



James Martin Center for Nonproliferation Studies
Monterey Institute of International Studies
An Affiliate of Middlebury College

Workshop on the Nuclear Non-Proliferation Treaty

2010: Time for a New Beginning

L'Impérial Palace Hotel, Annecy, France

13 and 14 March 2009

Conference Report

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Introduction

In keeping with its longstanding practice, the Monterey Institute's James Martin Center for Nonproliferation Studies (CNS) hosted a two-day diplomatic workshop on the Nuclear Nonproliferation Treaty on 13 and 14 March 2009 in Annecy, France, entitled: "2010: Time for a New Beginning."

The workshop was held against the backdrop of a number of developments in recent months, in particular the inauguration of U.S. President Barack Obama, an event that offers renewed hope for positive changes and progress on nuclear nonproliferation, arms control, and disarmament. Despite the fact that the preparatory process for the 2010 Review Conference has not yielded much hope so far for a successful outcome, expectations are high that the 2009 PrepCom will deliver substantive results. On the other hand, concerns exist that several factors could lead to a repetition of what occurred at the 2004 PrepCom, which led to the ill-fated 2005 Review Conference. The 2009 Annecy diplomatic workshop therefore offered a timely opportunity for more than 80 representatives from key governments, inter-governmental organizations and selected non-governmental organizations to look forward from a glass three-quarters full perspective, as opposed to an empty one. As the workshop's guiding theme implies, there are now new expectations for progress on nuclear nonproliferation, arms control, and disarmament. The 2009 NPT workshop aimed to kick off renewed efforts towards a successful outcome of the 2010 Review Conference and a stronger treaty.

CNS is the only organization in the world dedicated exclusively to graduate education, executive training and research in the field of nonproliferation and disarmament. The unifying principle underlying the CNS approach is to combat the spread of weapons of mass destruction (WMD) by training the next generation of policy experts and nonproliferation specialists and by disseminating timely information and analysis in this field. One of the Center's highest priorities is to actively promote a successful NPT Review Conference in 2010. The Center's International Organizations and Nonproliferation Program (IONP) is primarily tasked with the dissemination of timely policy analysis and information on activity within the nonproliferation and disarmament regimes. Key to this task is the promotion of substantive dialogue between governmental and nongovernmental sectors on nuclear nonproliferation, disarmament and arms control through diplomatic workshops.

Executive Summary

Since the 2009 Preparatory Committee meeting (PrepCom) will be the first NPT states party meeting since the inauguration of the new Obama administration in the United States, the PrepCom will have to contend with both heightened expectations and heightened consequences for failure. Through moderated discussions on key issue areas, the 2009 Annecy NPT workshop sought to identify the lessons of recent PrepComs, address challenges to the nonproliferation regime from multiple fronts, and figure out how best to define and achieve success in New York in May 2009. With new opportunities and familiar risks in mind, participants at the workshop expressed their hopes, concerns, perceptions and recommendations in pursuit of common ground for the PrepCom and beyond. There was also a session dedicated to a dialogue with the 2009 chairman-elect, Boniface Chidyausiku of Zimbabwe, on his critical role at the PrepCom. The workshop benefited immensely from the perspectives of participants representing a diverse set of governments, international organizations and selected think-tank and non-governmental organizations.

The workshop's agenda consisted of seven sessions designed to explore procedural and substantive matters for the PrepCom and the 2010 Review Conference. In each session, a panel of distinguished commentators presented thoughts on the specified topic, followed by a moderated discussion. The first session was devoted to an examination of the impact of political change on the PrepCom and various substantive issues. Session two addressed prospects for disarmament and pragmatic steps to advance that end. These sessions were followed by a luncheon discussion on the future of the Comprehensive Nuclear Test Ban Treaty (CTBT) and prospects for its entry-into force. Sessions three and four delved into mechanisms for encouraging the peaceful uses of nuclear energy and the security concerns of non-nuclear weapon states (NNWS), respectively. Described by one participant as a "catch-all" topic for the workshop, session five investigated existing proliferation concerns such as the NPT status of the

Democratic People's Republic of Korea (DPRK), the NPT impact of India's waiver from the Nuclear Suppliers Group (NSG), the potential for nuclear terrorism, and so-called proliferation "wild cards." Session six was devoted to a frank evaluation of the strengthened review process and how it might be improved. The final session provided the 2009 PrepCom chairman with an opportunity to brief participants on his consultations, approach and objectives, and to solicit their feedback.

As in years past, the value of the 2009 Annecy workshop forum was a product of its emphasis on candor, free exchange and substance. In order to enable full and frank discussion of key issues and proposals, the 2009 workshop was conducted under "Chatham House Rules." This report, prepared by David Peranteau and Jean du Preez, provides an abbreviated overview of the salient issues, themes and proposals discussed at the workshop. As such the report is in no way reflective of all views, and the authors bear sole responsibility for its contents.

Themes, Proposals and Recommendations

The following represents a non-exhaustive list of themes, proposals and recommendations advanced during the two-day workshop in Annecy, France. Speakers and commentators expressed a wide variety of opinions on the various issues. While some ideas enjoyed broad support, others were contested or did not garner responses sufficient to ascertain their popularity. Inclusion in this list is not meant to reflect the existence of consensus on any particular point.

Getting the Politics Right: Progress, Problems and Prospects?

1. The NPT regime faces multiple crises that should compel a heightened sense of urgency. Some features of the current crisis include:
 - a. An inability to adopt consensus decisions (even on procedure)
 - b. An inability to cope with specific cases of withdrawal and nonproliferation violations
 - c. Unsatisfactory Article VI progress
 - d. The enduring threat of nuclear terrorism
 - e. An imbalance in emphasis on the NPT's three pillars
 - f. The persistent lack of NPT universality
2. There exists cautious optimism regarding the potential for substantive advances at the upcoming PrepCom and subsequent Review Conference, particularly in light of some positive preliminary signals from the new U.S. administration.
3. The NNWS must position themselves to take maximum advantage of opportunities for forward momentum that arise from positive shifts in tone or policy on the part of the NWS.
4. Opportunities for engagement and debate should not be confined to the PrepComs and Review Conferences. Consultations should take place year-round.
5. A high-level NPT summit in advance of the Review Conference may provide momentum and visibility for movement on key issues, but such a summit might also generate (or fail to live up to) unrealistic expectations that could ultimately prove counterproductive.
6. The upcoming PrepCom's objective must be to set the stage for a relatively smooth and productive Review Conference. Thus, its most crucial task will be the achievement of agreement on an agenda. A redux of 2005, in which a considerable amount of the Review Conference's time was spent hammering out an acceptable agenda, must be avoided.
7. The Review Conference agenda should be kept simple and brief. All parties are familiar with the key issues and areas of contention. Agenda items should allow for wide-ranging discussions without attempting to ambitiously delimit issues in advance. Simplicity should also characterize the chairman's statement, papers and any recommendations that emerge.

8. Though a chair's summary may be a desirable PrepCom deliverable (in lieu of substantive recommendations)¹, pursuing such a summary as a vital end in itself may distract from more pressing matters to be addressed in advance of the Review Conference.
9. Likewise, it should be recognized that specific recommendations from the PrepCom to the Review Conference, while desirable, may not be achievable and should not be viewed as strictly necessary. The PrepCom can and should, however, agree on the Review Conference agenda and proffer topics for the Conference's consideration.
10. The Review Conference should aim to produce two parallel action plans: one for disarmament and another for nonproliferation, which should include issues related to peaceful uses. These plans should detail achievable objectives and practical metrics for progress assessment.
11. Genuinely equitable emphasis on each of the NPT's three pillars, particularly from the NWS, will be crucial to a successful PrepCom.
12. The P-5 should follow up on their joint statement made at the 2008 PrepCom with an updated statement on their intentions and concerns.

Nuclear Disarmament: Back to the Future?

13. The fact that frank discussion of disarmament is now common in contexts where it was previously derided is a positive development that will require sustained reinforcement if it is to become an irreversibly global norm. To this end, three "low hanging fruits" were identified:
 - a. Strategic arms reductions and a new START agreement should be near term steps;
 - b. CTBT ratifications and the treaty's near term entry into force are practical and achievable;
 - c. FMCT negotiations should proceed with all possible speed in the Conference on Disarmament (CD)
14. Rising expectations associated with the Obama administration translate into rising stakes. A disappointing Review Conference outcome could potentially be disastrous.
15. There is a paradox between the views of NWS who desire assurances that their security can be guaranteed without nuclear weapons and the views of NNWS that they do not have nuclear weapons that threaten the security of NWS. Solutions are likely to involve ideological shifts as well as real progress on confronting perceptions of threats to strategic stability. Nuclear disarmament will require a context of undiminished security for all parties.
16. There is need for greater transparency and "marketing" on the part of the NWS in order to more effectively convey progress on disarmament to the rest of the world.
17. For as long as nuclear weapons are granted pride of place in national security strategies and are conceived of as legitimate instruments that confer status and power projection capability to their bearers, disarmament will remain an elusive goal.
18. A declaration by all of the NWS that deterrence is the ONLY function of their existing stockpiles would be a useful intermediate step toward a world free of nuclear weapons.

¹ The strengthened review process as revised in 2000 mandated the third PrepCom session to make substantive recommendations to the Review Conference. Given the practice that PrepCom sessions prior to the 2004 PrepCom issued chairman summaries attached to the PrepCom reports, and given that there was no agreement on any recommendations to the 2005 Review Conference, the chairman of the 2004 PrepCom issued a summary in order to capture the discussions and proposals made during the 2004 PrepCom session. This summary was not attached to the PrepCom report, but rather was issued as a chairman's working paper.

19. There is concern and frustration that the NWS continue to employ “conditionality,” at least at the level of rhetoric, in discussions of their Article VI obligations.
20. The importance of strategic arms reductions cannot be overstated. Strategic arms reduction negotiations between the United States and Russia should include an agreement to reduce the operational status of their nuclear forces.
21. All NWS should immediately recall any nuclear weapons and nuclear weapon infrastructure stationed outside their borders. A standing proposal from the Russian Federation regarding extraterritorial weapons deserves renewed attention.
22. The United Kingdom and France were specifically urged to demonstrate higher levels of transparency with respect to a recently reported nuclear-armed submarine collision.
23. FMCT negotiations should proceed with all possible speed in the CD. If disagreement over the CD’s program of work continues, alternative negotiating forums should be considered. Determinations regarding the proper scope, definitions and verification mechanisms for an FMCT remain challenging, though such challenges may be overstated and surmountable in the near-term.

Prospects for entry-into force of the CTBT

24. Prospects for the CTBT’s entry-into force are favorable, but do not by any means rise to the level of a foregone conclusion. In this context, even “small” actions can matter a great deal. It should go without saying that every new ratification matters.
25. The PrepCom and the Review Conference should send a clear message of renewed consensus regarding the importance of the entry-into force of the CTBT.
26. The CTBT should be viewed as a key catalyst for renewed confidence in the nonproliferation regime. As such, the CTBT’s role as a cross-cutting remedy for multiple global security and NPT challenges should be highlighted.
27. States should be proactive rather than reactive in their support for the CTBT. Waiting for U.S. ratification, for example, involves an impractical concession of moral and political high ground.
28. As a result of scientific and technological advances, the CTBT is even more demonstrably verifiable at present than was thought possible when the treaty was concluded.
29. A joint P-5 statement at the PrepCom should include their support for the CTBT.

Renewing the commitment to the peaceful uses of nuclear energy: Is it still inalienable?

30. There is little appetite for any revision whatsoever of state parties’ Article IV rights. Any revision or reinterpretation of fundamental NPT rights and obligations at this stage would open a Pandora’s Box that could threaten the entire regime.
31. The IAEA Director General has stressed that the Agency does not require additional legal authority beyond Additional Protocol. The Additional Protocol should, however, steadily become the universal standard for safeguards agreements.
32. Article III requires compliance with the “Agency’s safeguards system,” which could eventually be construed by the Board of Governors to include an Additional Protocol.

33. Multiple fuel supply schemes exist and have varying levels of support. Provided that they do not infringe on Article IV rights, these schemes serve as a positive mechanism for coping with the prospect of fuel supply interruptions that might motivate states to pursue impractical indigenous enrichment and reprocessing capabilities.
34. Participants expressed specific support for the German Multilateral Enrichment Sanctuary Project (MESP) to be supervised by the IAEA; NTI's proposal for an IAEA fuel bank; and the establishment of an International Uranium Enrichment Center (IUEC) at Angarsk in Russia. Others stressed that the current market driven system of nuclear fuel supply is functioning well. Still others stressed that any solution on the fuel cycle should apply rules to every state without discrimination.
35. Fuel supply schemes are likely to be more successful if they include comprehensive waste management solutions for client states.

Security of NNWS: Is Progress Possible in 2010?

36. Problems with existing security assurances derive from the fact that they are not uniform, comprehensive or legally binding. Nor do they comprise potential attacks by NPT outliers.
37. The U.N. Security Council should adopt a legally binding Chapter 7 resolution declaring that the use of a nuclear weapon or the threat of use against any NNWS party to the NPT constitutes a crime against humanity. Such a resolution would essentially obviate the need for individual security assurances.
38. All states that possess nuclear weapons should commit to a "no first use" declaration.
39. The concept of "undiminished security" frequently voiced by the NWS should instead be conceived of as undiminished security for *all* states.
40. Deterrence remains a widely accepted strategic concept in the NWS. Since negative security assurances (NSAs) appear to threaten strategic stability, such assurance are considered irreconcilable with prevailing conceptions of deterrence.
41. In the long run, disarmament attention and political capital might be more productively spent on efforts to delegitimize defense policies that prize nuclear weapon capabilities in lieu of efforts that promote NSAs and nuclear weapon free zones (NWFZs). Alternatively, both pursuits may prove to be indispensable.
42. An approach in which some states simultaneously call for a world free of nuclear weapons and explicitly or implicitly seek shelter under a "nuclear umbrella" is not sustainable.
43. NWFZs provide a double security guarantee in that they complement the NPT and strengthen its principles and objectives. Though some parties appear to view them as a Cold War relic, others note that NWFZs arose for reasons that were largely independent of that conflict.
44. Additional progress on new NWFZs and security assurances is likely to take place exclusively in the context of a global movement toward the abolition and deprioritization of nuclear weapons.
45. Any successfully negotiated NWFZ in the Middle East is likely to take the form of a weapons of mass destruction free zone. Moreover, parallel tracks of negotiations on peace and security issues in the region are prerequisite to the participation of all of the key regional stake-holders in negotiations toward a MENWFZ. It was also pointed out that a MENWFZ would provide security

guarantees to all the states in the region against the use or threat of use of nuclear weapons. Such guarantees would make the possession of nuclear weapons obsolete.

46. The “bargains” struck in efforts to secure the 1995 indefinite extension of the NPT should not be forgotten or set aside.
47. It is clear that perceptions of unfulfilled promises (e.g. on NSAs, disarmament, a Middle East NWFZ, CBM's, etc.) adversely impacts the willingness of states to commit to additional arms control agreements.

Dealing with the proliferation concerns: Can we plug the holes?

48. Existing proliferation concerns and threats must be addressed in a manner that does not infringe on NNWS' Article IV rights.
49. Ongoing controversies surrounding Iran's nuclear program and intentions continue to be of concern to many parties. There exists widespread agreement that dialogue is the most appropriate response. There is hope that a new U.S. approach may create opportunities for a negotiated solution to outstanding concerns.
50. The nonproliferation regime may need to adapt to changing circumstances and find creative means of involving non-NPT states as participants and stakeholders in the nonproliferation regime. The recent liberalization of nuclear trade with India represents a manifestation of this view.
51. Concerns were raised about the negative impact of the U.S./India nuclear cooperation deal on overall NPT objectives. It was pointed out that it is misleading to refer to the “U.S./India deal” since both the Nuclear Suppliers Group (NSG) and IAEA's Board of Governors approved the new approach toward India by consensus. The deal came to fruition through multilateral cooperation and its implications must be managed in a similar fashion.
52. Nevertheless, there is concern that the NSG's waiver for India undermines critical NPT bargains and may establish a dangerous precedent.
53. A high-level invitation to non-NPT states to attend the PrepCom and Review Conferences as observers may stimulate dialogue, encourage non-NPT states to adopt NPT-like obligations, and motivate greater engagement in the disarmament process.² However, such an invitation may be difficult to achieve and could well be perceived as a further devaluation of NPT membership.
54. The DPRK case begs for consensus on how to interpret Article X. The consequences for withdrawal and the normative impact of withdrawal on the application of safeguards should be made explicit. State parties are not, for the most part, interested in disputing the sanctity of Article X itself.
55. Progress on the DPRK front will require Pyongyang to believe that its actions will have consequences. The DPRK must also be convinced that the Six-Party process is about verification, not regime change. The Six-Party talks were considered to be the best means of addressing the DPRK situation, and would benefit from broad and vocal international support.

² It is already standing practice that Non-NPT parties, including India, Israel and Pakistan, are notified by the Secretariat about the PrepCom sessions and Review Conferences. In the past Israel and Pakistan have attended these meetings as observers.

56. Securing fissile material (particularly HEU) remains the most effective means of combating the threat of nuclear terrorism.
57. So-called proliferation “wild-cards” in the near-future may include: the impact of uncertain U.S. policy changes on the nonproliferation landscape; developments in Iran, the DPRK, and Syria; and the continued conflict in the Middle East.

Can the strengthened review process be further improved?

58. There was wide agreement that the current review process has not lived up to expectations, and that it has contributed to the inability of the State parties to reach consensus agreements. Some symptoms of the dysfunctional process include:
 - a. Acknowledgment that substantive agreements cannot be successfully pursued at the PrepCom sessions;
 - b. The inability to move past procedural matters (e.g. an agenda) during the PrepCom precludes discussions of concrete threats to the regime;
 - c. The absence of useful mechanisms for frank status assessments beyond the success or failure of a consensus document;
 - d. The unwillingness of any country to accept even obliquely incriminating language in consensus documents;
 - e. PrepCom failures to agree upon relatively non-controversial factual chairman summaries that are then relegated to working paper status;
 - f. Inter-sessional work that is intermittent at best;
 - g. Arduously crafted working papers that even diplomats do not examine closely;
 - h. The failures of the 2005 Review Conference.
59. It was recalled that an integral link exists between the Treaty’s indefinite extension, the 1995 decision to strengthen the review process, the Principles and Objectives on Nuclear Nonproliferation and Nuclear Disarmament adopted at the 1995 Conference, and the future review of the treaty. To this end, it was pointed out that several leverage mechanisms were built into both the treaty and the subsequent strengthened review process.
60. Changes made to the strengthened review process in 2000 made PrepCom sessions less likely to break down, but functionally removed incentives for progress.
61. To some, the review process is simply a tool; blame for any lack of substantive progress lies almost exclusively with the lack of political determination on the part of state governments to alter the status quo. To others, deficiencies in the review process itself constitute a significant share of the problem. If this is indeed the case, improving the process will increase the probability of tangible output.
62. There is a need to reexamine the way in which a Review Conference considers its final outcome. In this regard, a proposal was made that future review conferences should separate the review part of the conference from more forward looking agenda-setting. In this way, debate over past failures can be circumvented in service of actions that are required to cope with present threats to the regime.
63. The value of issue-specific annual meetings of state parties was also highlighted. In this regard, it was suggested that the NPT review process might benefit from lessons learned and successes achieved in other arms control regimes (e.g. the BTWC)

64. State parties should meet for short periods on an annual basis to conduct inter-sessional work that will help make the PrepCom and Review Conferences more productive.
65. The need for an NPT implementation support unit, similar to the unit created by the State parties to the BTWC, was proposed. Such a unit could serve as a standing secretariat for the NPT and could provide useful continuity, oversight and a mechanism for handling extraordinary circumstances that threaten the regime. Drawbacks to such a body might include cost, and uncertainty over the proper scope of its responsibilities and mandate.
66. The emphasis in the review process should shift from an “outcome” to an “output” based approach. Improving the output of the review process would be easier if parties could agree on a common “yard-stick” by which to measure progress toward specific goals while simultaneously becoming more transparent.
67. The cost efficiency of PrepCom sessions and Review Conferences should also be considered. Many of the proposals for improving the review process that have been advanced will require additional resources. States that would disproportionately bear the costs are sensitive to this and need to be convinced that proposed expenditures would yield results. It was pointed out that a substantial fraction of existing review process cost arises from documentation requirements (e.g. printing, distribution, translation). These expenses should be examined to determine whether reasonable reforms could save substantial amounts of money.

Prospects for the 2009 NPT PrepCom: The Chairman’s Vision

68. Ambassador Boniface Chidyausiku, who will chair the 2009 NPT PrepCom, discussed his consultations and objectives in advance of the upcoming meeting. Among other observations, he highlighted the following points:
 - i. The accomplishment of two primary objectives constitutes a minimum baseline for a successful PrepCom:
 - a. The finalization of a provisional agenda for the Review Conference as quickly as possible;
 - b. The selection of a candidate to preside over the 2010 Review Conference.
 - ii. The 2009 PrepCom is not the venue to negotiate contentious substantive issues that could stifle forward momentum; such matters are better left to the Review Conference.
 - iii. The idea of separating out the chairman’s factual summary from a more forward-looking document that addresses how the NPT regime can cope with today’s challenges remains an interesting and potentially useful proposal.
69. During the discussion that followed, workshop participants provided advice and feedback to the chairman. Proposals and themes included:
 - i. The role of the chairman as the facilitator of agreement is complex and challenging. Impartiality, creativity and leadership are all vital.
 - ii. Emphasis on each of the NPT’s three pillars will be crucial to a successful PrepCom. The pillars should be viewed as interdependent and mutually reinforcing.
 - iii. By the time the PrepCom begins, the chairman is likely to have a clearer idea of what to propose in terms of a simplified agenda.
 - iv. The agenda is not the proper instrument in which to resolve substantive issues and concerns. State parties must resist this temptation.

- v. The “sleights of hand” of the past, such as the use of asterisks and footnotes to overcome problems, should be avoided to the fullest possible extent.
- vi. It is unclear how the proposal of inviting NPT outliers to the Review Conference could be brought up without absorbing a counterproductive amount of the State parties’ attention and limiting time for the discussion of other important issues.
- vii. The issue of NGO involvement at the PrepCom has been largely settled since 2007; maintaining their present levels of access should be a formality this time around.
- viii. Concerns were expressed that the indicative timetable typically allows for a week of substantive discussions, thereby postponing consideration of the agenda and other procedural agreements until the second week. Given the importance of reaching agreement on these critical procedural issues, it might be better to begin with those issues in case they prove to be time consuming.
- ix. The decision on whether to employ “friends of the chair” is the chairman’s prerogative and will depend on his judgment of its utility for a given set of circumstances. While some suggested that the practice may be useful in overcoming particular types of hurdles, others expressed concern that its use has been divisive in the past.
- x. The chairman may benefit from looking to the leaders of the regional groupings and specialists in particular issue areas for assistance in overcoming problems that arise.
- xi. Decisions and documents from the IAEA on matters of safety, security and verification (such as those that have emerged from IAEA General Conferences) will provide a good starting point for discussions of those issues at the PrepCom.
- xii. It might be advisable to brief whomever is selected to be the Review Conference president on key issues and past Review Conference experiences in order to better prepare him or her for the difficult task ahead.
- xiii. The PrepCom may attempt to make a recommendation on subsidiary bodies to the Review Conference. A principled means of determining the normative character of such bodies in advance would be helpful.
- xiv. The chairman should make extensive use of his bureau. The chairmen of prior PrepCom sessions should be invaluable resources given their past experiences.
- xv. The time-honored practice of inviting “trouble-makers” to chair a working group on the matter that concerns them may again prove useful.
