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The 2010 NPT Review Conference: An Assessment of Outcome and Outlook

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The 2010 NPT Review Conference: An Assessment of Outcome and Outlook

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Abstract:

The May 2010 Review Conference of the Nuclear Non-Proliferation Treaty (NPT) was the first such conference in a decade to conclude with a substantive Final Document, containing a 64 point Action Plan. How significant was the agreement reached by consensus at the Conference, and what does it portend for the health of the global nuclear non-proliferation and disarmament regime? This paper assesses the outcome across the three ‘pillars’ of the NPT—nuclear disarmament, non-proliferation and peaceful uses of nuclear energy—as well as the major regional and institutional issues addressed at the conference. It concludes that the result of the 2010 Review Conference is best described as a status quo outcome and little was achieved in resolving the underlying tensions that threaten the NPT's authority.

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The NPT Review Conference: An Assessment of Outcome and Outlook

In May 2010, a month long Review Conference of the (Nuclear) Non-proliferation Treaty (NPT) was held at the UN in New York. Representatives of 172 out of the 189 members or states parties to the Treaty were in attendance, along with over 1,000 non-governmental representatives from more than 120 organisations. The Review Conference, which is held once every five years, was chaired by Ambassador Cabactulan of the Philippines. It concluded on May 28 with the adoption of a 31 page Final Document, containing a 64 point Action Plan for follow-up activity.¹ Given that the previous Review Conference in 2005 had failed to adopt any substantive concluding document, there was audible relief within the international community that this Conference, of arguably the most important international security treaty in existence, had managed at least this measure of success. How significant was the outcome of the Review Conference in reality and what does it portend for the health of the global nuclear non-proliferation and disarmament regime? These are questions that will be addressed in this paper.

Background

The NPT entered into force in 1970 and for 40 years it has been the centre of the multilateral framework of agreements governing nuclear matters. It is the most widely adhered to international security accord extant, with only four states (India, Pakistan, Israel and North Korea) not parties to it. The Treaty is frequently referred to as “the cornerstone” of the international security system—a term which has been repeated so often and so mechanically as to have taken on cliché status. The NPT was negotiated and signed in 1968. It dealt with the major challenges posed by nuclear weapons and nuclear energy via a tripartite ‘grand bargain’. The first part of the bargain calls for the Non-Nuclear Weapon States to forswear the right to acquire nuclear weapons and prohibits the five Nuclear Weapon States (US, UK, France, Russia and China) from providing such weapons to other states. The second part of the bargain obliges the Nuclear Weapon States (quoting from Article VI of the Treaty) “to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date

and to nuclear disarmament.” The third part of the bargain acknowledges the right of all members to use nuclear energy for peaceful purposes and it encourages full cooperation among members to support this goal. Forty years later, this fundamental tripartite bargain is still at the heart of the NPT and is crucial to an understanding of the pressures that the Treaty has been subjected to in trying to achieve and reconcile its sometimes competing objectives.

Somewhat surprisingly for a multilateral agreement of such importance, the NPT has little in the way of supporting structures. It lacks a standing bureau or executive council. It has no annual conference of states parties and no secretariat or dedicated implementation organization for the Treaty as a whole. The Treaty membership meets in a decision-making mode only once every five years, with three preparatory meetings in the intervening period, and there is no provision for convening emergency meetings of the membership. These gaps have led some observers to speak of the ‘institutional deficit’ of the NPT and to propose reforms to correct this situation (more on this later). At present however, the only official opportunity to take decisions regarding the Treaty is at the quinquennial Review Conferences, hence the focus on last May’s session. The review conferences normally consider the implementation of the Treaty during the review period (the preceding five years) and set out recommendations on future action to advance the purposes of the NPT. This work is carried out via three Main Committees that correspond to the three parts or ‘pillars’ of the Treaty as enumerated above, namely disarmament, non-proliferation and peaceful use. In addition, provision is made for subsidiary bodies of each of these Committees to consider specific issues. At this Review Conference, subsidiary bodies on nuclear disarmament, regional issues and institutional issues were established. The most important procedural point to retain is that all the decisions of the Review Conference are taken on the basis of consensus (i.e., no state objects to the Final Document). Obtaining consensus on text can be extremely challenging and much depends on the diplomatic skills of the President of the Review Conference. Given the dynamics at the May 2010 Review Conference, Ambassador Cabachtulan, unable to obtain full consensus on the review section of his Final Document, was obliged to present this first part on his own authority as President. This relegated the 19 page text to the status of a Chair’s summary of the proceedings; that is, a personal account not considered binding on the states parties. The second

section of the document, entitled “Conclusions and recommendations for follow-on actions,” was adopted by the Conference as a whole and is deemed binding on the states parties. Binding in this context is understood as politically binding, because whereas the NPT is a treaty and hence legally binding on its members, the results of the Review Conferences are considered as political engagements undertaken by the parties to the Treaty. The consensus decisions of Review Conferences carry great weight and are considered to represent a cumulative body of decisions that should govern the behaviour of NPT member states. Although the Final Document included a 121 paragraph long “review” section, which would merit a separate discussion of its own, the focus of the present assessment will be on the “forward looking” section adopted by consensus and thus considered binding on the states parties.

Political Context of the Review Conference

The May Review Conference was held at a particularly trying time for the NPT and the global nuclear regime centered on it. For years tensions have built up over compliance concerns with the Treaty—specifically, concerns by some states that the Treaty’s non-proliferation obligations were being flouted by certain states parties (namely Iraq, Iran, Libya, Syria and North Korea) and concerns by other states that the NPT’s Nuclear Weapon States were failing to live up to their commitments on nuclear disarmament. In addition, there was also rising concern over the vulnerability to abuse of the Treaty’s peaceful use of nuclear energy provisions. For example, states such as Iraq and North Korea pursued clandestine nuclear weapons programs under the guise of civilian nuclear energy programs and benefited from technical cooperation pursuant to the NPT. These tensions and conflicts among states parties had contributed to the failure of the 2005 Review Conference and there was widespread concern that the NPT could not afford another divisive debacle in 2010. There were several disturbing developments in the period leading up to the May Review Conference. There were protracted disputes with Iran over the nature of its nuclear programs, which resulted in several UN Security Council resolutions critical of Tehran. There were unanswered questions regarding an apparent covert nuclear facility in Syria and provocative nuclear testing by North Korea—the unique defector from the NPT. In addition, continued blockage in multilateral disarmament efforts, most notably in the decade long impasse at the Conference on Disarmament in Geneva, had prevented any

substantial work from being undertaken. Unfinished business from earlier NPT decisions also included the failure to bring the Comprehensive (Nuclear) Test Ban Treaty (CTBT) into force some 14 years after its signature.

The advent of the Obama Administration provided some welcome political signals in the lead-up to the 2010 NPT Review Conference. The President re-energised bilateral nuclear reduction negotiations with Russia and in a landmark speech in Prague in April 2009 he embraced, at least in declaratory policy, the vision of a nuclear weapons free world. At the same time, the delivery on many of Obama's disarmament commitments announced in Prague was unrealized by May 2010. Changing domestic political fortunes were beginning to derail his promises to obtain early ratification of the new START accord as well as the CTBT. Furthermore, Obama's decision to endorse the US–India Nuclear Cooperation agreement, concluded under the Bush Administration, cast a shadow over the NPT and the commitment of its states parties to the Treaty's universality. This deal effectively gave India the benefits of NPT membership without India assuming the Treaty's obligations. Finally, Egypt, with the support of the Arab League and many members of the 118 member Non-Aligned Movement, which it was chairing at the time of the Review Conference, had been signalling its discontent with the failure to make progress on implementing the 1995 NPT resolution on the Middle East. This resolution was a crucial component of the 1995 Review Conference's outcome. It was part of a package of decisions that enabled agreement at that Review Conference on the indefinite extension of the NPT, seen at the time as a major gain for global nuclear regulation. The Middle East resolution calls for the establishment of a zone free of weapons of mass destruction (WMD) in the Middle East. Egypt highlighted the resolution as an issue requiring substantial treatment at the Review Conference and made progress on it a condition for obtaining Egyptian consent to the rest of the Review Conference's results. It was in this challenging political context that the 172 participating delegations met in New York in May 2010 to seek an agreed outcome which would provide important guidance to the NPT membership going forward into the next five year period. This paper will now turn to the results of the Review Conference and in particular to an examination of the conclusions and 64 point Action Plan which the Conference adopted by consensus.

Evaluating the Results

Given the failure of the 2005 Review Conference and the pronounced strains on the Treaty that had been building up over the decade, the fact that the 2010 Review Conference managed to agree on some substantial Final Document was heralded at the time as a major success. The inclusion of a 64 point Action Plan which sounds good to the general public was also a clever feature of the document. Product packaging is as important to diplomacy as it is to marketing. But what was the real content of this document and how much significant progress did it represent in coping with the challenges to the NPT? One of the NGO observers of the NPT process came closer to the truth about the conclusion of the Review Conference when she wrote: “While hailed by many governments and news outlets as a success, the carefully crafted Final Document essentially preserves the status quo on nuclear disarmament and non-proliferation, reflecting reticence by both nuclear- and non-nuclear-weapon states to agree to meaningful new commitments.”² To judge the validity of this opinion let us consider the Review Conference’s consensus conclusions under the key rubrics of the Treaty: nuclear disarmament, non-proliferation and peaceful uses of nuclear energy. Let us also assess the outcomes on regional issues, withdrawal and institutional questions.

Nuclear Disarmament

Perhaps the first thing to note in reviewing this section and the 22 action points associated with it is how many of the points consist of reaffirmation of commitments previously entered into and still unfulfilled. This section contains several prominent but not particularly reassuring calls for states to act in keeping with their obligations under the NPT. The first action point, for example, is “All states parties commit to pursue policies that are fully compatible with the Treaty and the objective of achieving a world without nuclear weapons.”³ It is revealing as to the current authority crisis the NPT faces that the number one action agreed is for states actually to respect in practice their legal obligations under the Treaty. Apparently the initial draft of this section was considerably crisper and more specific in its action points, but it was seriously diluted at the behest of the Nuclear Weapon States during the course of the Review Conference.⁴ The text is full of general and elastic formulations that will allow great leeway for the Nuclear

Weapon States to interpret for themselves what constitutes “further efforts to reduce and ultimately eliminate all types of nuclear weapons.” In Action 5, for example, the Nuclear Weapon States “commit to accelerate concrete progress on the steps leading to nuclear disarmament, contained in the Final Document of the 2000 NPT Review Conference, in a way that promotes international stability, peace and undiminished and increased security.”⁵ So in return for a handful of nice sounding phrases—“accelerate”; “concrete progress”; “steps”—actual action on disarmament is left to the sole discretion of the Nuclear Weapon States. If this ambiguity on necessary action was not sufficient to serve the interests of the Nuclear Weapon States, they arranged to further condition the commitment section with a series of vague factors—“international stability”, “peace” and “undiminished security”—which again are exclusively up to the Nuclear Weapon States to define. Furthermore, the next sentence in the chapeau calls upon the Nuclear Weapon States “to promptly engage with a view to *inter alia*” as a preface to listing seven general steps related to disarmament. One does not need to be a lawyer to recognise that engaging to do something “with a view to *inter alia*” is not much of a commitment.

Looking at the seven steps that represent the content of Action 5, there is regrettably little of substance among them. In some cases they actually represent a retreat from the corresponding step in the 2000 NPT Review Conference outcome—which this whole action point is ostensibly dedicated to fulfilling. It is necessary to recall in this context that in 2000 the Final Document of the NPT Review Conference contained an explicit listing of actions that the Nuclear Weapon States agreed to implement as a measure of their fulfillment of their Article VI disarmament obligations. These became known as the 13 Practical Steps. Perhaps because these steps were rather specific and significant, they were largely ignored by the Nuclear Weapon States and explicitly rejected by France and the United States (under the Bush Administration) despite these states agreement to them as part of the package of commitments obtained in 2000.

An example of backsliding from earlier commitments is contained in the sub-item of Action 5 concerning the reduction of the operational status of nuclear weapons, also referred to as “de-alerting.” This action aims to reduce the risk of accidental launch by lengthening the time required to fire a nuclear-tipped missile. At present, the majority of these strategic missiles are

still on high alert status, which allows for rapid firing. Two decades after the end of the Cold War, many question the necessity of maintaining such a quick fire posture, given the state of the world and the survivability of the nuclear deterrent of the principal nuclear powers. In the 2000 NPT Review Conference document, the Nuclear Weapon States were to fulfill the de-alerting objective by taking “[c]oncrete agreed measures to further reduce the operational status of nuclear weapons systems.” In the 2010 Review Conference document, the Nuclear Weapon States are to “consider the legitimate interest of the non-nuclear weapon states in further reducing the operational status of nuclear weapons systems in ways that promote international stability and security.”⁶ In a rather perverse revision, the Nuclear Weapon States’ obligation is reduced to “consider[ing] the legitimate interest of the Non-Nuclear Weapon States.” One does not have to be a cynic to conclude that the probable result of such a consideration (if it even gets to that stage) by a Nuclear Weapon State is that no further action is required on its part. The concerned Non-Nuclear Weapon States are presumably to be satisfied that their “legitimate interest” in de-alerting has been recognised by the high and mighty around the nuclear table.

The only specificity of obligation amid the diluted formulas of Action 5 is the suggestion (being “called upon” is not really a requirement) that the Nuclear Weapon States should report on the undertakings of Action 5 to the 2014 Preparatory Committee of the NPT review cycle. This reporting request is in itself redundant, as step 12 of the 13 steps from 2000 required “regular reports” from all states parties on the implementation of Article VI (the disarmament article). Action 20 of the 2010 Final Document essentially repeats this requirement. The Nuclear Weapon States’ record in submitting such reports has been spotty at best. In one of the few points of any innovation in the 2010 outcome, Action 21 encourages the Nuclear Weapon States “to agree as soon as possible on a standard reporting form and to determine appropriate reporting intervals for the purposes of voluntarily providing standard information without prejudice to national security.”⁷ Under the same action point, the UN Secretary General is invited to establish a publicly accessible repository that includes the information provided by the Nuclear Weapon States. What in practice will come out of this item remains to be seen, but anything that promotes greater accountability by the Nuclear Weapon States as to the extent of compliance with their nuclear disarmament obligation is to be welcomed.

On the big, outstanding disarmament commitments such as the CTBT entry into force and the negotiation of a Fissile Material (Cut-off) Treaty (FMCT), the 2010 document only reaffirms existing promises yet to be realised. As the existing text on the FMCT is premised on it being negotiated in the Conference on Disarmament and that body has been in deadlock for over a decade, the prospects for early action on this commitment are not good. As part of Action 15, there is an invitation to the Secretary General to convene a meeting in September to consider the CD and support its return to work. This meeting was duly held on September 24 of 2010 in New York but it yielded no near term solution for the impasse in the CD and the Secretary General was obliged to turn the whole problem over to his Disarmament Advisory Board to ruminate on. To sum up on the disarmament front, the 2010 Review Conference left the NPT vehicle in basically the same condition as it was in before the gathering—in a rut and spinning its wheels.

Non-proliferation

Under this rubric the 2010 document sets out 23 action points that again largely reaffirm previous undertakings. Many of the points support the global nuclear safeguards system administered by the International Atomic Energy Agency (IAEA). This system aims to ensure that the non-proliferation obligation of the NPT (Article III) is implemented. It does so by confirming that there has been no diversion of nuclear material to proscribed purposes (i.e., nuclear weapons). Concluding a comprehensive safeguards agreement with the IAEA is the basic obligation that all NPT states parties assume. There are still 18 states parties that have not yet fulfilled this obligation, and Action 25 usefully urges these countries to do so without further delay. The more controversial element of the safeguards system is the so-called Additional Protocol, which was developed by the IAEA in 1997 following revelations of the clandestine nuclear weapons program conducted by Iraq under Saddam Hussein's rule. The Additional Protocol gives the IAEA further authorities and inspection powers to allow it to monitor not only nuclear material at declared facilities but also possible undeclared material or facilities. At present 107 of the 189 NPT states parties have Additional Protocols in force and Action 28 encourages all states parties to conclude such protocols as soon as possible. The Additional Protocol remains a voluntary undertaking, however, and some Non-Nuclear Weapon States,

notably Brazil and Egypt, have resisted assuming this further non-proliferation obligation as long as the Nuclear Weapon States do not submit to similar constraints on the disarmament side.

While there are positive calls for states to provide “political, technical and financial support “to the IAEA to enable it to discharge its responsibilities, this section contains no specific commitments. There are other action points promoting adherence to some existing nuclear non-proliferation-related conventions. There are also calls to improve national capacities to deal with illicit trafficking in nuclear materials. Over all, this section of the Action Plan represents a reasonable, if rather prosaic outcome that skirts around some of the more thorny issues in the non-proliferation area.

Peaceful Uses of Nuclear Energy

Reaffirmation of existing rights is the principal theme of this section, with its 17 action points. The usual tensions between facilitating transfers of nuclear technology, on the one hand, and ensuring that non-proliferation obligations are respected, on the other, are much in evidence. Action 51 calls for the elimination of “any undue constraints inconsistent with the Treaty” in facilitating international nuclear cooperation.⁸ Efforts to reduce the amount of highly enriched uranium (HEU) in civilian hands (with a non-proliferation motivation) received only weak endorsement. Action 61’s encouragement to minimize HEU in civilian stocks was caveated however by the phrases “on a voluntary basis” and “where technically and economically feasible.”⁹ The most significant development in this realm in recent years has been the development of proposals for multilateral approaches to the nuclear fuel cycle, an initiative of the former Director General of the IAEA, Mohammed El Baradei. The rationale is to eliminate the need for states to develop their own enrichment and reprocessing capacities that enable the production of weapons-grade fissile material, and hence remove the potential for break-out from the NPT’s non-proliferation commitment. The ongoing dispute between Iran and the international community over the nature of Iran’s nuclear program has contributed to the interest in having a reliable multilateral alternative to nationally based fuel cycles. Although various proposals have been forthcoming from some IAEA members, the Agency and its member states have not been able to coalesce around any specific proposal. The 2010 Review Conference did

not help advance this debate and the relevant action point (58) basically calls for continued discussion of the topic without providing significant further guidance or endorsement.

Regional Issues

The most important regional issue at the 2010 Review Conference was follow-up to the Resolution on the Middle East adopted at the 1995 NPT Review and Extension Conference. As mentioned earlier, this item was a top priority for Egypt and other Arab states coming into the 2010 Conference. Egypt, a significant player in multilateral disarmament forums, enjoyed an additional advantage in being the current chair of the Non-Aligned Movement (NAM), the 118 state association that represents those outside of the Cold War era's East-West divide. Although it is arguably an obsolete practice today, the UN is still organized in groupings of states (Asia, Africa, Latin America, West European and Others, and Eastern). The NPT has traditionally operated on a three-group basis of the NAM, Western and Eastern groups. The allocation and rotation of chairmanships and other leadership positions within multilateral bodies are usually determined on a regional group basis. For the purpose of this assessment, suffice it to say that Egypt benefited in its handling of the Middle East item from the extra clout that its chairmanship of the NAM provided. Egypt's early insistence on some substantial outcome in the matter also set up a diplomatic dynamic prior to the Review Conference. Egypt engaged in discussions with the US, the principal representative of the 1995 resolution's target, Israel (the sole non-NPT state in the region). While there was considerable backroom discussion during the Review Conference, the outcome appeared to be to Egypt's satisfaction. A conference to consider the issue of a nuclear weapon and WMD free zone in the Middle East is to be held in 2012, with the participation of all states of the Middle East. A facilitator to prepare this conference and report on its follow-up to the next Review Conference is also to be appointed by the Secretary General and the US, UK and Russia (the co-sponsors of the 1995 Resolution). Thus for the first time since 1995, a distinct follow-on event and the appointment of a permanent figure responsible for monitoring implementation of the Middle East resolution have been agreed. The outcome text also refers specifically to the importance of Israel's accession to the Treaty, although this sentence is immediately followed by another reaffirming "the urgency and importance of

achieving universality of the Treaty.” While this singling out of Israel was protested by the US at the Review Conference, it was clearly judged to be an acceptable price to pay for agreement on a substantial outcome document from the Review Conference.¹⁰

Of course, there are other Middle Eastern states which have problematic positions in relation to the NPT’s goals but they did not receive direct mention in the outcome document. One of the brutal truths of any treaty body that works on a consensus basis, such as the NPT, is that it takes only one member to block agreement on any matter, if considered prejudicial to national interests. Thus one will search in vain in the Conference documents for criticism of Iran’s chequered history of cooperation with the IAEA and the UN Security Council regarding its nuclear program. Similarly, there is no reference to Syria’s suspicious refusal to grant the IAEA access to certain sites following the destruction of an alleged clandestine nuclear facility on its territory. As NPT states parties, in attendance at the Review Conference, both of these countries were in a position to prevent any explicit criticism of their government’s actions. The rather perfunctory reference to North Korea’s provocative nuclear actions that appears in the last paragraph of the outcome document was only possible because of the DPRK’s withdrawal from the NPT in 2003.

Universality

A further ‘regional’ issue that was not explicitly mentioned in the outcome document but was referenced indirectly is that of India and Pakistan, the two other states that have refused to sign up to the NPT. The elephant in the room during the Review Conference was of a distinctly South Asian species—namely, the US–Indian nuclear cooperation agreement concluded in 2006 and the subsequent decision by the Nuclear Suppliers Group (NSG), at American instigation, to exempt India from its usual guidelines requiring full scope safeguards as a condition of nuclear supply. These actions were at variance with pre-existing commitments undertaken as part of the 1995 and 2000 NPT Review Conference outcomes. In the eyes of many Non-Nuclear Weapon States this constituted further evidence that the Nuclear Weapon States were prepared to sacrifice key NPT aims in order to reap profits from nuclear trade with India. To offer a non-NPT state the benefits of NPT membership in the form of nuclear cooperation, without any of its obligations,

was to undercut the Treaty and the goal of its universality which all NPT states parties had sworn to uphold. In light of these events there was considerable interest in seeing the Review Conference reaffirm the goal of universality and the need to refrain from actions that undermined this objective. These views were in part reflected in Item VI of the Principles and Objectives section of the Conclusions. The text there not only affirmed “the vital importance of universality of the Treaty” but also called upon states “not to undertake any actions that can negatively affect prospects for the universality of the Treaty,” an indirect critique of actions by the US and the NSG.¹¹

The US delegation was unrepentant at the Review Conference regarding its deal with India. It apparently intervened strenuously to reject a relevant initiative that appeared in early drafts of the outcome. This initiative would have reaffirmed the requirement for “existing and new arrangements” on nuclear trade to insist on full scope safeguards as a condition of supply. In the end, this language (which was also relegated to the review section of the document, to paragraph 117) was only accepted by the United States when the word “existing” was deleted, so that it could be read as solely applying to new future arrangements after the NSG exemption for India.¹² The more recent China–Pakistan nuclear cooperation deal, against which the US has protested, also raises problems for the NPT. Having created the precedent of this exemption in pursuit of their own narrow interests in the case of India, it will be difficult for NSG members to argue credibly against an exemption being applied to Pakistan. At the Review Conference, the vast majority of the NPT states parties could only manage to register a mild rebuke of the violation by leading NPT states of a long standing taboo against nuclear trade with non-NPT parties.

Withdrawal

Related to the issue of universality is the question of withdrawal from the NPT. Ever since North Korea became in 2003 the first NPT signatory to invoke Article X and withdraw from the Treaty, the matter has been strenuously debated. Article X of the NPT provides for any state which feels its supreme national interests have been jeopardized to leave the Treaty with three months’ prior notification to the other states parties and to the UN Security Council. Many

considered North Korea's actions an abuse of this provision, as it had been in violation of NPT obligations for some time yet had continued to benefit from the mantle of NPT membership until its official withdrawal. Several states (with a view to potential defectors such as Iran and Syria) argued that this represented a vulnerability in the Treaty that should be addressed through interpretative statements agreed at the Review Conference. These would have asserted that a withdrawing state which was in violation of its Treaty obligations would still be held responsible for those violations committed prior to its withdrawal. Interestingly, such an affirmation was contained in UN Security Council Resolution 1887, which was adopted by consensus at the special nuclear summit meeting of the Council held on September 24, 2009. A similar affirmation, however, proved not to be possible at the Review Conference, as Iran argued that Article X was sufficient and any attempt to define it further would amount to a Treaty amendment. As the states of the Non-Aligned Movement indicated support for this position, it was not possible to insert relevant language in the agreed Conclusions and supporters of tighter guidance had to content themselves with three diluted paragraphs (118-120) in the Review section of the Final Document.¹³

Institutional Reform

One cannot conclude an evaluation of the results of the 2010 Review Conference without touching upon the fate of an initiative closely associated with Canada. This is a series of ideas to overcome the so-called institutional deficit of the NPT. As noted earlier, despite the status and significance of the NPT as a premier international security treaty, it comes with almost no infrastructure or supporting mechanisms. The Treaty has no annual conference of states parties, no standing bureau or executive council, no secretariat or dedicated implementing organisation (the IAEA has a crucial role in implementation but only with respect to one article of the Treaty) and no means of convening in a decision making mode outside of its Review Conferences once every five years.

Since 2004, Canada has been advocating a number of reforms to help shore up the NPT by providing it with a few institutional supports. While their exact nature has evolved over the years, the key proposals consist of 1) instituting annual meetings of states parties empowered to

take decisions; 2) establishing a standing bureau or ‘circle of chairs’ to provide some continuity between NPT meetings; and 3) creating a position for an NPT-dedicated officer to serve as an ‘implementation support unit’. Canada set out these proposals in a working paper that was supported by 17 cross-regional states parties.¹⁴ As another example of that diplomatic adage that “no good idea goes unpunished,” these practical proposals were subjected to considerable dilution in consultations before and during the Review Conference, and were finally set aside. The idea of an empowered annual meeting, while probably the most important for a strengthened review process, ran into early opposition from several quarters, including the Nuclear Weapon States and the NAM. It was dropped at the Review Conference itself. The other two innovations looked like they were going to survive until Iran reportedly opposed them in the final days of the Conference. With no prospect of gaining consensus, these reform proposals were relegated to the review section of the outcome document (paragraphs 110-112) as noted, but non-actionable, ideas for this Review Conference.

The inability of the NPT process to improve the Treaty’s withdrawal provisions and institutional deficit was flagged by certain observers. In the words of one respected analyst: “After almost a decade of debates on disincentives to make withdrawal from the Treaty more difficult and to increase the NPT regime’s tools for accountability, compliance and implementation, nothing on these important issues appears in the consensus conclusions and recommendations.”¹⁵ Here again is an example of how difficult it is to effect reforms within a body operating on consensus and where certain states are not especially keen to enhance the effectiveness of the NPT review process.

Conclusions

It must be noted that the parties’ agreement on some form of substantial outcome document at the May 2010 Review Conference was a worthwhile accomplishment given the anxiety that was building up around the NPT. At the same time, very little significant progress was made on the major challenges facing the Treaty. In this way, the outcome was essentially a confirmation of the status quo and does little to resolve the tensions or repair the fault lines that threaten the NPT’s authority and viability. Particularly disappointing was the failure to take

practical steps to strengthen the Treaty by providing it with even a minimal support structure. Regrettably, there appear to be states parties which are not eager to see mechanisms created that would put their compliance record under more regular and vigorous scrutiny.

A longer term assessment of the 2010 Review Conference will also need to await the results of implementing the few new operational decisions that were taken at the session. Among the items to track are the following: 1) success in getting FMCT negotiations underway, including fixing the impasse at the CD or finding new forums for launching these negotiations; 2) obtaining entry into force for the CTBT; 3) the extent to which the Nuclear Weapon States actually submit reports on their disarmament implementation; and 4) whether the WMD-Free Zone conference for the Middle East does take place in 2012 as envisaged. Other elements which would contribute to a more positive situation for the NPT as a whole are further major cuts in deployed nuclear weapons, including sub-strategic weapons, and some steps to lower the current high operational status of deployed nuclear forces.

Ultimately, the NPT, like any international accord, is only as strong as its members' continued support for its objectives. If the careful balance of the NPT's tripartite bargain is allowed to be tipped and individual states no longer see a security benefit for them in adherence to the Treaty, it will rapidly lose its power and authority. The resulting jungle politics in the nuclear arena may make the international community regret not having done more to reinforce the NPT when it had a chance.

Notes

¹ *Final Document of the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons* Volume 1, New York: 2010; NPT/CONF.2010/50 (Vol. I); available at www.un.org/npt2010.

² Ray Acheson, "The 2010 NPT Review Conference: Where Do We Go from Here?" *Disarmament Times*, July 7, 2010.

³ *Final Document*, p. 20.

⁴ Jayantha Dhanapala, "Evaluating the 2010 NPT Review Conference," Special Report 258, October 2010, Washington: United States Institute of Peace, p. 9; available at www.usip.org.

⁵ *Final Document*, p. 21.

⁶ *Final Document*, p. 21.

⁷ *Final Document*, p. 24.

⁸ *Final Document*, p. 28.

⁹ *Final Document*, p. 29.

¹⁰ For an Egyptian perspective on the NPT Review Conference and its the outcome for the Middle East, see Sameh Aboul-Enein, "NPT 2010: The Beginning of a New Constructive Cycle," *Arms Control Today*, November 2010, pp. 8-15.

¹¹ *Final Document*, p. 20.

¹² *Final Document*, p. 18.

¹³ *Final Document*, pp. 18-19.

¹⁴ "Further strengthening the review process of the Treaty on the Non-Proliferation of Nuclear Weapons," NPT/CONF.2010/WP.4, March 18, 2010; available at www.un.org/npt2010.

¹⁵ Rebecca Johnson, "Assessing the 2010 NPT Review Conference," *Bulletin of the Atomic Scientists*, July/August 2010, p. 8.