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The Strengthened Review Process;
Between Theory and Practice

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The 2000 Review Conference was the first opportunity to explore the potential of what can be achieved using the Strengthened Review Process adopted at the 1995 Review and Extension Conference of the NPT (NPTREC). It was clearly recognized at the time that the nature of the extension, as part and parcel of the Three Decisions and Resolution reached in 1995, necessitated the expression of the political will of the Parties to undertake a more structured assessment of the implementation of the Treaty so as to ascertain its continued credibility in so far as to assure “that the purpose of the Preamble and the Provisions of the Treaty are being realized” and also to “consider principles, objectives and ways in order to promote the full implementation of the Treaty, as well as its universality”.

In addition, the most important element of the Strengthened Review Process reached in 1995 was that which provided to look forward to “identify the areas in which, and the means through which, further progress should be sought in the future. As such the forward looking and collaborative perspective adopted in 1995, not only set the grounds for 2000, but also reaffirmed the necessity of maintaining the healthy momentum for the

coming period in order to preserve and build upon the successes already achieved.

Undoubtedly much rested on the success of the 2000 Review Process as an indication of the solidity and strength of the totality of the Package reached at the NPTREC, and even more importantly as a means to gauge the respect of Parties to all aspects pertaining to the implementation of the Treaty.

The Strengthened Review Process agreed to in 1995 was a positive step towards achieving the full implementation and universality of the NPT and thus towards realizing the Treaty goals of nuclear disarmament and non-proliferation. By placing greater emphasis on substantive matters during the preparatory phase, and by focusing the review process upon the key issues pertaining to the NPT, greater clarity and direction of the review process could be achieved.

The Strengthened Review Process also provided the justification, in part, for the NNWS to extend the Treaty indefinitely since it was considered as providing a defined framework for guaranteeing the implementation of the Treaty.

The 2000 Review Conference successfully translated the achievements of 1995 into practical steps and measures - The Thirteen Steps-, including improving the Strengthened Review Process, thereby positively reaffirming the importance of that process as a valuable tool.

Yet, we are faced with the reality that the 2005 Review Conference was a failure and with the difficulty of having to analyze that failure against the backdrop of the successes achieved in 1995 and the expectations generated in 2000.

The improvements made to the Strengthened Review Process in 2000 were not major structural ones that could account for such a notable collapse in the Review Process prior to and leading up to the 2005 Conference. The 2000 Conference merely elaborated and built upon Decision I of NPTREC, as highlighted in Step12 of the Thirteen Steps detailed at the 2000 Conference and did not instigate a new process or invent a new procedure.

To find the true source for the failure of the 2005 Review Conference one is therefore forced to look beyond a narrow analysis of the specific elements of the Review Process.

It is abundantly clear that certain political factors external to the mechanisms of the review process, leading up to and until 2000 contributed to the failure of 2005.

The number of events that negatively impacted international efforts to achieve nuclear disarmament and non-proliferation which took place from 2000 till 2005 are indeed numerous; US withdrawal from the ABM Treaty in 2001, Russian withdrawal from START II in 2002 and the withdrawal of the DPRK from the NPT in 2003, as well as the continued gridlock in the Conference on Disarmament which to date has precluded the conclusion of an FMCT or any other positive development pertaining to advancing nuclear disarmament and non-proliferation, are certainly matters that would challenge the prevailing international non-proliferation and disarmament regime.

However, by comparison, the years 1995-2000 also witnessed some major challenges to the NPT, most notably the 1998 nuclear tests of both India and Pakistan, and US refusal to ratify the CTBT in 1999, and yet the NPT Review Conference managed to rise to the occasion and reach a positive outcome in 2000.

A closer look reveals that the elephant in the room is political will. One should not condemn the letter of the law for its poor implementation. The stark changes in the international political climate in general and vis-à-vis disarmament and non proliferation matters in particular are the true culprits towards which the finger of blame for the failure of 2005 should be pointed. Not towards an inherent failure in the Strengthened Review Process or attempts at improving it.

At the 2000 Review Conference the political will to bring about the success of the Conference, in light of the momentous achievements at NPTREC was evident and exhibited clearly by all Parties, particularly the NWS. The indefinite extension of the Treaty as Decision III of NPTREC was still only five years old, and the 2000 Conference was a crucial opportunity to cement that Decision. Therefore, just as Decision III was reached through a

consensus package, cementing the Decision in 2000 by concluding a successful Conference had to be done through a consensus building approach, as such leading to reinforcing and encouraging an overall hopeful outlook for the future of the Treaty and its continuing credibility. The emerging consensus thus clearly demonstrated the conviction that the Treaty continued to contribute to strengthening the individual and collective security of its Parties.

By 2005 however much had changed, NPTREC was 10 years old and the possibility of challenging the indefinite extension of the Treaty vague and somewhat distant. Furthermore, a crucial incident on the world stage, namely the events of 9/11, instigated events and developments which reinforced without a doubt the uni-polar nature of the world order and in that context made attractive the option of reverting to unilateral concepts of achieving security through military means. New concepts advocating the preservation of nuclear weapons capabilities on the basis of responsible and effective management of arsenals started to emerge. This was complemented by a perpetual perception of a general and unspecified security threat that might have to be addressed within the context of possible use of nuclear weapons.

The strong political considerations involved in the decision to use or threaten to use force in promoting non-proliferation objectives also made it more likely for powerful countries, to involve subjective criteria related to their national security concerns and ignore more objective standards that are based upon International Law and international legitimacy. Such developments, which manifested themselves so clearly in the case of Iraq, caused greater general apprehension and caution in negotiations related to the NPT and also increased the sense of frustration, particularly for the NNWS, in that the review process was seen merely as a mechanism for advancing the national interests of the NWS.

This new approach which emerged in the wake of the 2000 Review Conference also heavily undermined the willingness of the Parties with the power to enforce their will outside the Treaty to negotiate and compromise in order to conclude a successful Review Conference. Such recanting on previous promises was made all too evident as early on as the 2002 PrepCom with official statements on the part of NWS declaring that it no longer supported all the Thirteen Steps of 2000 and its reaffirmation that offensive nuclear and non-nuclear capabilities would remain pivotal to its

security approach. The continuing efforts by more than one NWS to suppress reaffirming the outcome of 1995 and 2000 were added clear indication of efforts to create new conditions for the review process.

It thus became all too apparent that the PrepComs leading up to 2005 were to be of a largely deliberative nature, addressing few practical or operational matters.

An exception to that deliberative approach- and in line with the political developments on the international arena at the time- was that the focus for NWS in relation to the NPT became ensuring stringent compliance of NNWS to the provisions of the Treaty. By comparison the NWS continued to resist calls for further tangible progress and greater transparency and verification with regards to their obligations under Article VI. In addition, it was also apparent that there was no commitment towards formulating practical measures to ensure the implementation of either Decision II or the resolution of 1995, or the Thirteen Steps of 2000.

All this undoubtedly adversely contributed to an elevated sense of apprehension and injustice that was hardly conducive to consensus building.

In conclusion, and in undertaking a balanced analysis of the events leading up to the 2005 Review Conference, one can safely say that the Strengthened Review Process and attempts at improving it can not be used to justify the failure of 2005, and indeed one must hold the political will of Parties, or lack thereof, accountable for such a failure.

As we move forward towards the 2010 Conference one truly hopes that the lessons of the past can be put to good and constructive use in order to decrease the risks of another failure, one which the international community would be hard pressed to deal with.
