

What can they do?

- Transparency is important. For example, elucidating the role of nuclear weapons, what their plans are for future steps, strategic postures, ultimate objectives, etc.
- They could also be more precise about the intermediate steps, e.g. role of tactical nuclear weapons.

What can they not do?

- A nuclear weapons convention or a timebound framework for reductions. But there is agreement on what the goal is: NWS have to accept that we are heading towards nuclear disarmament.

If we want to achieve something in 2000, we have to start preparing for it now. At all costs, the existing regime needs to be maintained. In 1999 at the PrepCom, we will need to see a spirit of compromise. We will also need to take a close look at what the outcomes for the 2000 Review Conference should be. If we just look at the past, the NWS will be very happy. What is missing? A new set of objectives for the next 5 years. There should be two documents emerging in 2000: one looking back and reviewing, the other looking at what is missing and giving clear objectives for the future.

Questions to answer: What are the expectations and priorities of the NNWS of the NWS? Do you perceive the P5 as a bloc or as separate entities?

DARACH MAC FHIONNBHAIRR

Head of Disarmament and Nonproliferation, Department of Foreign Affairs, Dublin

Possible outcomes for the 1999 and 2000 NPT sessions

A treaty's review process must be commensurate to the importance of its implementation for the security of the states parties. In that perspective, the review procedures set out in the NPT are light. There is no annual review mechanism for the NPT. The IAEA system is a good model, albeit limited to overseeing implementation of Articles I-V. In 1995, the Strengthening the Review document attempted to redress this deficit by establishing a stronger process where states parties could engage in consideration of 'principles, objectives and ways to promote the full implementation of the treaty'³[emphasis added] as a whole and vertical proliferation aspects in particular.

In this same document there was also a provision for subsidiary bodies 'in relation to specific objectives of the Review Conference', on which basis there are currently proposals on the table to establish a body as a forum for an annual exchange on progress in nuclear disarmament. In 1995, the review process showed that it was amenable to development, therefore we should consider further refinements to this process. Such flexibility also applies to the consideration of setting up negotiating mechanisms such as is proposed in the case of NSAs. There are a number of precedents for such an approach.

Time at the PrepCom this May might be more gainfully spent by re-focusing attention on framing the final documents to emerge from the Review Conference. The character of the revised review mechanism must not be surrendered or slip back into a pre-1995 mind set by default.

States parties should build on the chair's paper of 1997, as the 1998 paper was not seen by as many to be as useful, and use it as a basis for documents in 2000. Consistent with the 1995 Decision, we could therefore continue to build upon Part One of the 1997 chairman's working paper with a view to fulfilling our mandate to promote 'the full implementation of the Treaty, as well as its universality, and to make recommendations to the Review Conference.' Will two weeks be enough to draft this?

The centrepiece of the strengthened NPT review process is the Principles and Objectives together with the resolution on the Middle East. Looking towards a new set of multilateral objectives for 2000-2005, it will not suffice simply to reiterate calls for a FMCT or CTBT, and the further pursuit of NSA, as the sum of the multilateral objectives for the coming five years. Preoccupation with the achievement of the first two of these objectives has forestalled the early consideration and necessary consultation on a set of follow-on multilateral steps for the period 2000-2005. Therefore states parties will need to engage on the elaboration of a new multilateral 'programme of action' both at the PrepCom and in the course of the next year.

There are several areas for future multilateral objectives for 2000-2005 that merit attention:

- the pursuit of the entry into force and universal ad-

herence to the CTBT;

- developing further objectives arising from the FMCT negotiations;
- Negative Security Assurances may receive a new focus in the light of recent developments; and
- Nuclear Weapon Free Zones, particularly in the light of South Asian developments and in the ongoing context of security in the Middle East.

The point is being reached where the question of nuclear disarmament itself must begin to be addressed. While agreement is unlikely on multilateral negotiations, the establishment of a forum to consider nuclear disarmament would appear to be appropriate for the period 2000-2005.

The bilateral and plurilateral objective of the 1995 NPTREC, namely 'the determined pursuit by the nuclear weapon states of systematic and progressive efforts to reduce nuclear weapons globally' has, in contrast to the multilateral programme, been characterised by almost complete lack of progress. It is notable that unlike the multilateral objectives set for the international community as a whole, the 1995 decision did not specify benchmarks for progress in nuclear weapons reductions.

The New Agenda resolution 53/77Y- with its wide cross-group support in the General Assembly in 1998 - provides a possible basis for the elaboration of a set of objectives which could be agreed in 2000. The approach contained in the resolution dovetails in particular with the 1995 objective of 'the determined pursuit by the nuclear-weapon states of systematic and progressive efforts to reduce nuclear weapons globally'. The New Agenda lays particular emphasis on the early achievement of results from the bilateral process, expanded to the extent possible to include the other nuclear weapon states and with a view to preparing for the opening up of the multilateral aspects of the process required to complete the task of nuclear disarmament. It includes the benchmarks which are lacking in the 1995 P&Os.

The New Agenda also proposes significant interim measures:

- Lessening the role of tactical nuclear weapons and delivering on earlier undertakings in this regard should be addressed at a time when the role of such weapons is being stepped up, with implications of the threat of use of nuclear weapons against non-nuclear weapon states.
- De-alerting and de-mating, i.e. removing weapons from delivery systems, in the context of the progressive withdrawal of nuclear weapons from the centre of security concepts.
- The conclusion of No First Use undertakings would be of fundamental significance regarding the role of

nuclear weapons in strategic concepts. They considerably enhance confidence when premised on the commitment to the early elimination of nuclear weapons and as a part of the overall process.

The process leading to the adoption of Resolution 53/77Y has been a considerable stimulus in any future debate within the NATO. Major changes will mostly likely not occur to NATO's Strategic Concept prior to the Washington Summit, but there is an expectation that mechanisms will be set in train to address a number of these issues.

The dates of the NPT PrepCom just days after the Washington Summit will allow for an early evaluation by NPT states parties of progress made. The non-nuclear-weapon states in NATO will need to continue to push this matter from within.

It cannot be denied that the environment for advancing this agenda remains - for the moment at least - negative. The reaction of the NWS to the insistence of the International Court of Justice (ICJ) in 1996 that 'there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament', demonstrates that these states parties are still not contemplating the early elimination of their respective nuclear weapons. In the words of the recent UK Strategic Defence Review: 'The world would be a better place if such weapons were not still necessary, but the conditions for complete nuclear disarmament do not yet exist'. This re-rationalisation of nuclear weapons could be applied to all nuclear weapon states. In other settings, states parties would have long ago questioned the validity of the treaty, given the lack of progress on core treaty tasks, like Article VI.

In defining our objectives in 2000 we must develop a set of proposals which will be premised on 'bringing to a conclusion'⁴ and supersede 'the ultimate goal'⁵ caveat which has been so long rehearsed by the nuclear weapon states parties. It is inherent in any treaty based

on mutually agreed obligations that no one group of states can determine at will the pace of implementation of its obligations without reference to the other states parties. The non-nuclear weapon states parties must be singularly trenchant on this point of principle at the 2000 Review Conference. Calls for action based on a change in the underlying policy of reliance on nuclear weapons should characterise the demands of the non-nuclear weapon states parties in 2000.

There is no reason to expect any significant change in the approach of the nuclear weapon states during the coming six weeks. Indeed the recent adoption of an appropriations bill in the US Congress related to missile defence will heighten the fractious nature of the forthcoming session. By the end of the PrepCom, an approach should be agreed, or least identified, as to the types of documents expected from the Review Conference in 2000. That will facilitate the dialogue necessary to elaborate the 'products' for 2000. The Review Conference will only be a success, however, if there is significant political movement by the NWS in the intervening 12 months.

Finally, the issue of regional nuclear proliferation by three of the four remaining non-parties to the NPT must be substantially addressed at the Third PrepCom. With the accession of all non-proliferant non-nuclear weapon states to the Treaty (Cuba excepted), this Treaty has become a uniquely universal legal instrument. States parties can, and should therefore, address those countries which remain outside the Treaty with a firmness that this level of universality allows.

States parties should continue to give life to the novel review process of 1995, using the Third PrepCom both to examine and evaluate recent developments and specifically developments since the second PrepCom; while at the same time attempting to generally outline the 2000 objectives, which can be developed further over the next twelve months.

TARIQ RAUF

Director of the International Organizations and Nonproliferation Project (IONP) at the Centre for Non-Proliferation Studies, Monterey Institute of International Studies, California

The Middle East resolution and the review process

In 1995, the mechanism that extended the treaty 'indefinitely' involved an *interlinked* package. This term denoting linkage was used by NPTREC Chairman Jayantha Dhanapala, and no delegation at the time objected. The package included the indefinite extension, the decision on strengthening the review process, the decision on principles and objectives for the treaty, and the resolution on the Middle East.

The text of the Middle East resolution, led in negotiation by the US delegation, was cleared with Israel via the US before it was introduced by the three depositary states, and subsequently adopted as part of the renewal pack-

age. The wording of the resolution itself is quite innocuous and should not cause concern for the Middle East peace process or other initiatives. At the time, there were four Arab states not party to the NPT, but since 1995, all have joined.

While there was no official document adopted in 1995 due to disagreement over nuclear disarmament in Main Committee I, Main Committee III in fact came up with a consensus report, which included language on the Middle East. The resolution eventually adopted in the package borrows language from that report. Among other things, it calls on all NPT states parties to work towards

a Middle East Weapons of Mass Destruction Free Zone. It also does not single out any one country. The resolution reflects compromised language which made it possible for the 15 Arab countries to accept the package, including indefinite extension.

Legally, only the indefinite extension decision was binding. The two documents adopted were enabling mechanisms for the extension decision. The Resolution on the Middle East was not a decision, but a resolution, albeit one introduced with the highest level of political clout. There is, however, an indivisible linkage between all four documents.

Since 1995, the co-sponsors seem to have lost interest in the resolution. Some have questioned the efficacy of the resolution and have asked what to do with it now. Do states parties review its 'implementation'? But there was no implementation language in the resolution. Does the review process report on 'progress' of implementation on realising the objectives in the resolution? Is it simply reiterated in 2000? Or should items be picked out of the resolution for particular focus?

One thing is clear, however, if this resolution is de-linked from the rest of the package that was adopted in 1995, it could be a 'slippery slope' and *all* of the documents of the package may unravel.

Now it seems that there are differing opinions on what was agreed in 1995. Do we review the treaty? Do we review the treaty in light of the 1995 documents? Using the United States' 1997 language – do we use the 1995 decisions (not necessarily the resolution) as a 'filter' through which progress is assessed? But as 1998 showed, we do not have consensus on how the strengthened review process should take place.

Many would like to see the P&Os used as a 'yardstick' against which progress should be measured. The language in the Preamble suggests that is what was intended.⁶ How should this be carried out?

What should the products of the review process look like? There is some disagreement over what they should be. Should there be more than one? One as a 'P&Os 2000', and the other a review of implementation—looking 'forward' (establishment of new goals for 2000-2005) and 'back' (review of treaty implementation of 199-2000) and dealing with universality?

By which mechanism would these be adopted? In the past states parties have always voted by consensus, but that could change in the future. Three out of the previous five NPT Review Conferences have failed to generate consensus documents. There is little chance we will achieve this in future. Some suggest that a review of implementation need not be agreed. A factual report on the review aspects could be introduced, or a report on the views by a collection of states could be an alternative way to do this.

The mechanism for adoption could be the Chairman's paper. It could also be a group of states that take it up. There would thus be a record of what countries thought of the implementation. There would, however, be a need for consensus at least on what the future goals of the treaty should be (i.e. new P&Os).

Does the treaty give any special role or privileges to the 3 depositaries? Their role is limited according to the terms of the treaty text⁷. The depositaries have in fact continued to play an important role in determining the way in which the review process has worked over the last 25 years. There has been some concern among NNWS in the context of the Bureau, in the Chair's consultations and ways in which Chairmen have conceptualised the review process. Some believe the depositaries are playing an inordinate role and that there should be some thought given to expanding the Bureau and bringing in more states. This would balance out the process better and lessen the weight currently given to the depositaries. This is not to assign blame, but a constructive new idea to ensure the review process can be given more substance in future.

GENERAL DISCUSSION

Questions posed

- Does it matter if the 2000 RevCon is a success? What are the criteria? How essential is success in maintaining a credible non-proliferation regime?
- What is the role of NWS and NNWS in this process?
- How do we address the Middle East resolution?
- How do we deal with the South Asian tests that have been such a heavy blow to the regime? With a resolution?
- What is the role of the depositaries and Bureau? Do we need to look at some of the traditional ways of dealing with issues in the NPT?
- Do we see the P5 as a 'bloc' or as having separate interests and strategies?
- What is the French reaction to the US ballistic missile defence decision? What are the prospects of multilateralising the ABM treaty? If the ABM treaty collapses, forget about the START process.

Success in 2000 is of paramount importance. The

NPTREC in 1995 raised the stakes for the treaty, as has

its near universality. The chances are greatly improved for success if the goals are clear beforehand. One should not underestimate the consequences of failure. However, with the new benchmarks established in 1995, we cannot fail in the same way as in the past.

The South Asian tests were an affront to the CTBT, and will be a crucial test for the NPT. The issue should be dealt with in two ways: 1) mechanisms, and 2) substance. Substance: for example, concern over the Strobe Talbott negotiations. This has caused consternation among some western nations, most of whom were not informed about the US initiatives. The US' 'opening gambit' was to not call for a roll back, but for 'no open deployment'. These negotiations are a problem because they will amount to a tacit recognition of their new 'status'. The existing regime does not allow for new nuclear weapon states. For India, Pakistan and Israel to join, they need to follow the South African example, which at the moment does not seem practical. However, there will need to be some form of comment on recent events. Indeed, if we fail in making a strong statement about the tests, we will have failed at our task.

In addressing the testing issue in terms of proliferation, it gets more difficult because that immediately implies talking about the Middle East as well. And given the political realities in the NPT regarding Israel and the Middle East, we are limited in what we can achieve.

Questions

- Is it not hypocritical to comment on the South Asia situation when those same countries have huge nuclear stockpiles?
- How will the RevCon deal with South Asia and not Israel? What effect will the tests have on the Middle East resolution?

There has been a good deal of hypocrisy. Look at Madeleine Albright's statements immediately after the testing as a good example. As the Canadian foreign minister said recently, there is a bit of 'nuclear realpolitik' going on, with similar rationales being used by NWS and proliferators. We need policies that can be applied evenly. NATO countries should be careful with what excuses they use, lest they hear them as justifications from others for similar alliances in other parts of the world.

As all states parties are bound by an NPT approach, we should look at how it is possible to exert pressure from within the treaty to stop future proliferation. But it is true that the Indian-Pakistani self-assertion could not have occurred had there been more movement on nuclear disarmament.

There is a non-proliferation norm established globally.

Questions

- What is the role/responsibility/accountability of NATO in all this? There needs to be some discussion of realities that have a bearing on the fundamental goals of the NPT. Germany and Canada have tried to start a debate in the Alliance on nuclear weapons – is there a way NPT states parties can support such actions? Is there a way to input into the NATO debate directly?

Mechanism: none exists. It could be mentioned in the Chairman's paper, perhaps as a recommendation to the RevCon. There is also the proposal for states parties to comment on current events affecting the treaty; this might be a good subject for a test of that proposal. It is clear that a mechanism is indeed needed to comment on important challenges to the NPT and on the health of their treaty. South Asia could be addressed in the part of the final document that discusses regional issues. We might also report on the tests in the context of UNSC resolution 1172. Can states parties call for sanctions?

Britain and France believe the ABM treaty is very important, and are working behind closed doors in order to preserve Western solidarity. If the ABM treaty is breached by the US, it would give a strong argument to hawks in China, as well as in Moscow. Neither the UK nor French government would be able to reduce its arsenal much further without an ABM treaty. We might have had a way out if the Duma acted faster than the US Congress. There is a growing belief in Moscow that delaying START II gains nothing, so they are taking the attitude of 'get it ratified and challenge the US', in the hopes that that would give them leverage over the Senate. If START is ratified, it is likely that the US will stick to the 'low profile' rather than 'high profile' NMD, given the ratifying language attached by the Senate on 'taking into account current bilateral relations'.

Unfortunately there is currently little legal recourse, we've more or less 'hit the bone'. We lack the legal basis to roll back those outside the treaty. They might be enticed to join if they first sign the CTBT and FMCT. Then perhaps we can move forward. However, *all* countries must de-emphasise nuclear weapons in national policies, as immediate elimination is not currently possible. The addition of the B61/11 to the US arsenal sends a bad signal in this respect, as does the talk of 'mini-nukes' in France. If we achieved the de-emphasising of these weapons, we would be in a better position to talk to India and Pakistan.

One item that should be on the agenda is a discussion on multilateralising the ABM treaty, although it may be too late as many in Washington see the ABM as a thing of the past.

- States parties should avoid using the old, lame excuse that X is not possible in the new review process because it is not in the existing structure. States parties are 'masters of their own house' and can do as they like. Look at the original and creative thinking of 1995 and see what is needed in 1999 and beyond to keep this regime alive and healthy.
- A reminder that the first test in South Asia was in 1974, not 1998. The post-testing phase is at a delicate stage in the region. Any uncalled-for language by NPT states parties could jeopardise progress on CTBT and FMCT. You cannot have countries as partners and targets at the same time. One South Asian country is looking for ways to not deploy, but do not look at one country and assume that both hold exactly the same policies.
- Non-proliferation is actually not 'customary international law', but it is becoming so.
- Why did the NWS agree to a CTBT? Because they no longer needed tests. When will we have a FMCT? Only when there's a glut of fissile material. This way of creating norms is inherently flawed and selective.
- What role for the PrepCom in 1999?

Historically, the positive security assurances given by NATO allowed several borderline countries to renounce the nuclear option and join the NPT as NNWS. The treaty was negotiated so that NATO nuclear sharing would be allowed. But that era is now over and the security environment has now changed. It is a question of emphasis on the nuclear question within NATO. Tactically, one has to be careful, if pushed too hard, it could backfire and more open-minded states might be forced into a position where they are obliged to strongly reaffirm their commitment to NATO's nuclear guarantee. It is better to keep this issue active, but at a lower level. It is more important to focus on the FMCT and other issues at present.

The five NATO countries that co-sponsored the Belgian resolution are playing a role in changing the mind set. Also look to the 12 NATO countries that abstained in the UNGA over the New Agenda Coalition resolution—that is having an effect. NATO members can engage in a unique way, and many hope that they would take that as a responsibility as an NPT member states. This is a more viable avenue for action now than it ever has been in the past.

It makes one think twice when the organisation with highest level of conventional weapon power in the world (as well as the biggest conventional weapon suppliers) is still relying on nuclear weapons. If nuclear weapons are the glue that is holding NATO together, then NATO needs to move on. There needs to be a debate on the *role* of nuclear weapons in the Alliance. This

Summation comments

The focus should be on short-term measures. A successful RevCon in 2000 is important in this regard. In 1999, we will need to see a 'spirit of compromise' in order to succeed. Flexibility will be key. Also this year, we will need to start looking at possible outcomes for 2000, new benchmarks. South Asia and the Middle East will need to be dealt with successfully at the PrepCom or they will dominate the RevCon in 2000. In 1999 we will have a lot to do—choose a president for 2000, hammer out procedural details, organise distribution of copies, look at the 1997 chair's paper, etc. Unless we begin this year to devise ways of getting a positive outcome for 2000, we are leaving ourselves very short.

will not happen before the current Strategic Concept is presented at the Washington summit in April. But whatever is presented will give NPT states parties a chance to discuss at the upcoming PrepCom. The 'price' for NATO countries to sign off on the Washington summit should be language in the final communiqué saying NATO will review its policy and make the results known before the RevCon in 2000.

As members of the NPT we have not been good stewards of the treaty. We can now begin to move away from the outmoded Cold War groupings of the past and start moving towards more issue-based groupings. This is what succeeded in 1995. The New Agenda Coalition is welcomed in that context, which drew members from all the Cold War groups. We should find a way to build support around many of the New Agenda ideas.

We *can* do whatever we want as states parties in the NPT, we just need the sufficient political will and a desire to do more with the potential flexibility. The PrepCom process has tended to be serviced by the CD culture in the past, which operates solely on the basis of consensus, but that should be changed.

Differing with the intervenor, the NPT is indeed 'customary international law' and that carries certain consequences. Also a clarification that the Indian test carried out in 1974 was declared as a peaceful nuclear explosion (PNE), which was allowable technically under the NPT. However, this loophole was closed in the CTBT.

We have to agree procedures, but we should minimise these aspects and also minimise statements made by states parties. Statements in the end are not enough to move things forward.

The 1998 paper need not be dealt with in 1999 – those proposals can be forwarded directly to the RevCon as a resource, so nothing is lost. Remember that at the 1998 PrepCom a very popular measure failed because only *one* of the NWS did not agree to the strengthened review idea in which countries could speak out on contemporary topics vital to the treaty interests. The lan-

guage in the proposal was negotiated with all relevant parties from all groupings, then vetoed by only one delegation. They wanted no ongoing review. But it is inconceivable to have to wait five years to comment on what is happening around us (e.g. fissile materials, CTBT, START, South Asian tests).

We need to be true to the structure of the report agreed in 1997, and help the Chairman build on that. The 1999 final document should include three sections:

- 1) A list of recommendations to the RevCon for the new principles and objectives/goals for 2000-2005;
- 2) A listing of the procedural aspects for the review process agreed to-date.; and,
- 3) A section for the substantive issues brought up during the three PrepComs, including a reflec-

tion of the views of states parties on recent events.

Whatever report emerges will have to be developed transparently, and negotiated with the states involved.

In 1995 we agreed to look 'forward' *and* 'back', therefore in 2000 we will need a document for each of these aspects:

- 1) A review section assessing to what extent the expectations of 1995 have been achieved and would include a review of the treaty articles – this section would be shorter and does not necessarily need to be based on consensus; and,
- 2) The 'forward-looking' aspects, or list of objectives for the period 2000-2005, which would need to be agreed by consensus.

¹ Article X, para 2, Treaty on the Non-Proliferation of Nuclear Weapons (1968).

² Article I, *ibid*.

³ The purpose of the Preparatory Committee meetings would be to consider 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. These include those identified in the Decision on Principles and Objectives for Nuclear Non-Proliferation and Disarmament adopted on 11 May 1995. These meetings should also make the procedural preparations for the next Review Conference.

⁴ Unanimously, There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.' International Court of Justice, Advisory Opinion, NO. 96/23, 8 July 1996.

⁵ 'Reiterating the ultimate goals of the complete elimination of nuclear weapons and a treaty on general and complete disarmament under strict and effective international control,' Preamble, Principles and Objectives for Nuclear Non-Proliferation and Disarmament, Document adopted at NPTREC 1995 [emphasis added]. '(c) The determined pursuit by the nuclear-weapon States of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goals of eliminating those weapons, and by all States of general and complete disarmament under strict and effective international control.' Para. 4, Principles and Objectives for Nuclear Non-Proliferation and Disarmament, Document adopted at NPTREC 1995 [emphasis added].

⁶ 'Desiring a set of principles and objectives in accordance with which nuclear non-proliferation, nuclear disarmament and international co-operation in the peaceful uses of nuclear energy should be vigorously pursued and progress, achievements and shortcomings evaluated periodically within the review process provided for in article VIII (3) of the Treaty, the enhancement and strengthening of which is welcomed,' Preamble, NPT Principles and Objectives.

⁷ Referenced in Articles XIII, IX and XII.

SPEAKER BIOS

REBECCA JOHNSON is the Executive Director of The Acronym Institute, London, and Managing Editor of *Disarmament Diplomacy*, the Institute's monthly journal on arms control, disarmament and non-proliferation issues. Johnson has worked on security and nuclear issues since the early 1980s and writes regular updates on the Conference on Disarmament, the Comprehensive Test Ban Treaty (CTBT) and the NPT review process in *Disarmament Diplomacy*, and she is the author of the ACRONYM series of reports.

CAMILLE GRAND is an associate lecturer at the Institut d'études politiques de Paris and at the Ecole spéciale militaire de St Cyr-Coëtquidan and an independent analyst on international security and disarmament. He is currently a visiting fellow at the Institute for Strategic Studies of the Western European Union, conducting a project on Western Europe and WMD proliferation. He was previously a Research Fellow at the Institut de Relations Internationales et Stratégiques (IRIS) (1994-1998) and the Editor of the quarterly journal *Relations Internationales et Stratégiques*.

DARACH MAC FHIONNBHAIRR is a career diplomat, currently Head of Disarmament and Non-Proliferation at the Department of Foreign Affairs of Ireland. He has represented Ireland on disarmament and non-proliferation issues for the past twenty years as well as serving en poste at Irish diplomatic missions in Vienna, Moscow and The Hague.

TARIQ RAUF is Director of the International Organizations and Nonproliferation Project (IONP) at the Centre for Non-Proliferation Studies, Monterey Institute of International Studies. Currently he is working on issues relating to the future of the Non-Proliferation Treaty (NPT) regime, nuclear arms control and nonproliferation, regional security in the Asia Pacific, and disposition of excess weapons fissile materials. He has served as “Nonproliferation Expert” with the Delegation of Canada to all NPT fora since 1990, including most recently the 1998 NPT Preparatory Committee.

Special thanks to the Missions of **Egypt, Finland, Germany, South Africa** and **Sweden** for their support of this seminar.

Seminar briefing organised by

Sharon Riggle

Centre for European Security and Disarmament, Brussels

in co-operation with:

David Atwood, Quaker United Nations Office

Oliver Meier, Berlin Information-center for Transatlantic Security