

Stalemate in the Diplomatic Trenches: An Overview of the Diverging Positions at the 2005 NPT Review Conference

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Just two days before the opening of the seventh Review Conference of the Treaty on the Nonproliferation of Nuclear Weapons (NPT), a front page headline in the New York Times read, “Threats Shadow New Conference on Nuclear Arms.” While it is rare that a multilateral conference receives this kind of attention, the States Parties are meeting during a time of serious challenges to the nuclear nonproliferation regime. Iran’s nuclear program is of global concern, while North Korea may be ready to test nuclear weapons. In addition to these immediate difficulties, there are the broader issues of the proliferation sensitivity of the nuclear fuel cycle, the provision of security assurances, questionable progress on disarmament, and the need for compliance enforcement. (For details on each of these issues, see below.) Given these many challenges, the public at large might expect that the delegations to the conference would be under pressure to find solutions to the nuclear threats facing the world, and make the necessary compromises to strengthen the nonproliferation regime. Yet nearly two weeks into the conference, the greatest achievement has been the use of an asterisk to adopt an agenda for the remaining two weeks of negotiation.

To those who had been following the review process leading up to the conference, this lack of progress is of little surprise. The high stakes raised by these challenges to the Treaty have led to the entrenchment of national positions, and each delegation has arrived in New York with answers, but most seem unwilling, or unable, to seek solutions to problems endogenous to the Treaty’s structure. It is too early however, to discount the conference entirely. While some of the key issues are unlikely to be resolved this year, progress may yet be made on certain aspects of the Treaty. This brief is intended to offer a synopsis of the way in which the States Parties have addressed the key issues during the conference’s opening week, and provide indications of the direction that the conference may take on these issues.

Opening Addresses

The opening addresses made to the 2005 Nonproliferation Treaty (NPT) by UN Secretary-General [Annan](#), International Atomic Energy Agency (IAEA) Director-General [ElBaradei](#) and the Conference’s President, Ambassador [Duarte](#), predictably stressed the need for inclusiveness and political will to achieve progress. Secretary-General Annan urged the States Parties to “move beyond rhetorical flourish and political posturing” and deal with the agreed new security threats and challenges to the Treaty. These statements also stressed the importance of the conference and its timing. President Duarte stated that

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its success or failure would “affect the fate of the non-proliferation and disarmament regime and other security related instruments and initiatives.” The speakers therefore placed additional political pressure on the delegations to pursue ways to permanently fix the cracks in the Treaty’s structure. By the time the Conference opened, however, the delegations had already arrived with orders in hand, and the state capitals had largely determined how much effort they were willing to invest in the conference.

Treaty Compliance

In light of the investigations that have been carried out by the IAEA into the nuclear programs of a number of states in the last five years, several States Parties have expressed the need to enhance compliance with the Treaty. The United States in particular has declared that the Treaty is currently witnessing a “[crisis of compliance](#),” referring to concerns over Iran’s nuclear intentions, North Korea’s admission of nuclear weapons possession, and Libya’s past nuclear weapons program. The United States, the United Kingdom, France, and the Republic of Korea all highlighted the idea that a state’s compliance with its safeguards and nonproliferation obligations should be a precondition for peaceful nuclear cooperation. The [United States](#) asserted that, “No state in violation of Articles I or II should receive the benefits of article IV. All nuclear assistance to such a state, bilaterally or through the IAEA, should cease.” Additionally, the European Union, in a call echoed by Germany, stressed the role of the Security Council in compliance enforcement. These two compliance measures are not new, and are already part of the Treaty architecture. However, these states are likely to seek some sort of reinforcement, or at the very least, a clear reaffirmation of these measures.

Safeguards

Tied to the issue of compliance is the process of safeguards, by which the IAEA verifies compliance with the Treaty. A large majority of Western Group² states called for the Additional Protocol³ to be the new safeguard standard, thereby allowing the IAEA greater access and ability to provide verification. Moreover, Australia, the United States, and the United Kingdom further stated that the Additional Protocol should be a condition of nuclear supply. In particular, [Australia](#) declared that it “intends to make the Additional Protocol a condition for the supply of Australian uranium to [non-nuclear weapon] states and will be consulting others, both suppliers and customers, on timing for bringing this policy into force.” Most other states called for the universal adoption of the Additional Protocol, but did not push for its standardization. Argentina and Egypt, however, voiced opposition to such standardization. [Argentina](#) stressed the voluntary nature of the Additional Protocol, while [Egypt](#) asserted a principled argument stating, “as we consider the issue of safeguards, including the Model Additional Protocol, it is essential that we consider carefully whether it is logical or even feasible to reward the laxity in

² The Western Group is a political bloc which includes the Western European states, the United States, Canada, Japan, and Australia.

³ The Additional Protocol is a voluntary safeguards mechanism that provides for a more complete and intrusive inspection regime than traditional safeguards, including measures such as allowing the IAEA access to all aspects of a state’s nuclear fuel cycle and short-notice inspections.

implementation of obligations under one of the treaty's pillars, namely nuclear disarmament, with the imposition of additional obligations under the other pillars of the treaty including the safeguards regime." Egypt's statement suggests that its agreement for the standardization of the Additional Protocol will be dependent upon compromises on disarmament.

The Nuclear Fuel Cycle

In addition to enhancing safeguards, the question of access to the nuclear fuel cycle has also been a key issue in the debate over how to prevent the proliferation of nuclear weapon technologies. A number of states, as well as Director-General ElBaradei, have warned that the acquisition of enrichment and reprocessing capabilities constitutes a "loophole" in the Treaty as it provides states with the ability to produce nuclear weapons in a short period of time after the decision to do so is taken. In this light, many states welcomed the recent IAEA [report "Multilateral Approaches to the Nuclear Fuel Cycle,"](#) with [Russia](#) in particular expressing support for the Agency's efforts regarding the fuel cycle, declaring that, "The world already has more than enough capacity" for uranium enrichment and reprocessing irradiated nuclear fuel. [Norway](#) also stated that the IAEA's report should guide a multilateral approach. While the [United States](#) continued its calls for restrictions to be placed on the export of fuel cycle technologies, this proposal was listed under President Bush's action plan, and not necessarily as a key U.S. objective at the conference. The United States is likely to continue pursuing this goal in the Nuclear Suppliers Group (NSG), as described in [President Bush's speech](#) to the National Defense University in February of last year.⁴ [France](#), on the other hand, suggested that economic needs must be considered before the rules regarding access to nuclear technology are changed, arguing that, "Uselessly restrictive rules should not jeopardize economic growth in terms of sustainable and environmentally compatible development." A number of states, including Argentina and South Africa, argued that states that are in compliance with their obligations and pursue nuclear energy for peaceful uses should not have restrictions placed on them. [Egypt](#) went further, questioning the legality of placing limitations on the peaceful use of nuclear energy, stating that "any attempt to restrict the exercise of this [Article IV] right poses fundamental questions related to the possibility of ... interpreting the Treaty provisions without resorting to the relevant articles relating to its amendment as well as the possibility, if at all, of restricting the exercise of an 'inalienable' right which constitutes one of the three pillars of the Treaty." In spite of the IAEA's efforts to address the issue of the fuel cycle, the principled opposition by many states to restrictions on the fuel cycle and the divisions within the Western Group regarding the viability of such measures indicate that there will not be any agreement on this issue, and discussion on imposing such limitations is likely to be limited.

⁴ In this speech, President Bush made a number of proposals to address the proliferation of weapons of mass destruction, including limiting the NSG's transfer of enrichment and reprocessing equipment to only those states that currently possess full-scale, functioning enrichment and reprocessing plants

Iran

Related to the question of how to address the proliferation sensitivity of the nuclear fuel cycle are the current efforts to resolve concerns regarding Iran's nuclear program. The majority of States Parties making remarks on this issue expressed hope that the negotiations between Iran, France, Germany, and the United Kingdom will arrive at a successful outcome. Two of the states involved in these negotiations made clear their own wishes; the United Kingdom called on Iran to reconsider its plans for a heavy-water reactor, and Germany stated that a permanent cessation of uranium enrichment was the goal of the so-called "Paris Accord." The [United States](#) echoed Germany's call for the "permanent cessation of Iran's enrichment and reprocessing efforts." In response to such calls, [Iran](#) made a thinly veiled warning, and rhetorical cover, for its own potential withdrawal from the NPT. Referring to demands that Iran give up all enrichment and reprocessing capabilities, its delegation stated that, "Cessation of legal activity is no objective guarantee against so-called break-out; it is indeed a historically tested recipe for one." Furthermore, Iranian officials have been warning that the country will re-start its enrichment activities shortly. Therefore, while most States Parties expressed their hope in the Paris Accord, it is not clear that its negotiations are gaining ground.

North Korea

Amidst suggestions that the Democratic People's Republic of Korea (DPRK) might test a nuclear weapon and that the United States and Japan could bring the DPRK case to the Security Council for sanctions, the majority of States Parties recognized the challenge posed by North Korea's nuclear weapons development and have called for the DPRK to return to the [Six Party Talks](#).⁵ Beyond this call, some states, including the United Kingdom, Ireland, and Japan, called for the verifiable dismantlement of North Korea's nuclear weapons program. [Australia](#), however, suggested that other measures may need to be taken if the DPRK does not return to the Six-Party Talks, stating, "as we approach the one year anniversary of the last round of Six-Party Talks (June 2004) it is clear that the international community's patience will not last indefinitely." A discussion of the DPRK's legal status in regard to the NPT has essentially been precluded by President Duarte's adoption of the tactic used during the two NPT Review Conference Preparatory Committee meetings in 2003 and 2004, in which he kept the nameplate of the DPRK. For the time being, it seems that the Six-Party Talks will be relied upon to resolve the issue, although that will require an unwilling North Korea to rejoin them.

Treaty Withdrawal

The DPRK's withdrawal from the Treaty has raised the issue of preventing states from withdrawing for the purpose of developing nuclear weapons, thereby prompting a discussion of the withdrawal provision under Article X. Comments ranged from Ireland's more general urge to address withdrawal provisions to the European Union, the Republic

⁵ The Six-Party Talks are a diplomatic effort to resolve the North Korean nuclear crisis that began in August 2003. The six parties are China, Japan, North Korea, the Russian Federation, South Korea, and the United States.

of Korea, and Sweden's call to discourage withdrawal. Australia went even further, stating that the UN Security Council should automatically consider any notice of NPT withdrawal. Norway, after referring to North Korea, said that a withdrawal cannot be without consequences. France and the United Kingdom shared the view that a withdrawing State remains responsible for previous violations committed while under the NPT, and upon abrogating the Treaty, cannot benefit from nuclear technology assistance and must freeze, dismantle, and return received nuclear materials.

Disarmament

Comprehensive Nuclear Test Ban Treaty

In what remains one of the most divisive issues in the latest cycle of the NPT review process, endorsement of the Comprehensive Nuclear Test Ban Treaty (CTBT) stands on tenuous ground. While the opening statements of the majority of states called for the early entry into force of the CTBT, including four of the nuclear-weapon states (NWS), the United States, which has declared that the CTBT is no longer in its own interests, did not make any mention of the Treaty. As had been suggested informally in the months before the RevCon, it is likely that, if there is to be any reference to the CTBT at all, the States Parties will make use of the approach proposed in [Sweden's](#) opening statement, which stated that, "The fact that an overwhelming majority of states parties support the early entry into force of the Comprehensive Test-ban Treaty should be duly reflected in the final document."

Fissile Material Cut-off Treaty

As the United States has declared that it does not believe that a treaty banning the production of fissile material for weapons purposes can be effectively verifiable, some divisions have emerged as to how to move the negotiation of an FMCT forward. The States Parties took three different approaches in their opening statements. The largest number of states, including the United States, simply called for negotiations on the FMCT to begin in the Conference on Disarmament (CD). Several other states, including Australia, Austria, Egypt, and Italy, called for FMCT negotiations to begin while emphasizing the need for verification. The statement from [Austria](#) in particular argued that, "An FMCT without a robust verification regime would be devoid of its purpose and would raise questions about the commitment of those who are the main addresses of such a treaty." The [European Union](#), on the other hand, called for negotiations to begin "without preconditions," which suggests that the negotiation of an FMCT should not be dependent upon the inclusion of verification provisions. This call by the European Union appears to be led by the United Kingdom, which included such a call in its own statement. While the suggestion of "no preconditions" is not in direct conflict with the calls for the verifiability of the FMCT by EU members Austria and Italy, these different approaches do point to an apparent division within the European Union over the role of verification in the FMCT. The divisions within the European Union, however, are only indicative of wider divisions among the States Parties. Any negotiations which do commence on an

FMCT will inevitably need to account for such differences in opinion over the Treaty's verification and scope, and this fact is likely to be reflected in any language on the FMCT.

Non-Strategic Nuclear Weapons

A number of states, as well as the European Union, have proposed further reductions in non-strategic nuclear weapons.⁶ [Germany](#) in particular called for the complete implementation of the 1991/1992 Presidential Nuclear Initiatives, in which the United States and Russia agreed to unilaterally reduce their non-strategic nuclear weapon arsenals, adding that, "A further step could then be the formalization and verification of the unilateral commitments." This sentiment echoes proposals put forward by Austria, Sweden and Ukraine during the Preparatory Committee. While no vocal opposition has been voiced in the Conference, Russia has previously argued that strategic and non-strategic weapons should not be considered separately. It is unlikely that this effort will gain the necessary support to place sufficient pressure on Russia to fall back from its position.

Security Assurances

Tied to concerns over the lack of progress on nuclear disarmament is the call by non-nuclear-weapon states for the issuance of legally-binding negative security assurances by the nuclear-weapon states.⁷ [China](#) joined in these calls by recalling its own "no-first use" commitment, and stated that, "it is more than justified for the non-nuclear-weapon states to request to be free from threat of nuclear weapons upon forgoing development of those weapons and to have nuclear-weapon states provide assurances in this regard in a legally binding form." While the other nuclear-weapon states predictably made no mention of the issue, members of the Non-Aligned Movement (NAM),⁸ such as [Iran](#), called on the conference to implement the "unfulfilled commitments and promises on a legally binding instrument on Negative Security Assurances in the framework of the 1995 packages of Decisions and the 2000 final Document." To accomplish this goal, a large number of non-nuclear-weapon states, led by the NAM, have called for the creation of a subsidiary body to address this issue, a proposal which has faced significant opposition from most nuclear-weapon states. It has been suggested that a subsidiary body dealing with both disarmament and security assurances should be created to highlight the linkage between the commitment not to use nuclear weapons against non-nuclear-weapon states and the role of nuclear weapons in the security policies of nuclear-weapon states. In particular, the 2000 Review Conference Final Document, under Article VI, paragraph

⁶ Also known as tactical nuclear weapons, non-strategic nuclear weapons tend to have a lower yield and shorter range than strategic nuclear weapons, and are intended for battlefield usage. For more information, please see Nikolai Sokov, "Tactical Nuclear Weapons," NTI Issue Brief, http://www.nti.org/e_research/e3_10a.html.

⁷ Negative security assurances are pledges by NWS not to use nuclear weapons against non-nuclear-weapon states. For more information on negative security assurances, and recommendations for the 2005 RevCon, please see Jean duPreez, "The Role of Security Assurances: Is Any Progress Possible?" NTI Issue Brief, http://www.nti.org/e_research/e3_45a.html.

⁸ The Non-Aligned Movement was initiated in 1961, and now includes some 112 Member States. For more information, please see the Non-Aligned Movement website, at <http://www.nam.gov.za>.

9(5), called for diminishing the role of nuclear weapons in security policies. In order to ensure that the role of nuclear weapons does not include targeting the non-nuclear-weapon states, the NAM, along with China, has called for the issuance of legally binding security assurances. It is likely, however, that other nuclear-weapon states will echo Russia's contention during the Preparatory Committee that any legally binding measure must take into account conditions under which nuclear weapons may be used.

Nuclear-Weapon-Free Zones

Many states expressed support for the role of nuclear-weapon-free zones (NWFZs) in strengthening the nuclear nonproliferation regime. This attention may be due, in part, to the fact that the Conference has fallen on the heels of a conference of NWFZ States Parties, held in Mexico the week before the RevCon commenced. In regard to NWFZs, particular attention has been paid to the recent agreement to establish a Central Asian NWFZ (CANWFZ), the effort to establish a Middle East Weapons of Mass Destruction Free Zone, and the role of security assurances issued in the context of NWFZs.⁹ Most states welcomed progress on the CANWFZ, and continued calls for the creation of a MENWFZ, with states such as Indonesia and Egypt pointing to Israel as the primary hurdle for this effort. There have been some suggestions however, that France may oppose the endorsement of a CANWFZ.¹⁰

Review Process

Throughout the Preparatory Committee to the 2005 RevCon, [Canada](#) proposed measures to strengthen the review process and “overcome the institutional deficit” of the NPT. Canada's call for an annual meeting of States Parties and the creation of an NPT standing bureau therefore came as no surprise. Canada argued that meeting once every five years is inadequate to discuss critical issues relating to the Treaty, and noted that annual meetings are standard in most other disarmament treaties. The proposal for a standing bureau is intended to allow for the convening of a conference in response to extraordinary events, such as an announcement of withdrawal. These proposals were only echoed by two other states. Sweden supported the creation of an NPT standing bureau, and Ireland, which had made a similar proposal prior to 2000, called for an annual meeting of States Parties. While these proposals have not faced open opposition, the nearly complete lack of discussion regarding such changes to the NPT Review Process suggests that they will not be widely addressed in negotiations.

⁹ For more information on the recent CANWFZ agreement, please see “Central Asian States Finalize Nuclear-Weapon-Free Zone Treaty,” *NIS Export Control Observer*, February 2005, p. 3, http://cns.miis.edu/pubs/nisexcon/pdfs/ob_0502e.pdf; for information on the status of attempts to create a Middle East WMD Free Zone, see *Middle East Weapons of Mass Destruction Free Zone: Regional Security and Non-Proliferation Issues*, UNIDIR website, http://www.unidir.org/bdd/fiche-article-fr.php?ref_article=2241.

¹⁰ While Russia and China voiced support for the 2002 draft CANWFZ treaty, France, the United Kingdom, and the United States have expressed reservations; the revisions agreed to by CANWFZ parties do not appear to address the issues by these NWS.

Conclusion

Should this Review Conference fail to consider the health of the Treaty and to agree on a meaningful road ahead, it would not be the result of a lack of ideas, but a lack of political will. States Parties on all sides appear to be indifferent about the outcome of the conference. Instead, the delegations have been playing diplomatic word games over procedural issues, thereby precluding sufficient time to comprehensively grapple with the real problems facing the Treaty.