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**Session III: What were important substantive
developments and their implications?**

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Substantive Developments and their Implications

The 2002 NPT Prep Com was held at a very peculiar time, where multilateralism has been seriously challenged, the international community is worried about the so called “Nuclear Review Posture”, and allegations by a State Party against other State Parties of disarmament treaties are threatening the cooperative atmosphere among State Parties. The Prep Com was not able to have thorough critical review of the latest developments to be followed by constructive recommendation or decisions. The atmosphere was calm and to some extent relaxed due to lack of fruitful interactions on such important security related issues.

Some participants expressed concerns about non-States Parties, particularly those with nuclear weapons capabilities. Mere expression of concerns about new weapon states is not sufficient. The bitter reality is the failure of the NPT, not being able to prevent further proliferation of nuclear weapons states. While the reduction of nuclear warheads since its entry into force has not met the International Community’s expectations, the NPT was extended indefinitely in 1995. Some, particularly among nuclear weapons States Parties assumed this as an indication of full satisfaction of the status quo. I even dare to say that the NPT should have not been extended indefinitely so that necessary political pressure would continuously be exerted.

While in the summary text, multilateralism is considered as a core principle in the area of disarmament and non-proliferation, the recent developments leading to unilateralism is not touched upon.

A careful review of the developments since the NPT-2000, indicates the lack of implementation of most of the items approved by the Conference, especially those related to article VI of the Treaty, known as 13 steps. The International Community is further concerned about the Nuclear Posture Review being currently pursued by the United States. The Ministers of the Non-aligned Movement, at their meeting in Durban in April 2002, expressed serious concern that the development of new types of nuclear weapons are being considered and the provision for the use or threat of use of nuclear weapons against Non-Nuclear Weapon States is in contravention of the negative security assurances that have been provided by the Nuclear Weapon States.

In the text it is reminded that “the nuclear-weapon States informed the States parties of their respective measures taken in accordance with Article VI of the NPT... and that new nuclear weapons are not being developed”, where in the next paragraph it says: “Concern and uncertainty was expressed about existing nuclear arsenals... and possible development of new generations of nuclear weapons”. As a new negative development since NPT-2000, one could refer to the withdrawal of the US from the ABM Treaty and determination for NMD. The Chairman’s summary tends to diplomatically play down the existing frustration and concern by expressing hope that the US-Russian bilateral negotiations would promote international stability.

The Summit is obviously one of the important recent developments, since the NPT Prep Com 2002 in New York. A careful review of the text of the declaration signed on May 24, 2002 in Moscow would lead us to the following conclusions:

Time will prove to what extent the objectives of such bilateral agreements on the Missile Defense; further Strategic Offensive Reduction will be realized. Their decision on the missile defense cooperation, including the expansion of joint exercise related to missile defense and joint research and development of missile technologies is a serious step to further militarization under the pretext of national defense. The political observers do not conclude so much optimism as the Chairman does from the bilateral negotiations. According to the news dissatisfactions have been expressed at the Russian Parliament regarding the outcome of the summit. One has to bear it in mind that a legally binding instrument is replaced by a weak politically binding one.

In the Chairman's summary, the issues related to the Conference on Disarmament are dealt with in an imbalanced way. The FMCT is highlighted, whereas the other topics discussed on several occasions in the CD, i.e. the nuclear disarmament, the NSA, and the PAROS, are neglected.

Another arguable issue was the regular report to be submitted by nuclear-weapon States. The relevant paragraph starts with "States Parties recalled that regular reports should be submitted by all States Parties on the implementation of Article VI" which is somehow misleading even if the NPT-2000 final document contains such a clause.

It further stipulates that "the format and frequency of reports should be left to the determination of individual States Parties" which is objectionable. The summary was expected to reflect the calls upon the nuclear-weapon States to fulfill the obligation under Article VI without delay.

According to the article VI of the NPT, the nuclear weapon States are committed to not transferring nuclear explosive devices to any other state, not to assist NNWS to acquire them and to pursue negotiations on nuclear disarmament. The present status quo compared with the status in 1970, when the Treaty entered into force, proves the non-compliance by certain NWS. The actual possessors of NWs have been increased, the nuclear warheads have marginally been reduced, and instead their efficiency has increased by advanced technology and continued nuclear weapon tests. Lack of reporting by NWS has further discouraged the NNWS. The non-State Parties have had twice the advantage during the past decades, while some State Parties have been deprived of benefiting from nuclear science and technology for peaceful purposes in accordance with article IV of the NPT. The NPT 2005 should be a forum for critical review of the past 35 years of non-compliance by NWS, full access of non-State Parties to nuclear technology and unjust treatment of developing State Parties. The unjustified mechanism of voluntary nature of the budget of technical cooperation of the IAEA, which is not assured and predictable, has not been modified in spite of calls by developing member states during the past four decades. The Chairman's summary has not reflected such concern.

The issue of Nuclear Weapon Free Zones was amply dealt with, but the root cause of the failure of the establishment of the NWFZ in the Middle East was not completely elaborated.

Non-adherence of Israel to NPT and other disarmament treaties and in particular rejection of the IAEA's comprehensive safeguards has created suspicions, lack of confidence and insecurity in the region.

Some other countries in the region have conditioned their adherence to the BWC, the CWC and other disarmament treaties subject to Israel adherence to the NPT. Israel has however linked its adherence to the peace process which has no outlook.

As reflected in the Chairman's summary, the resolution on the Middle East was an essential element of the outcome of the 1995 NPT Review Conference and the basis on which the NPT was indefinitely extended without vote. The failure since then questions the credibility of the decision on the extension. This issue should be seriously raised at the Prep Coms as well as the NPT 2005 Review Conference.

Let's review the recent message to the Senate by the President of the United States on the issue of additional protocol, 93 +-2:

“The Treaty on the Non-Proliferation of Nuclear Weapons (the “NPT”) requires non-nuclear-weapon States Parties to accept Agency safeguards on their nuclear activities. The United States, as a nuclear-weapon State Party to the NPT, is not obliged to accept Agency safeguards on its nuclear activities. Nonetheless, it has been the announced policy of the United States since 1967 to permit the application of Agency safeguards to its nuclear facilities— excluding only those of direct national security significance. The Additional Protocol similarly allows the United States to exclude its application in instances where the United States decides that its application would result in access by the Agency to activities with direct national security significance to the United States or access to locations or information associated with such activities.”

In principle the IAEA coverage of Nuclear Weapon States is therefore wasting the IAEA member state resources and is misleading to the public to a degree of the compliance of NWS because of the voluntary nature of the safeguards obligations.

The criticisms on the parallel arbitrary export regimes were not reflected in the summary. Neither the reference to article IV and the expression of dissatisfaction is duly echoed in the report.

On the issue of the convention on the Physical Protection of Nuclear Material, attention has to be paid to the fact that it excludes the nuclear material and facilities of the nuclear weapon states, thus is a discriminatory convention. In the amendment process one has to bear in mind this inherited shortcoming. Following the Chernobyl accident, two conventions namely Early Notification and the Mutual Assistance in case of Nuclear Accidents were approved by the IAEA Special Conference and then entered into force. None were reflected in the summary in the relevant sections.

Conclusion: the Prep Com was able to successfully adopt its final report, the Chairman's summary, but the lack of interaction and constructive deliberation by participants is considered as a serious shortcoming as was also duly expressed by the coordinator of the Non-aligned Movement.

The expectation of the Chairman to “take or leave” his summary was unjustified. Useful suggestions could have improved it. This trend should not establish precedent. The author is of the belief that one single balanced paragraph following intensive interaction adopted by consensus is more effective than many approved by this method. Finally, apart from critical evaluation, sincere appreciation has to be expressed for the attempts made by the Chairman and for his good intention for the success of the Prep Com.