Workshop Report

The 2005 Review Conference: Finding Common Ground

Annecy, France

18 and 19 March 2005
# TABLE OF CONTENTS

## I. Introduction  

II. Executive Summary and Recommendations  

a. Session II: The inalienable right to nuclear energy: Can the genie be put back into the bottle?  
   pg. 5  

b. Session III: Implementing the practical steps for the systematic and progressive efforts to implement Article VI: What is achievable?  
   pg. 6  

c. Session IV: Ways and mechanisms to strengthen the Treaty’s compliance and enforcement mechanisms  
   pg. 7  

d. Session V: Addressing the security of states:  
   Is progress possible in 2005?  
   pg. 8  

e. Session VI: Possible products of the Review Conference  
   pg. 9  

III. Detailed Summary of Presentations and Discussions  

a. Session II: The inalienable right to nuclear energy: Can the genie be put back into the bottle?  
   pg. 10  

b. Session III: Implementing the practical steps for the systematic and progressive efforts to implement Article VI: What is achievable?  
   pg. 13  

c. Session IV: Ways and mechanisms to strengthen the Treaty’s compliance and enforcement mechanisms  
   pg. 15  

d. Session V: Addressing the security of states:  
   Is progress possible in 2005?  
   pg. 17  

e. Session VI: Possible products of the Review Conference  
   pg. 19  

IV. Workshop Agenda  

pg. 21  

V. List of Participants  

pg. 24  

VI. Papers Presented By Panelists  

pg. 28

---

*This workshop was made possible with financial support by the Ploughshares Fund, and the governments of Austria, Canada, France, Germany, Italy, Japan, Norway, the Republic of Korea, and the United Kingdom*
I. Introduction

In continuing its tradition of providing support for and promoting the Treaty on the Nonproliferation of Nuclear Weapons (NPT), the Center for Nonproliferation Studies (CNS) in collaboration with the Mountbatten Centre for International Studies (MCIS) hosted a diplomatic workshop in Annecy, France, on 18 and 19 March, 2005, entitled, “The 2005 Review Conference: Finding Common Ground.” Attended by 82 participants from 40 different State parties, including the President-elect of the 2005 NPT Review Conference, the three Main Committee chairpersons, as well as senior representatives from the International Atomic Energy Agency (IAEA) and the United Nations, and selected non-governmental organizations, the workshop provided an informal forum for national delegations to discuss the most pressing concerns regarding the NPT and the possible options the State parties have in addressing these challenges at the May 2005 Review Conference.

The workshop comprised seven sessions dedicated to the discussion of the prospects of the Review Conference and the substantive issues that the States Parties will need to address at the Conference. Each session began with a panel of speakers who presented their own perspectives on the given topic, followed by a moderated discussion open to workshop participants. The workshop was held under “Chatham House rules,” and as a result, statements and comments made during each session have not been attributed to specific individuals or to the organizations that they represent.

This report provides an indication of the range of issues discussed at the workshop and the flavor of those discussions. Papers presented and circulated by the panelists are attached to this report, as are the workshop agenda and list of participants. The report was prepared by the workshop rapporteur, Dr. Scott Parrish, in cooperation with the workshop coordinator Jean du Preez (both from the Center for Nonproliferation Studies) who bear sole responsibility for its contents and the suggested recommendations herein.

The organizers wish to thank the Ploughshares Fund and the governments of Austria, Canada, France, Germany, Italy, Japan, Norway, the Republic of Korea, and the United Kingdom for their financial support.
II. Executive Summary and Recommendations

The workshop opened with introductory remarks by the co-hosts, Professor William Potter (CNS) and Professor John Simpson (MCIS), on the current state of the Treaty and the review process. Professor Potter expressed concerns regarding the lack of institutional memory, as few delegates remained from the 2000 and 1995 Review Conferences. He also compared the current state of affairs in the review process to that of 2000, in which the Preparatory Committee (PrepCom) for the conference essentially ended in failure, noting that this failure prompted states to seek compromises that resulted in a highly successful Review Conference. Professor Simpson provided an historical analysis of the changing challenges of the NPT in the last 20 years. He observed that as more states have entered the Treaty, issues of compliance have become more prevalent and that concerns regarding state withdrawal and nuclear terrorism have recently arisen. He concluded by questioning the role of the Review Conference in changing the overall regime.

Following the opening remarks, the President-elect of the 2005 Review Conference, Ambassador Sergio Duarte (Brazil), provided his own assessment of the state of the review process, saying that the State parties must overcome the lack of political will to negotiate ways to confront their concerns together in good faith. He then described his consultations regarding both the outstanding procedural issues, such as the agenda and the establishment of subsidiary bodies, as well substantive issues such as compliance, disarmament, the Middle East, and North Korea.

The workshop proceeded through five substantive panels, and concluded with a review session. The five substantive sessions are summarized below. The remarks made at the review session have been incorporated into the summaries of the relevant panels.

Session II: The inalienable right to nuclear energy: Can the genie be put back into the bottle?

**Summary:**
- There was broad agreement that the genie of nuclear technology is out of the bottle and cannot be put back in. But he must be tamed and made transparent.
- A wide diversity of approaches was expressed. There was no consensus on the extent of the challenge presented by nuclear fuel cycle issues, much less on means to address those challenges. Based on the discussion, it appeared that many states had not yet developed firm positions on these issues.
- Some participants expressed interest in exploring new multilateral arrangements to guarantee access to nuclear power plant fuel, while providing better nonproliferation controls. Others opposed this concept, while still others felt the existing system of safeguards was adequate, and yet others felt the existing system was already too restrictive on developing states.
- It was agreed that fuel cycle issues could be addressed on a national, bilateral, or multilateral basis, but there was not a clear consensus on which approach could best address these issues.
- Many participants expressed interest in studying the expert group report issued in February 2005 by the IAEA Director General. It was apparent from the discussion that many states have not yet had the time to analyze the report and its recommendations.

**Recommendations for the Review Conference:**
- Reaffirm Article IV and the importance of peaceful use of nuclear energy, taking into account recent developments and security concerns.
• Call for an examination of bilateral and multilateral approaches to the nuclear fuel cycle on the basis of equal concern for nonproliferation and peaceful use of nuclear energy for economic development.

• As the most promising medium-term solution, consider involving the IAEA as a guarantor of multilateral fuel arrangements, which would increase the credibility of their guarantees.

• Endorse the development of a new generation of proliferation-resistant nuclear power reactors, while realizing that the introduction of such reactors is still some decades away.

Session III: Implementing the practical steps for the systematic and progressive efforts to implement Article VI: What is achievable?

Summary:
• There were divergent opinions expressed on the importance of nuclear disarmament and the nature of progress on Article VI. The traditional divide between the NWS and the NNWS on this issue was apparent in the proceedings.

• There was broad agreement that time and events have overtaken some of the 13 practical steps from the 2000 Review Conference Final Document. But there was no consensus on how to approach this issue.

• Some participants suggested that the 13 practical steps should be “opened up” and that the Review Conference should consider them individually, endorsing those that are still relevant and omitting the others. Others suggested that this approach would prove unproductive and lead to deadlock.

• As an alternative, some proposed putting forward a new document “building” on the content of the 13 practical steps, but taking into account the changed political reality since 2000. Some suggested this document could be as simple as a brief restatement of principles.

• All participants but those from one State party expressed support for the Comprehensive Test Ban Treaty (CTBT), with several saying it was very important for the treaty to enter into force as soon as possible. Several expressed the view that the failure of the CTBT to enter into force was undermining the credibility of the NPT and eroding confidence in the disarmament obligations of the NWS.

• Many participants expressed optimism that the years-long deadlock at the Conference on Disarmament (CD) was on the verge of being broken, enabling forward movement on a fissile material treaty, talks on outer space issues, and nuclear disarmament. All agreed that breaking the deadlock in the CD would provide a positive signal for the Review Conference.

• One participant suggested that the United States and Russia are on a “natural” path toward much lower levels of nuclear armament. This statement did not seem sufficiently convincing for most participants from NNWS, who expressed interest in seeing more concrete steps and verification on disarmament.

• There was broad agreement on the need for verification and transparency, but no consensus on how to operationalize these concepts. Some suggested the establishment of an expert group at the United Nations or CD to examine verification issues.

Recommendations for the Review Conference:
• There was nearly unanimous agreement that the Review Conference should endorse the entry-into-force of the CTBT. It was suggested that the best way to achieve this might be with language saying that “the largest possible majority” supports the CTBT.

• The Review Conference could consider calling for a step-by-step process of transparent elimination for surplus non-strategic nuclear weapons. The Conference could also consider
urging the United States and Russia to revive cooperative work on technical verification measures.

- The Review Conference should find an innovative way to move beyond the debate over the 13 practical steps and adopt a forward-looking statement on disarmament issues.
- The Review Conference could call for the establishment of an expert group on verification at either the United Nations or the CD.

**Session IV: Ways and mechanisms to strengthen the Treaty’s compliance and enforcement mechanisms**

**Summary:**

- Participants expressed broad agreement that North Korea’s announced withdrawal presents a critical challenge to the NPT regime. While many participants said the six-party talks were the best forum to address the immediate problem, several also called for more “urgent” or “befitting” steps if the talks do not produce results soon.
- The majority of participants agreed that it was fruitless to get bogged down in a discussion of the legality of North Korea’s withdrawal and its current status. The withdrawal is unprecedented.
- Even though they did not want to debate North Korea’s status, some participants declared that they could not accept a state developing nuclear weapons after using the “peaceful uses” portion of the treaty.
- Most participants agreed with the idea of using the same language used at the second and (2003) and third (2004) sessions of the PrepCom to address the issue of North Korea and avoid a procedural deadlock.
- There was broad agreement that the issue of withdrawal and the operation of Article X need a thorough discussion at the Review Conference. There appeared to be fairly broad agreement that Article X needs strengthening or at least clarification. One speaker broached three possible approaches: changing Article X, issuing a joint agreed statement about the consequences of invoking Article X, and clarifying the operation of Article X using both the existing text and international law.
- There was also broad agreement that the consequences of invoking Article X should be spelled out clearly and in detail so as to discourage future withdrawals.
- Some participants suggested that annual meetings of State parties should be held to consider compliance issues, and emergency meetings held to consider withdrawals.
- Other participants suggested that Articles II and III of the Treaty also need clarification. The question was raised, What steps short of a nuclear test might be considered violations of Article II, for example? These participants also argued that the link between Article II and Article IV needs to be clarified as well in an effort to interpret, under current circumstances, the “fullest possible” peaceful cooperation called for in Article IV.
- It was stressed that cooperation under Article IV should halt if a state is not in compliance with Articles II and III.
- Some participants endorsed the proposal that the Additional Protocol be made the standard of safeguards for the NPT.
- The issue of non-state actors was mentioned briefly, but not discussed extensively.
**Recommendations for Review Conference:**

- The Review Conference should issue an endorsement of IAEA safeguards and call for the establishment of a special committee of the IAEA Board of Governors to address safeguards issues.
- Several participants suggested that the Review Conference should endorse the Additional Protocol as the safeguard standard noted in Article III of the Treaty.
- The Review Conference could endorse some nonproliferation measures that are being taken outside the framework of the Treaty to improve compliance and enforcement, such as UNSC 1540, the G8 Global Partnership, or the Proliferation Security Initiative (PSI).
- The Conference could either issue a statement clarifying the operation of Article X, relying on its existing language, or else seek to issue a special interpretation of Article X, including its relation to Article IV.

**Session V: Addressing the security of states: Is progress possible in 2005?**

**Summary:**

- A diversity of views was heard on this subject. There was a strong call by many participants from NNWS for negative security assurances (NSAs) in the new security environment, and a hope that a formula could be found that would satisfy both NNWS and NWS.
- Speakers from the NNWS suggested that while they would ideally like to see a legally binding treaty on NSAs, they would accept a more minimalist approach in which their need for NSAs was recognized. The NWS recognized that only abolition would provide absolute guarantees, and agreement was reached on further discussions. Speakers from NNWS also called on the NWS to show greater flexibility.
- There still appeared to be a considerable gap between the NNWS and NWS on this issue, however.
- A number of participants also called on those still outside the treaty—India, Pakistan, and Israel—to join. It was suggested that these states could take a first step toward membership by issuing a strong unilateral undertaking to follow nonproliferation norms. Some other possible methods of including these states into the NPT, including with a protocol or separate agreement, were also noted.
- With regard to the Middle East, a number of participants stated that the concerns of the Arab states need to be taken seriously, and lamented the lack of progress since 1995 and 2000. At the same time, there was also widespread recognition that the political situation in the region is still not ripe for further progress. Some participants maintained that Israel remains the main problem.

**Recommendations for the Review Conference:**

- The Review Conference could try to go beyond standard calls for universality and propose some concrete steps that the three “hold out” states could take that would harmonize their nonproliferation policies with those of the NPT Member States.
- The Review Conference could call for a continuation of high-level dialogue on universality with India, Israel, and Pakistan.
- The Review Conference could call for expert discussion on NSAs, seeking a formula that would be acceptable to both NWS and NNWS.
Session VI: Possible products of the Review Conference

Summary:
- It was pointed out that the Treaty itself does not say anything about what the products of a Review Conference should be. Each conference can theoretically agree on producing new products.
- Historically, products have taken three forms: 1) urging actions on states and organizations, 2) proposing modifications to the NPT review mechanisms, and 3) changing interpretations of NPT provisions.
- Over time, the final product has expanded; for instance, the 1975 Final Document contained approximately 3,000 words, while the Final Document adopted at the 2000 Review Conference has close to 30,000.
- Decisions have traditionally been adopted by consensus, which reflects agreement that decisions will not be effective otherwise.
- Discussions during this session addressed various possible products, including a short general document, a document detailing alternative views, or a president’s factual report. Any might emerge.
- It was suggested by some that several subsidiary bodies might be needed to deal with the wide range of issues likely to be discussed at the Review Conference.
- Some participants suggested that it might be best to aim for a short declaration of political principles, so as to avoid deadlock that might emerge over a longer, more specific document.
- Others suggested that the Review Conference should revisit the review process itself, which they argued has shown itself to be ineffective at addressing the principal challenges to the Treaty. An agreed, balanced, but forward-looking statement, with new concrete commitments was suggested. It was also suggested that annual meetings instead of PrepCom meetings should be part of the review process.
- A number of participants expressed dissatisfaction with the existing review process, but there was no obvious consensus on how to change or improve it.
- Although some expressed optimism that a Final Document could be agreed upon, others clearly felt that only a short general document would be realistic.
- Many participants, especially those from NNWS, emphasized that the Final Document needed to be “balanced,” and consider compliance with the Treaty in all its aspects, not just with its nonproliferation provisions.
- There were different views on whether each Review Conference really builds on the products of the previous conference. Some felt that the 2000 conference produced a “new” document not really based on the outcome of the 1995 conference, and that this pattern could be repeated in 2005.
- There seemed to be agreement that while the major issues for the 2005 conference had been identified, the “horse trading” needed to integrate those issues into one final document that all parties could accept was only beginning.

Recommendations for the Review Conference:
- The Review Conference should try to build a new final document that reflects current realities and challenges, not just the language of previous Review Conference Final Documents.
- The Review Conference should consider changes to the review process itself that would foster the substantive discussion of serious challenges to the treaty.
The Review Conference should seek to adopt a balanced document that addresses current challenges, but without worrying about the specific form of the document in advance. Substance should dominate over form.

The Review Conference should be willing to consider a shorter final document rather than simply following the precedents of 1995 and 2000.

-----------------------------

III. Detailed Summary of Presentations and Discussions

**Session II: The inalienable right to nuclear energy: Can the genie be put back into the bottle?**

- This session was tasked to examine the link between the inalienable right to nuclear technology for peaceful uses and safeguards and the Treaty’s nonproliferation obligations. As such, it considered possible ways to control or limit access to the nuclear fuel cycle, the potential role of the IAEA as a guarantor of supply, and whether further inroads into states’ right to verifiably utilize nuclear science for peaceful purposes would change one of the core bargains of the Treaty.

**Panelists:**
Ambassador Yung-Woo Chun (ROK), Mr. Tariq Rauf (IAEA), and Mr. Santiago Mourao (Brazil)

The session opened with one panelist suggesting that the issue of the acceptable extent of peaceful use of nuclear energy had become a major issue since the attacks on September 11, 2001 (9/11). He said the peaceful nuclear use provisions of the NPT now allow a country to come to the brink of nuclear weapons capability without breaking the Treaty. The mere acceptance of NPT safeguards cannot therefore insure that a country will not seek nuclear weapons any more than simply signing the treaty can. He suggested that a substantively new approach to the peaceful use of nuclear energy needs to be adopted. Article IV cannot be unconditional. The treaty already allows restricting peaceful access by countries that are judged by the IAEA to be out of compliance with Articles II and III. But should countries in compliance have access to any nuclear facility, to the full nuclear fuel cycle? He further suggested that a new approach might tailor access to more sensitive elements of the fuel cycle in accordance with confidence in a particular country’s commitment to nonproliferation. A related approach would be to assess the legitimacy of countries’ needs for particular types of facilities.

The same panelist also noted the new proposals that have recently been offered suggesting limited access to uranium enrichment and plutonium reprocessing, and expressed the view that for these proposals to be viewed as legitimate, such limits would need to be based on objective criteria, such as energy security and economic feasibility. States would then need to justify their plans based on these criteria, or else cite serious concerns about access to existing fuel supplies.

The panelist also suggested that access issues could be resolved by creating a multi-tiered system to protect against disruption of supply. This system would include commercial contracts, supplier government guarantees of access under specified conditions, and finally, multilateral supply arrangements of last resort, involving fuel stocks not controlled by national governments. Another possibility is a lease and take-back arrangement, like that between Russia and Iran with regard to the Bushehr power plant. Whether states would accept such arrangements as sufficient guarantee
of supply is an open question, the speaker argued. He raised the question of whether this would change the core bargain of the NPT—peaceful access in return for nonproliferation—and suggested it might if the new restrictions are not accompanied by either more progress on disarmament issues, or more access to other less risky elements of peaceful nuclear technology, for example the next-generation proliferation-proof reactors.

The second panelist argued that the many of the current challenges to the nonproliferation regime are caused by the dual-use problem, which is driven by the close technological relationship between the current civilian nuclear fuel cycle and the nuclear weapons fuel cycle. Any resolution will require both technological and political changes. Since technical change is possible only over the long term, any short-term solutions will have to be political. He emphasized Article IV as a key part of the bargain that created the NPT, and noted that the right to peaceful use is inalienable and only reinforced by the Treaty, not established by it. The speaker was skeptical of suggestions that a Review Conference might issue an agreed interpretation of Article IV, which would narrow or clarify its scope, saying that such agreed Review Conference statements have been questioned in the past and even ignored by some states. Some states already believe the NPT bargain is unbalanced and peaceful use of nuclear energy is unjustifiably restricted.

The same panelist outlined the activities of the expert group commissioned by the IAEA Director General and noted that the group suggested possible options for multilateralizing control over the more sensitive aspects of the nuclear fuel cycle. Such multilateral nuclear arrangements could have IAEA backing and perhaps special safeguards arrangements. These arrangements could take the form of regional fuel centers, which would involve shared management, but not necessarily shared access to proliferation-sensitive technology. He noted that IAEA Director General El Baradei has suggested a five-year moratorium on new enrichment and reprocessing facilities, pending the discussion of new multilateral arrangements.

The third panelist began by saying that the potential of nuclear energy remains unrealized and emphasized that the issue of whether or not to restrict access to the nuclear fuel cycle has the potential to create a rift between developed and developing countries. He expressed concern that nonproliferation issues are monopolizing attention, even though fostering peaceful use is also a central part of the NPT. While there are legitimate concerns about misuse of peaceful-use provisions of the treaty, some are exaggerating the problem.

The speaker also argued that the existing system of safeguards is robust and has not failed. He stressed that a levelheaded view of the situation would show that the NPT has been successful. He emphasized that interference with fuel cycle development and introduction of new restrictions could prove counterproductive by pushing states to take actions that they would otherwise not have taken. He also noted that new prohibitions could establish a monopoly for current suppliers. The third panelist further pointed out that suggestions for multilateral fuel centers that would provide guaranteed access to nuclear fuel are unrealistic. Countries will not entrust their energy security to a cartel, he argued. Furthermore, he stated that efforts by some states to develop new types of nuclear weapons and doctrines to justify their development and possible use were making other states think harder about whether they were willing to limit their future options. He also stated that to make progress on this issue, disarmament and nonproliferation needed to be more tightly linked. Rather than focusing attention on technology users, trying to distinguish between responsible and irresponsible states, he suggested taking a more holistic approach, including tension reduction measures, diplomatic efforts, and consideration for future energy needs and production forecasts. He said it was important to develop new, more proliferation-resistant nuclear technologies and to recognize that nuclear energy might be an important supplement to fossil fuels in the future.
Discussion:

* A number of participants noted the diversity of views expressed by the panel, saying there was nothing approaching a consensus on how to address it.

* Several participants suggested that while the Review Conference would need to discuss the issue, it was unlikely to produce anything beyond general guidelines, if that.

* One participant said that an isolated approach to article IV is unproductive, as there are challenges to many articles of the NPT. The same participant noted that Article IV is already effectively inoperative because many states don’t take the obligation to cooperate seriously. He also emphasized that existing controls on the fuel cycle are quite intrusive, and that further controls and restrictions are not realistic.

* One of the panelists responded that national control over the fuel cycle may no longer be realistic. Nonproliferation benefits of the NPT are not free, he said, but must be paid for with effective safeguards, which may need to become more stringent in order to provide the necessary level of confidence. New arrangements may then be needed to ensure access to fuel for peaceful uses. He stressed the problem is not global fuel cycle capacity, which currently exceeds demand, but access. He also suggested that further restrictions on fuel cycle access were not realistic unless accompanied by new limits on NWS stocks of materials and perhaps disarmament measures.

* Another panelist stated that assessing the intent of states is necessary because of the dual-use problem. Once capabilities exist, intent can change very quickly. And unhappily, there is no objective way to measure intent.

* One participant said the Review Conference should not focus too much on restricting Article IV, and expressed concern that past meetings have focused too much on nonproliferation and safeguards. This participant called for further discussion by Member States of the IAEA expert group report.

* Another participant said his country would not reject multilateral fuel arrangements, but was not enthusiastic about them. He remarked that this approach would not help resolve the most pressing issue of North Korea. He noted that his country would not wish to turn over its substantial investment in the nuclear fuel cycle capability to an MNA. He also said his country does not support the proposal by the IAEA Director General for a five-year moratorium on fuel cycle facilities.

* Another participant also advised caution in trying to distinguish between responsible and irresponsible states. He questioned this approach, which he said was more likely to be divisive than productive. He asked if there were any positive lessons to be drawn from the Missile Technology Control Regime (MTCR) experience.

* One of the panelists replied that although difficult, the concept of distinguishing between states should not be rejected, and some objective criteria, including economic criteria, could be developed. He pointed out that states with only a few power reactors could not economically justify enrichment or reprocessing facilities, which might attract closer international scrutiny.

Recommendations for the Review Conference:

* Reaffirm Article IV and the importance of peaceful use of nuclear energy, taking into account recent developments and security concerns.

* Call for an examination of bilateral and multilateral approaches to the nuclear fuel cycle on the basis of equal concern for nonproliferation and peaceful use of nuclear energy for economic development.

* As the most promising medium-term solution, consider involving the IAEA as a guarantor of multilateral fuel arrangements, which would increase the credibility of their guarantees.
• Endorse the development of a new generation of proliferation-resistant nuclear power reactors, while realizing that the introduction of such reactors is still some decades away.

**Session III: Implementing the practical steps for the systematic and progressive efforts to implement Article VI: What is achievable?**

This session was tasked to consider prospects for the implementation of some of the 13 practical steps leading to nuclear disarmament agreed to at the 2000 Review Conference. In particular, it considered: 1) prospects for a nondiscriminatory, multilateral, and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices; 2) ways to promote the entry into force of the CTBT and to maintain a strong universal moratorium on nuclear testing; 3) practical steps by NWS to address concerns over their nonstrategic nuclear arsenals, and the development of new types of nuclear weapons in accordance with their commitment to diminish the role of nuclear weapons in their security policies; and 4) ways to promote the need for irreversibility and transparency in all nuclear disarmament measures and to develop further adequate and efficient verification capabilities.

**Panelists:**
Ambassador Chris Sanders (Netherlands), Dr. Lewis Dunn (SAIC), and Dr. Rebecca Johnson (Acronym Institute)

The first panelist started by saying the focus of his remarks would be on what is achievable at the 2005 Review Conference, citing the example of what was achieved at the 2000 Review Conference, where it did prove possible to find common ground. He emphasized the importance of the CTBT, noting the very wide support for the treaty. He also recalled that the NPT was indefinitely extended in 1995 in part because of a promise to put a CTBT into effect and argued that the 2005 Review Conference must recognize this reality. He suggested that language in the 2005 Final Document could state that “the largest possible majority” of State parties support the CTBT. Otherwise, he predicted that the position of the United States would require the adoption of much weaker language than used in 2000. The speaker also noted that progress on a Fissile Material Cutoff Treaty (FMCT) has been stalled in the CD for five years. But he expressed optimism that recent efforts to find a compromise solution that would allow the CD to agree on a program of work would bear fruit. He also urged the European Union (EU) to become more active on disarmament issues, saying the EU role on Iran was showing that the EU can provide leadership.

The second panelist addressed the question of what steps might be taken with regard to surplus non-strategic nuclear weapons. He pointed out that the current threat to international security comes from countries like Iran, North Korea, and Pakistan, not from a U.S.-Russian confrontation. In this environment, the utility and importance of nuclear weapons is declining in the nuclear weapon states, with the partial exception of Russia. He offered three suggestions: 1) make the Presidential Nuclear Initiative (PNI) more transparent, under which the United States and Russia would take steps to make public and transparent the full implementation of the reductions in nonstrategic nuclear weapons made since 1991; 2) sequester surplus nuclear warheads, a measure to set up special, internationally monitored storage sites for nonstrategic nuclear weapons awaiting dismantling; and 3) revive U.S.-Russian technical cooperation on verification of warhead elimination. He argued that all three steps would be worth taking in order to strengthen the nonproliferation regime, build confidence, and make possible future reductions.
The third panelist discussed the three principles of verification, transparency, and irreversibility. She emphasized that irreversibility is a necessary part of implementing Article IV, which will be a multistep process. The principle was upheld in previous treaties like the 1987 Intermediate-Range and Short-Range Nuclear Forces (INF) treaty, but not in the 2002 Treaty on Strategic Offensive Reductions (SORT), which leaves open the possibility of reconstituting forces after it expires in 2012. Transparency has increased since 2000 (except for with China), but the P-5/NWS parties to the NPT could still improve transparency further, to build confidence regarding their future plans. She praised the United Kingdom for its work on verification and called for other nuclear weapon powers to be included in this work. This panelist also emphasized that verification is a critical issue, and that the recent U.S. call for an FMCT with no verification is problematic. To foster a broad discussion of these issues, she called for the formation of an expert group to study verification and rebuild confidence in its feasibility.

**Discussion:**
- Several participants shared the first panelist’s optimism about the prospects of breaking the current deadlock in the CD. Many agreed that such a development would give positive momentum to the Review Conference.
- Some said that countries might be interested in financing destruction and dismantling of nuclear weapons only if they received assurances that the dismantling was irreversible.
- Some participants suggested that the P-5 need to present concrete plans for how they intend to achieve their disarmament objectives, even in general terms.
- Others suggested that a plan might in fact limit disarmament, as any plans would probably be conservative. They argued disarmament might make more progress without such plans.
- Several participants expressed very strong support for the CTBT and said its entry into force was of great symbolic importance as a disarmament measure. They also expressed opposition to any possible weakening in 2005 of the language used in 2000.
- Some noted that the G8 Global Partnership should also be seen as a positive step toward disarmament, even if it isn’t listed among the 13 practical steps.
- Some participants suggested that a new approach was needed to build on the 13 steps. They argued that it would be a recipe for failure to try and examine each of the steps now and decide which are still relevant.
- It was noted that deadlock in the CD continues, given China’s insistence to address the issue of Prevention of an Arms Race in Outer Space (PAROS).
- Some participants pointed out that, until regional security problems are addressed, in particular in the Middle East, states in this region will probably continue to seek nuclear weapons.
- Several participants questioned why “some states” (referring specifically to the United States) were still developing “new nuclear weapons,” but the U.S. representative denied this charge.
- Some participants suggested that “several” subsidiary bodies would be needed to obtain agreement on disarmament issues at the Review Conference.
- Some participants criticized the United States for wanting to keep all its options open, which they argued was not compatible with nonproliferation, which means asking other states to foreclose options.

**Recommendations for the Review Conference:**
- There was nearly unanimous agreement that the Review Conference should endorse the entry-into-force of the CTBT. It was suggested that the best way to achieve this might be with language saying that “the largest possible majority” supports the CTBT.
- The Review Conference could consider calling for a step-by-step process of transparent elimination for surplus non-strategic nuclear weapons. The conference could also consider
urging the United States and Russia to revive cooperative work on technical verification measures.

- The Review Conference should find an innovative way to move beyond the debate over the 13 practical steps and adopt a forward-looking statement on disarmament issues.
- The Review Conference could call for the establishment of an expert group on verification at either the United Nations or the CD.

**Session IV: Ways and mechanisms to strengthen the Treaty’s compliance and enforcement mechanisms**

- Session IV examined three related issues: 1) how the Review Conference should respond to North Korea’s announced withdrawal from the Treaty and what lessons should be learned from this experience; and 2) whether Article X could be strengthened to prevent withdrawals by states that misuse the provisions of the treaty. This session also considered ways to strengthen the implementation of the Treaty’s nonproliferation provisions, with particular reference to the threat presented by non-state actors. As such, it examined how Security Council resolution 1540 and the development of the PSI mechanisms strengthen the Treaty.

**Panelists:**
Ambassador Yukiya Amano (Japan), Ambassador Francois Rivasseau (France), and Ambassador Jackie Sanders (United States)

The first panelist stated that an early resolution of the North Korean nuclear issue is essential to both regional security and the nonproliferation regime. He described the February 2005 statement by North Korea that it has nuclear weapons and is withdrawing from the six-party talks as “highly regrettable.” He also emphasized that the international community should not accept any nuclear status for North Korea and should insist on the total, verifiable dismantling of its nuclear program. This panelist also noted that the six-party talks are still the best format for resolving the issue, but said that “more befitting” and “urgent” steps should be taken if progress is not made soon. The Review Conference should in his view not get bogged down in discussion of North Korea’s current status, but it should discuss the general issue of withdrawal from the Treaty. The withdrawal provisions may need to be modified in order to make withdrawal more costly. States that withdraw should not be allowed to keep materials and equipment supplied under Article IV, and states that supplied these materials should take steps to recover or “neutralize” them.

The second panelist stated that he agrees that the issue of withdrawal must be addressed, and made as costly as it should be. In his view Article X needs to be strengthened so that states don’t abuse it. He suggested three paths to achieving this objective: 1) amending Article X, 2) making a jointly agreed statement on Article X, and 3) clarifying Article X on the basis of the current text and international law. He argued that the third option is in his view the best way to approach the issue. This panelist also stated that the consequences of withdrawal should be spelled out more clearly. He noted further that, while states are legally responsible only for actions taken before withdrawal, even after they withdraw, they are still responsible for actions taken when they were members of a treaty. He suggested that states that acquire nuclear materials and equipment under Article IV and then use Article X to withdraw should still be held liable for the misuse of these materials and equipment. In this regard, he suggested that such materials and equipment should be returned to the original supplier following withdrawal, but admitted that it might be difficult to enforce such a provision. He felt that even if the Review Conference is unable to agree on
consensus language regarding Article X, it would still be useful to discuss the subject in order to begin the process of thinking about how to respond to any possible future withdrawal.

The third panelist emphasized that if the NPT is to prevent proliferation, then the Review Conference needs to address the crisis of compliance. She cited the cases of Iran and North Korea as the “reality” that the conference must face, and suggested that the conference undertake three tasks: 1) address violations, 2) identify corrections, and 3) strengthen nonproliferation undertakings. The speaker said that failure to hold noncompliant states accountable will undermine the NPT. She also argued that the Review Conference should address specific questions, such as: 1) what constitutes a violation of Article II, and 2) what is the relationship between Article I and Articles I and II. She also argued that many activities short of nuclear testing should be considered as evidence of noncompliance. This panelist also emphasized that the main purpose of the Review Conference should be to provide support for political steps, and said that the achievement of a consensus document was not the only way to achieve this goal. More specifically, however, she called on the Review Conference to endorse the Additional Protocol as the safeguards standard under the NPT and to also endorse it as a condition of supply of peaceful nuclear technology. She also called on the conference to endorse the proposal that noncompliant states cannot serve on the IAEA Board of Governors. She furthermore called on the Review Conference to endorse new measures to strengthen export control mechanisms, such as the PSI. She also noted that adequate progress has been made on the implementation of Article VI, and that it would be mistake to not push hard on nonproliferation issues based on a perceived lack of progress has been made on disarmament.

Discussion:

- Some participants suggested that the issue of DPRK violations prior to withdrawal should be subject of discussion at the Review Conference.
- Some participants also proposed that states should not be allowed to withdraw from the Treaty when they are in violation (like the DPRK).
- Several comments suggested that the full implications of the A.Q. Khan network are still not understood, suggesting that the emergence of this type of non-state supply network may require further adjustment of the nonproliferation regime.
- Some participants said that they would support discussion of DPRK in the UN Security Council and that they did not see why such action would conflict with six-party talks.
- Others expressed the opinion that six-party talks remain the best approach to the DPRK nuclear issue.
- It was suggested that North Korea wants to obtain nuclear weapons and also get the benefits of economic incentives. As a result any negotiated settlement with the DPRK will be very difficult and require strict verification measures.
- Some participants suggested that the DPRK should still be considered a member of the NPT, as it provides a basis for calling on the DPRK to come into compliance.
- Others suggested that Iran is being treated unfairly in comparison to DPRK, as Iran is making efforts to comply with the Treaty, while the DPRK has withdrawn. This treatment could eventually lead Iran to consider withdrawing from the Treaty.
- It was pointed out that not allowing countries in violation to withdraw would still not solve all cases of misuse of Article IV, since a country could withdraw, and only then begin a nuclear weapons program. The conclusion is that this possible problem must be addressed earlier, at the front end of the fuel cycle.
- Several participants suggested that the UN Security Council should be required to consider any withdrawal from the NPT. Others dismissed this, saying that Article X itself implies review by the Security Council and the United Nations General Assembly.
While many agreed with the principle that states withdrawing from the treaty should give up materials and equipment obtained under Article IV, there was no agreement on how such a requirement might be enforced.

Several participants noted the need for more objective measures of compliance, while others felt that such measures could not really be devised, as political elements will always exist in any judgment about compliance.

Some participants suggested that the Review Conference could endorse Security Council resolution 1540 (2004) and call on State parties to assist one another in its implementation. These participants were of the view that measures to implement resolution 1540 fully would help ensure compliance with the NPT.

Recommendations for Review Conference:

- The Review Conference should issue an endorsement of IAEA safeguards and call for the establishment of a special committee of the IAEA Board of Governors to address safeguards issues.
- Several participants suggested that the Review Conference should endorse the Additional Protocol as the safeguard standard noted in Article III of the Treaty.
- The Review Conference could endorse some nonproliferation measures that are being taken outside the framework of the Treaty to improve compliance and enforcement, such as UNSC 1540, the G8 Global Partnership, or the Proliferation Security Initiative (PSI)
- The conference could either issue a statement clarifying the operation of Article X, relying on its existing language, or else seek to issue a special interpretation of Article X, including its relation to Article IV.

Session V: Addressing the security of states: Is progress possible in 2005?

- This session focused on three interrelated issues regarding the security of states: 1) how the Review Conference should respond to the need of NNWS for guarantees from NWS not to use or threaten to use nuclear weapons against them, 2) the implications of having three states with nuclear weapons outside the Treaty and how NPT State parties should respond, and 3) whether further progress toward the establishment of nuclear-weapon free zones in the Middle East is possible.

Panelists:
Dr. Desra Percaya (Indonesia), Mr. Knut Langeland (Norway), and Mr. Alaa Issa (Egypt)

The first panelist noted that the issue of the threat or use of nuclear weapons remains critical to NNWS. The issue could not be solved during the Cold War, and hopes arose after its end that nuclear force reductions would be accompanied by changes in nuclear doctrines and policies that would make mutual security possible. However, recent developments in the doctrines of some NWS are ominous, as are suggestions that new types of nuclear weapons may be developed. The issue of security assurances will thus be a central focus of the Review Conference. Since 1968, NNWS have been seeking firm NSAs, but their efforts have been fruitless. He pointed out that the 2000 Review Conference Final Document called for measures on this issue to be adopted by 2005, but no progress has been made to date. He also mentioned that the Non-Aligned State parties remain firm in their belief that security should be universal and nondiscriminatory. They continue to believe that legally binding NSAs will help bolster the NPT and reduce proliferation incentives. He concluded that progress will be difficult, but not impossible. He suggested that the Review Conference should establish a subsidiary body to discuss NSAs and also call for the
opening of talks on a treaty establishing legally binding NSAs. He urged the NWS to show flexibility on this issue.

The second presentation* recalled the 1995 Resolution on the Middle East and noted that no progress had been made on its implementation. The goals set in the 2000 Review Conference Final Document for the Middle East have also remained unrealized. In particular, he stated that no progress had been made on either achieving the universality of the NPT in the Middle East or the establishment of a Middle East NWFZ. Israel has neither acceded to the NPT nor placed its nuclear facilities under IAEA safeguards. He called on the nonproliferation regime to challenge Israel’s premises regarding the existential threat to its existence and the need for a comprehensive regional peace settlement prior to joining the nonproliferation regime. The presentation stressed that nonproliferation was a crucial goal, and was important to regional stability in the Middle East. Still, as argued, it had to be balanced with justice, which demands a more equitable approach to the issue of nuclear weapons in the Middle East.

The third panelist addressed the issue of universality and the three countries that remain outside the NPT: India, Israel, and Pakistan. He then reported on a recent seminar in Pakistan which discussed possible ways to engage India and Pakistan in the nonproliferation regime. Three options were discussed at this seminar: 1) India and Pakistan would act as if they were members of the NPT; 2) the two countries could take unilateral steps outside the NPT, like declaring moratoria on fissile material production; or 3) the two countries could join the CTBT, or at least declare that they will continue their current testing moratorium. The panelist also addressed other possible steps, such as the inclusion of India and Pakistan in talks on a Fissile Material Treaty and possible expansion of their cooperation with the Nuclear Suppliers Group (NSG). He emphasized in closing that the purpose of the conference was to find ways to bring these states closer to the nonproliferation regime without undermining it.

Discussion:

- Some participants noted that there has been progress in the Middle East, citing Libya and Iraq. They also pointed out recent progress in the regional peace process, but said frustration is growing in the region that political change is not accompanied by any progress on Israel’s accession to the NPT.
- One participant flatly asserted that Israel is the problem in the Middle East.
- Several participants remarked that it was unlikely for the Review Conference to agree on language calling for the opening of talks on a treaty regarding NSAs.
- Concern was expressed that the refusal of the NWS to issue NSAs suggests that they want to keep the option of nuclear weapons use open.
- In regard to a NWFZ in the Middle East, it was noted that the IAEA plans to hold a conference on modalities for establishing such a zone, but there is no agreement among the participants on an agenda, so it has not yet been scheduled.
- There was disagreement between some participants about how to engage India and Pakistan without undermining the nonproliferation regime. Some felt that steps to engage them would risk the integrity of the regime.

Recommendations for the Review Conference:

- The Review Conference could try to go beyond standard calls for universality and propose some concrete steps for the three “hold out” states to take that would harmonize their nonproliferation policies with those of the NPT member states.

* Since Mr. Issa could not attend the workshop, his presentation was delivered on his behalf.
• The Review Conference could call for a continuation of high-level dialogue on universality with India, Israel, and Pakistan
• The Review Conference could call for expert discussion on negative security assurances, seeking a formula that would be acceptable to both NWS and NNWS.

<table>
<thead>
<tr>
<th>Session VI: Possible products of the Review Conference</th>
</tr>
</thead>
<tbody>
<tr>
<td>The penultimate session of the workshop examined what might be desirable and possible by way of an agreed outcome, and considered what the potential consequences of a conference with no agreed product would be. It also discussed whether the improved strengthened review process should be reformed, and whether additional mechanisms would improve the implementation of the Treaty and the review process.</td>
</tr>
</tbody>
</table>

**Panelists:**
Professor John Simpson (MCIS), Mr. Kjetil Paulsen (Norway), and Ambassador Paul Meyer (Canada)

The first panelist criticized the notion that there is a crisis of compliance. He expressed concern that confidence in the Treaty’s mechanisms may be damaged, however. He then pointed out that the NPT itself does not specify what the products of a Review Conference should be. Each conference can thus agree on a new product, and historically Review Conferences have produced various types of documents. Over time, the length of the final product has expanded. Until 2000, a single document was the norm, but discussions since then have proposed two documents, one forward looking and one backward looking. He recalled that in 2000, two documents were produced, but then combined by the drafting committee into a single document. In his view, this result may be harder to achieve in 2005. Given the number of high-level proposals for reform, he mentioned that there is some expectation that the 2005 Review Conference will make some serious decisions. But he emphasized that reaching consensus on a detailed document would be difficult. He asked that if consensus is unlikely, what possible products might emerge, and offered the following options: 1) a short general document, 2) a document laying out alternative views, 3) a document addressing only a few issues, 4) one or more resolutions, 5) a President’s factual summary, or 6) a short, practical report with recommendations about the review process.

The second panelist presented the possible parameters of a Final Document for the 2005 Review Conference, based on consultations with many countries. He argued that it is not enough to hope that the pressure of the final week of the conference will produce consensus. Instead, in order to promote consensus, it is necessary to take the time now to be pragmatic, creative, and concrete. He suggested that a long document looking at each article of the Treaty is unrealistic, saying it would be better to seek a short, sharp, and clear political declaration. While some might argue that the suggested framework is too short, the panelist argued that in May, at the Review Conference, there will probably be too many issues for them all to be addressed in detail in a consensus Final Document. He also mentioned that any document would have to address the new security climate that has emerged since 1995 and 2000. While he supported a “balanced” document, he argued that balance should not be measured in terms of number of words, but by the quality of the language used. But all “pillars” of the treaty should be addressed.

The third panelist laid out some suggested ways to improve and reform the review process. Citing the UN High-Level Panel Report that suggested a “tipping point” may be approaching, he argued that the health of the NPT needs serious consideration if a much greater proliferation crisis is to be avoided. The panelist said that the 1995 and 2000 conference decisions should be clearly
recognized; otherwise, the legitimacy of any future decisions will be thrown into doubt. He argued that more reporting and transparency by the state parties needs to become routine. He also cautioned against the adoption of what he termed a “declaratory rhetorical document.” Instead, he suggested adopting concrete new commitments, or extensions of old commitments, on all three pillars of the treaty. He also suggested that the review process itself should be reformed. He contended that the NPT suffers from an “institutional deficit,” and advocated holding annual meetings of the State parties to replace the existing PrepCom meetings. He also suggested the establishment of a standing bureau for the Treaty as a way of maintaining continuity, and the calling of emergency meetings in the case of extraordinary events, such as withdrawals.

**Discussion:**
- A number of participants supported the suggestion of short, declarative final document as a practical alternative.
- Others, however, said that a focus on concrete problems was necessary, which might not be possible in the context of a short document.
- Several participants questioned the proposal to hold annual meetings in place of the current PrepCom meetings.
- Some participants felt that the treaty suffers not from an institutional deficit, but from a lack of political will on the part of the State parties.
- Others suggested the changing format of the review process might help catalyze political will for more substantive reform.
- Some participants expressed confidence that, with so many options for the form of a final document, a compromise would be found that would allow critical substantive issues to be addressed.
- It was noted that the PrepCom sessions sometimes seem isolated from one another and from the Review Conference itself. The result is much time wasted on repetition and little movement forward.
- Some questioned whether the key State parties had yet thought through the possible compromises that might make a detailed consensus document possible, suggesting that many had not considered what they would be willing to trade and how much they care about specific outcomes.
- There were conflicting views on whether to build on the 2000 Final Document or to start over with a “new” document.
- There was also disagreement about the implications of a “failed” conference that does not produce a consensus document. Several participants wondered who would benefit from such an outcome, some thought it would not really matter, while others felt it would be a major blow to the NPT and nonproliferation more generally.

**Recommendations for the Review Conference:**
- The Review Conference should try to build a new Final Document that reflects current realities and challenges, not just the language of previous Review Conference Final Documents.
- The Review Conference should consider changes to the review process itself that would foster the substantive discussion of serious challenges to the Treaty.
- The Review Conference should seek to adopt a balanced document that addresses current challenges, but without worrying about the specific form of the document in advance. Substance should dominate over form.
- The Review Conference should be willing to consider a shorter Final Document rather than simply following the precedents of 1995 and 2000.
IV. WORKSHOP AGENDA

Friday, March 18, 2005

09:30  Opening  
Professor William Potter (CNS)  
Professor John Simpson (MCIS)

09:45  Session I: The road to 2005: Where are we?  
Moderator: Professor William Potter (CNS)  
Speaker: Ambassador Sergio Duarte (President-elect of the 2005 NPT Review Conference)

10:15  Session II: The inalienable right to nuclear energy: Can the genie be put back into the bottle?  
- The link between the inalienable right to nuclear technology for peaceful uses and safeguards and nonproliferation obligations: Possible ways to control or limit access to the nuclear fuel cycle  
- The potential role of the IAEA as a guarantor of supply  
- Would further inroads into states' right to verifiably utilise nuclear science for peaceful purposes change one of the core bargains of the Treaty?  
Moderator: Ambassador Wernfried Koeffler (Austria)  
Speakers: Ambassador Yung-Woo Chun (ROK)  
Mr. Tariq Rauf (IAEA)  
Mr. Santiago Mourao (Brazil)

11:00  Coffee break

11:30  Discussion

12:30  Lunch  (Sponsored by the Federal Republic of Germany and the United Kingdom)

14:00  Session III: Implementing the practical steps for the systematic and progressive efforts to implement Article VI: What is achievable?  
- Prospects for a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices  
- Ways to promote the entry into force of the Comprehensive Nuclear Test Ban Treaty and to maintain a strong universal moratorium on nuclear testing  
- Practical steps by NWS to address concerns over their non-strategic nuclear arsenals, and the development of new types of nuclear weapons in accordance with their commitment to diminish the role of nuclear weapons in their security policies  
- Ways to promote the need for irreversibility and transparency in all nuclear disarmament measures, and to further develop adequate and efficient verification capabilities.  
Moderator: Professor William Potter (CNS)  
Speakers: Ambassador Chris Sanders (Netherlands)  
Dr. Lewis Dunn (SAIC)  
Dr. Rebecca Johnson (Acronym Institute)
15:00 Coffee break
15:30 Discussion
18:30 Dinner (Sponsored by the Republic of Korea and Japan)

Saturday, March 19, 2005

09:00 Session IV: Ways and mechanisms to strengthen the Treaty’s compliance and enforcement mechanisms.

• How should the Review Conference respond to North Korea’s announced withdrawal from the Treaty? What lessons should be learnt from this experience?
• Can Article X be strengthened to prevent withdrawals by States that misuse the provisions of the treaty?
• Ways to strengthen the implementation of the Treaty’s nonproliferation provisions, with particular reference to the threat presented by non-state actors. In what way do Security Council resolution 1540 and the development of the PSI mechanisms strengthen the Treaty?

Moderator: Ambassador Laszlo Molnar (Hungary)
Speakers: Ambassador Yukiya Amano (Japan)
          Ambassador Francois Rivasseau (France)
          Ambassador Jackie Sanders (United States)

09:45 Discussion
10:30 Coffee break

11:00 Session V: Addressing the Security of states: Is progress possible in 2005

• How should the Review Conference respond to the need of NNWS for NWS not to use or threaten to use nuclear weapons against them?
• The implications of having three states with nuclear weapons outside the Treaty: How should the State parties respond?
• Is further progress possible towards the establishment of nuclear-weapon free zones in the Middle East?

Moderator: Mr. Ian R. Kenyon (MCIS)
Speakers: Dr. Desra Percaya (Indonesia)
          Mr. Knut Langeland (Norway)
          Mr. Alaa Issa (Egypt)

11:45 Discussion
12:30 Lunch (Sponsored by the Governments of Italy and France)

14:00 Session VI: Possible products of the Review Conference

• What might be desirable and possible by way of an agreed outcome? What are the potential consequences of a Conference with no agreed product?
• Should the improved strengthened review process be reformed? Would additional mechanisms improve the implementation of the Treaty and the review process?

Moderator: Dr. Rebecca Johnson (Acronym Institute)
Speakers:  Professor John Simpson (MCIS)
            Mr. Kjetil Paulsen (Norway)
            Ambassador Paul Meyer (Canada)

14:45    Discussion
15:30    Coffee break

16:00    **Session VII:  Expectations for the Review Conference**
         •  *Consideration of possible policy options emanating from the workshop: Report back by Moderators*

Chair:   Professor John Simpson (MCIS)
Speakers: Session II: Ambassador Wernfried Koeffler (Austria)
         Session III: Professor William Potter (CNS)
         Session IV: Ambassador Laszlo Molnar (Hungary)
         Session V: Mr. Ian R. Kenyon (MCIS)
         Session VI: Dr. Rebecca Johnson (Acronym Institute)

16:45    Closing:  Professor William Potter (CNS)
V. LIST OF WORKSHOP PARTICIPANTS

Ambassador Nobuyasu Abe (United Nations)
United Nations Under-Secretary General for Disarmament Affairs, New York

Mr. Sameh Aboul-Enein (Egypt)
Counsellor, Permanent Mission of the Arab Republic of Egypt to the United Nations, Geneva

Ambassador Mohammad Reza Alborzi (Iran)
Permanent Representative of Iran to the United Nations, Geneva

Ambassador Yukiya Amano (Japan)
Director-General for Arms Control and Scientific Affairs and for Multilateral Cooperation Department, Ministry of Foreign Affairs, Tokyo

Ambassador Hamid Baidinejad (Iran)
Director, Department for Disarmament and International Security of the Ministry of Foreign Affairs, Tehran

Ambassador Elisabet Borsiin-Bonner (Sweden)
Permanent Representative of Sweden to the Conference on Disarmament, Geneva

Ambassador Jacek Bylica (Poland)
Permanent Representative of the Republic of Poland to the United Nations Office, Vienna

Ms. Lourdes Vez Carmona (IAEA)
Legal Officer, Office of Legal Affairs, International Atomic Energy Agency, Vienna

Mr. Paulino Carvalho (Brazil)
Counsellor, Permanent Mission of Brazil to the United Nations, Geneva

Ambassador Tim Caughley (New Zealand)
Permanent Representative of New Zealand to the Conference on Disarmament, Geneva

Ambassador Chun Yung-woo (Republic of Korea)
Deputy Minister for Policy Planning and International Organizations, Ministry of Foreign Affairs and Trade, Seoul

Ambassador Luis Alfonso de Alba (Mexico)
Permanent Representative of Mexico to the United Nations, Geneva

Ambassador Sergio Duarte (Brazil)
Ambassador-at-large of Brazil for Disarmament and Non-proliferation, and President-elect of the 2005 NPT Review Conference

Dr. Lewis Dunn (SAIC)
Senior Vice-President, Science Applications International Corporation (SAIC), McLean, Virginia

Mr. Hamid Eslamizad (Iran)
Deputy Permanent Representative of the Islamic Republic of Iran to the Conference on Disarmament, Geneva

Mr. Richard Fallon (Ireland)
Deputy-Permanent Representative of Ireland to the Conference on Disarmament, Geneva

Ambassador John Freeman (United Kingdom)
Permanent Representative of the United Kingdom to the Conference on Disarmament, Geneva

Mr. Fu Zhigang (China)
Counsellor, Permanent Mission of the People’s Republic of China to the United Nations, Geneva

Dr. Linda Gallini (United States)
Acting Director, Office of Multilateral Nuclear Affairs, Bureau of Nonproliferation, U.S. Department of State, Washington D.C.
Ambassador Volker Heinsberg (Germany)  
Permanent Representative of Germany to the Conference on Disarmament, Geneva

Ambassador Hu Xiaodi (China)  

Mr. Roman Hunger (Switzerland)  
Military Advisor, Permanent Mission of Switzerland to the Conference on Disarmament, Geneva

Ambassador Rajmah Hussain (Malaysia)  
Permanent Representative of Malaysia to the United Nations Office, Vienna

Dr. Rebecca Johnson (Acronym Institute)  
Director, Acronym Institute for Disarmament Diplomacy, London

Mr. Nicolas Kasprzyk (France)  
Advisor on nonproliferation and disarmament, Delegation for Strategic Affairs, Paris

Ambassador Paul Kayser (Luxembourg)  
Ministry of Foreign Affairs, Luxembourg

Mr. Ian R. Kenyon (MCIS)  
Mountbatten Centre for International Studies, University of Southampton

Mr. Stephan Klement (EU)  
Council of the European Union, Belgium

Ambassador Wernfried Koeffler (Austria)  
Head of Department for Arms Control and Disarmament, Federal Ministry for Foreign Affairs, Vienna

Mr. Knut Langeland (Norway)  
Senior Advisor, Disarmament and Non-proliferation division, Department of Foreign Affairs, Oslo

Dr. Patricia Lewis (UNIDIR)  
Director, United Nations Institute for Disarmament Research, Geneva

Mr. Robert Luaces (United States)  
Director, Office of International Security Negotiations, Bureau of Arms Control, Department of State, Washington D.C.

Ms. Merete Lundemo (Norway)  
Counsellor, Permanent Mission of Norway to the United Nations, Geneva

Mr. Craig Maclachlan (Australia)  
Counsellor, Permanent Mission of Australia to the United Nations, Geneva

Ms. Rui Matsukawa (Japan)  
First Secretary, Delegation of Japan to the Conference on Disarmament

Mr. Adrian McDaid (Ireland)  
Director, Disarmament and Nonproliferation Affairs, Department of Foreign Affairs, Dublin

Ambassador Paul Meyer (Canada)  
Permanent Representative of Canada to the Conference on Disarmament, Geneva

Ambassador Yoshiki Mine (Japan)  
Permanent Representative of Japan to the Conference on Disarmament, Geneva

Ambassador László Molnár (Hungary)  
Permanent Representative of the Republic of Hungary to the United Nations, New York

Mr. Santiago Mourao (Brazil)  
Director, Division of Disarmament and Sensitive Technology, Ministry of External Relations, Brasilia

Ambassador Glaudine Mtshali (South Africa)  
Permanent Representative of South Africa to the United Nations, Geneva
Masamitsu Nagano (Japan)  
Official, Disarmament, Non-proliferation and Science Department, Ministry of Foreign Affairs, Tokyo

Mr. Enrique Ochoa (Mexico)  
Second Secretary, Permanent Mission of Mexico to the United Nations, Geneva

Ambassador Inkook Park (Republic of Korea)  
Permanent Representative of the Republic of Korea to the Conference on Disarmament, Geneva

Mr. Chulmin Park (Republic of Korea)  
Deputy-Director, Non-proliferation and Disarmament Division, Ministry of Foreign Affairs and Trade, Seoul

Ambassador Carlos Paranhos (Brazil)  
Permanent Representative of Brazil to the Conference on Disarmament, Geneva

Ambassador Sudjadnan Parnohadiningrat (Indonesia)  
Secretary-General, Department of Foreign Affairs, Jakarta

Ms. Fiona Patterson (United Kingdom)  
Deputy Permanent Representative of the United Kingdom to the Conference on Disarmament, Geneva

Mr. Kjetil Paulsen (Norway)  
Minister, Permanent Mission of Norway to the Conference on Disarmament, Geneva

Dr. Desra Percaya (Indonesia)  
Minister Counsellor, Permanent Mission of Indonesia to the United Nations, New York

Ms. Ann Pollack (Canada)  
Counsellor, Permanent Mission to the Conference on Disarmament, Geneva

Professor William Potter (CNS)  
Director, Center for Nonproliferation Studies, Monterey Institute of International Studies, Monterey

Mr. Grzegorz Poznanski (Poland)  
First Secretary, Permanent Mission of Poland to the United Nations, Geneva

Mr. Andy Rachmianto (Indonesia)  
First Secretary, Permanent Mission of Indonesia to the United Nations, New York

Mr. Tariq Rauf (IAEA)  
Head, Verification and Security Policy Coordination, International Atomic Energy Agency (IAEA), Vienna

Ambassador Markku Reimaa (Finland)  
Permanent Representative of Finland to the Conference on Disarmament, Geneva

Ms. Jenni Rissanen (IAEA)  
External Relations Officer, International Atomic Energy Agency Liaison Office, Geneva

Ambassador François Rivasseau (France)  
Permanent Representative of France to the Conference on Disarmament, Geneva

Ambassador François Roux (Belgium)  
Permanent Representative of Belgium to the United Nations and to the Conference on Disarmament, in Geneva.

Mr. Barlybay Sadykov (Kazakhstan)  
First Secretary of the Permanent Mission of Kazakhstan to the United Nations, and member of the delegation to the Conference on Disarmament, Geneva

Ambassador Chris Sanders (Netherlands)  
Permanent Representative of the Netherlands to the Conference on Disarmament, Geneva

Ambassador Jackie Sanders (United States)  
Permanent Representative of the United States of America to the Conference on Disarmament, Geneva
Mr. Jandyr Ferreira Dos Santos (Brazil)
Assistant Director, Division of Disarmament and Sensitive Technology, Ministry of External Relations, Brasilia

Mr. Valery Semin (Russian Federation)
Head, Section for Political-Military Affairs, Permanent Mission of the Russian Federation to the United Nations, Geneva

Ambassador Sha Zukang (China)
Permanent Representative of the People’s Republic of China to the United Nations, Geneva

Mr. Matthew Shaps (United Kingdom)
Assistant Director of Counter Proliferation and Arms Control, Ministry of Defense, London

Professor John Simpson (MCIS)
Director, Mountbatten Centre for International Studies, University of Southampton, Southampton

Ambassador Michael Smith (Australia)
Permanent Representative of Australia to the Conference on Disarmament, Geneva

Mr. Renick Smith (United States)
Delegation of the United States of America to the Conference on Disarmament, Geneva

Ambassador Jürg Streuli (Switzerland)
Deputy Permanent Representative of Switzerland to the Conference on Disarmament, Geneva

Dr. Annika Thunborg (Sweden)
First Secretary, Permanent Mission of Sweden to the Conference on Disarmament, Geneva

Ambassador Tibor Tóth (Hungary)
Permanent Representative of the Republic of Hungary to the United Nations, Geneva

Ambassador Carlo Trezza (Italy)
Permanent Representative of Italy to the Conference on Disarmament, Geneva

Mr. Paul van Rhijn (Netherlands)
Delegation of the Netherlands to the Conference on Disarmament, Geneva

Mr. Anton Vasiliev (Russian Federation)
Deputy Permanent Representative of the Russian Federation to the Conference on Disarmament, Geneva

Ms. Keiko Yanai (Japan)
Delegation of Japan to the Conference on Disarmament, Geneva

Ambassador Sung Joon Yio (Republic of Korea)
Permanent Representative of the Republic of Korea to the Conference on Disarmament, Geneva

Mr. Soongu Yoon (Republic of Korea)
First Secretary, Permanent Mission of the Republic of Korea to the Conference on Disarmament, Geneva

Mr. Jerzy Zaleski (United Nations)
Permanent Representative of Italy to the Conference on Disarmament, Geneva

Rapporteur

Dr. Scott Parrish (CNS)
Center for Nonproliferation Studies, Monterey Institute of International Studies, Monterey

Conference Staff

Mr. Peter Crail (CNS)
Center for Nonproliferation Studies, Monterey Institute of International Studies, Monterey

Dr. Jez Littlewood (MCIS)
Mountbatten Centre for International Studies, University of Southampton, Southampton
VI. PAPERS PRESENTED BY PANELISTS

Statement made by H.E. Sergio Duarte, President-designate of the NPT 2005 Review Conference

Let me first of all thank the organizers of this Workshop for the invitation to participate in these debates. As the Review Conference approaches, this is another valuable opportunity to discuss in an informal atmosphere some of the main questions we will have to tackle next May. The presentations will certainly be important to me as I prepare for the task of presiding over the work of the Conference.

Many observers have pointed out that the NPT is currently facing a persistent and serious situation of erosion of confidence in the mechanisms of the Treaty and on the ability of the instrument to survive the tests it has been put through. This situation is not new, but it seems to have grown more complex since the indefinite extension in 1995. Even more serious is the perception that its Parties lack the necessary will to confront that situation squarely and agree on effective means to avert further dangers. Some even foresee the danger that unilateral interpretations replace multilaterally agreed instruments. It is incumbent on all of us to reverse this trend and work in good faith to strengthen the instrument so that it can be effective and lasting. At the forthcoming Review Conference, States Parties must face all aspects of this situation and address the current problems in earnest and in good faith.

Compliance by all parties with all obligations entered into is of course essential, but perhaps a little more is needed. Every party must be convinced that others are sincere in their stated adherence to the NPT and to the thorough fulfilment of their commitments. We must promote, or should I say, restore, confidence among us. This is in my view a necessary prerequisite for meaningful progress.

I feel very much honored to have been chosen to help in the task of presiding over the 2005 Review Conference, and I have been working to that effect since Brazil’s candidature was unanimously endorsed at the III Preparatory Committee. As many of you will recall, I was entrusted then with the responsibility to conduct consultations in preparation for the Conference. Rather than trying to set priorities among the different aspects of the NPT, I would like to describe what I have been striving to accomplish in order to discharge that responsibility.

As it would be impossible for me to consult individually every one of the 187 or 188 State Parties of the Treaty I decided to concentrate my consultations on the three dozen or so most active State Parties of the NPT, and also to consult with groups. The relevance that my country attaches to the NPT resulted in the decision by the Brazilian government to provide the financial backing needed for such extensive travels starting almost two years ago. Since early last January my consultations have again taken me to a large number of countries. After a brief stay in Brazil last week I started the current tour in order to deepen my understanding of the different views related to the Treaty and to try to discern possibilities for convergence. In the present round of consultations I have already visited two of the five nuclear-weapon Parties, held briefings in Vienna with individual representatives and groups as well as with the IAEA, together with Ambassadors Bonnier and Molnar and will travel to the capitals of the other three NWS during March and April. I will also conduct individual and collective consultations with the participation of Elisabet and Laszlo in Geneva after this workshop and go on to see high officials in the capitals of some other Parties. The presence of Ambassador Sudjadnan among us will give me the opportunity to exchange ideas with all three Chairs of the Main Committees. After completing my travels I intend to come to New York around April 13 and try to bring together the strands revealed in these consultations. I will be in close contact with all Parties through their Missions in new York until the start of the Review Conference.
In the first stage of my work I have concentrated on discussing ways to resolve some of the important procedural points which were not agreed at the meeting of the III Preparatory Committee last April in New York. Among those, perhaps the most important is the provisional agenda for the Conference. I also listened to preliminary views on the substantive issues with which it will be seized. I believe everyone will agree that lack of consensus on an agenda may block the work of the Conference and perhaps precipitate a long and fruitless discussion, preventing meaningful debate on the substantive issues. I believe some progress has been made toward convergence on a formulation and I am confident that we will have agreed language at the start of our work on May 2.

Another procedural question, which is of course rooted in considerations of substance, is the establishment of subsidiary bodies in the Main Committees of the Conference. My preliminary consultations also focused on this question so as to avoid as much as possible a fruitless procedural discussion after the opening of the Conference. At this point positions still seem quite wide apart, but I will continue to strive for agreement on the best way to treat this subject from the procedural point of view. I think Parties should have in mind both the sensitivities of some issues and the practical limitations in terms of logistics.

Past sessions of the Preparatory Committee in 2003 and 2004 have also had to face the question of the status of the Democratic People’s Republic of Korea. I believe it will be possible to arrive at an understanding similar to but not necessarily the same as the one adopted at the II and III PrepComs. At this early stage we cannot of course foresee what the situation will be in May this year. I am confident, however, that a solution will emerge that will not prejudice the ongoing efforts of the Six Party talks and that allows a full discussion on the general question of withdrawal. My consultations so far have shown that this is within realm of the possible.

I have also been encouraging Parties to give thought to the possible outcomes of the Conference, and particularly the best way to record the result of its deliberations. It will also help to have a clear idea of what would constitute “success” or “failure”. As much as we all desire success, I believe we must in the end understand that success will be predicated on achieving a result that all Parties can consider useful and constructive. There is no quick fix to disarmament and non-proliferation. We must keep the process going and avoid retrogression. A significant number of Parties have expressed in several ways a wish that the Review Conference adopt decisions and/or recommendations, and that these be adequately recorded and serve as a basis for action. Others, however, seem to be taking a more cautious attitude toward the way in which the deliberations will be recorded. In my consultations many Parties have expressed the view that merely debating the issues at hand would not be a satisfactory result. Our debates must serve as the background for specific conclusions to be reached. Otherwise, we will have accomplished very little, or maybe nothing at all. I hope that as we approach the Conference these ideas are better refined in capitals so that a convergence of views can emerge about the format in which the results can be presented.

Before I go on to some of the substantive issues before the Conference, may I make a general observation on the panorama as seen from my perspective.

I believe it goes without saying that by being Party to the NPT almost the entirety of the world community and has a vital stake in its permanence and validity. Trust in the full implementation of its promises was the primary reason for the massive support it came to enjoy. In order to preserve and strengthen the Treaty it seems imperative to renew and enhance this trust at the 2005 Review Conference. Despite what many would consider as serious shortcomings, all Parties have a stake in the permanence and durability of the NPT, and thus have a duty to work actively towards full compliance with all provisions of the Treaty. This conviction was expressed very clearly to me during my consultations. I feel sure that all Parties will work to strengthen the so-called three pillars of the Treaty and reinforce the regime it established more than thirty-five years ago.
Perhaps the greatest challenge will be how to preserve the integrity and credibility of the Treaty in the face of recent episodes that gave rise to accusations of lack of compliance on the one hand, and of what is perceived as attempts to back down from political commitments accepted only a few years ago, on the other hand. The mechanism put together by the drafters of the Treaty to ensure compliance with its non-proliferation obligations is being considered inadequate, and new constraints on the non-nuclear weapon Parties are being proposed. At the same time, the commitment and the will of nuclear weapon Parties to abide by their obligations under Article VI are being doubted and called into question. If this situation, that may be characterized as a crisis of confidence in the good faith of its Parties, continues to exist and grow, I believe we all will have reason to fear for the longevity of the NPT.

Based on my consultations so far, which as I said are still in a very preliminary stage, let me try to list some of the major items of interest for Parties at the forthcoming Review Conference.

Agreement on the 13 practical steps, particularly the “unequivocal undertaking” by the nuclear weapon States to accomplish the total elimination of their nuclear arsenals, leading to nuclear disarmament, was considered one of the major achievements of the 2000 Review Conference. Under Article VI, all Parties to the NPT are committed to that objective. The reaffirmation of this commitment at the 2005 Review Conference and the promotion of progress toward nuclear disarmament in the most concrete way possible will certainly be a major objective for most non-nuclear-weapon Parties and I believe that such a reaffirmation is both necessary and possible.

There is an obvious need to ensure that the safeguards and verification system provided for in Article III works effectively to satisfy Parties that obligations set forth in Articles I and II are being fully complied with; at the same time, however, many have pointed out that the application of that system should not contradict the right to develop research and use of nuclear energy for peaceful purposes, as established in Article IV. This involves a difficult equilibrium, but the question must be addressed with the utmost seriousness if Parties are to achieve a solution that takes into account proliferation concerns and legitimate aspirations for economic and social progress, as well as for technological advancement. Several ideas and proposals have been made to reinforce the safeguards regime, and they will certainly be in the forefront of the discussions. Such ideas and proposals range from the enhancement of the value of the Additional Protocol to further arrangements to control the supply of sensitive materials as well as suggestions regarding the fuel cycle. Although most Parties agree in principle on the need to strengthen the safeguards regime in the face of current challenges, several have expressed strong views on the relationship between such measures and other aspects of the Treaty.

A related question in this regard is the adoption of measures to increase accountability and transparency, particularly regarding nuclear arsenals. Many Parties believe that regular reporting by the nuclear-weapon States as provided for in step 12 of the “Thirteen Steps” would be a major contribution to enhance faith in their determination to comply fully with Article VI of the NPT. Proposals have been put forth about the possibility of adoption of “national plans” by the nuclear weapon Parties regarding the way and the timeframes within which they intend to discharge their nuclear disarmament obligations. Some have suggested that it would be very useful for the Conference to recognize a clear nexus between efforts toward nuclear disarmament under way by nuclear-weapon countries and the long-term perspectives for the accomplishment of the final objectives stated in Article VI. Of course, according to Step 12 of the “Thirteen Steps” non-nuclear weapon Parties are also expected to provide information on the way in which they are fulfilling their own commitments.

The reactivation of the Conference on Disarmament is another important point to be addressed by the 2005 Review Conference. Many Parties have stated the view that it is imperative to break the paralysis of the Conference. The negotiation of a Fissile Material Treaty still seems to be the best possible opportunity, if the remaining divergences can be bridged. Most Parties feel that the CD must be allowed to discharge fully the responsibilities entrusted to it by the U.N. General Assembly.
The entry into force of the Comprehensive Nuclear Test-Ban Treaty is seen by the overwhelming majority of Parties as an essential step towards nuclear non-proliferation and disarmament. The current moratorium on test explosions can only be considered as an interim measure. A large number of Parties believe that the States mentioned in Annex-II of the CTBT, particularly the nuclear weapon States among them, have a special responsibility toward final achievement of this long-standing goal of the international community. The longer the CTBT remains in a limbo, the more detrimental this situation becomes to non-proliferation efforts. A wide majority of Parties have confirmed the importance they attach to the universality of this Treaty, which for a long time has been considered a major goal of the international community.

Non-nuclear Parties, particularly the members of NAM, have consistently stressed that the nuclear non-proliferation regime would be greatly strengthened by the adoption of effective, legally binding agreements on negative security assurances. In the 1995 Review Conference and again in 2000, the Parties to the NPT have stressed the urgency and importance of this matter. Addressing it in an objective and action-oriented way by the 2005 Review Conference would in the view of many go a long way to reduce incentives for proliferation and would pave the way for negotiations to provide credible and lasting assurances, pending nuclear disarmament.

Some Parties have made suggestions regarding the strengthening of the institutional framework of the NPT. Canada, for one, put forth specific proposals on a revised preparatory system and on a permanent arrangement aimed at improving the review process. Ideas regarding Article X have also been advanced. These proposals and ideas should be fully discussed in 2005 with a view to enhancing the effectiveness of the Treaty.

Regional security issues once again will represent an important part of deliberations at the Review Conference. Parties concerned expect that the Conference will be able to promote progress on the questions related to the Middle East. A related subject is the question of the universality of the Treaty. The acquisition of nuclear weapons by States not Parties to the NPT raises serious concerns. Several ideas have been advanced in this regard. Many Parties believe that there should be no rewards for those who remain outside the regime. This question is also closely linked to the perception that the indefinite possession of nuclear-weapons was somehow legitimized for those States recognized as such in the NPT, a view that non-nuclear Parties strongly reject.

Other ideas and proposals, including some of those which may be advanced in the course of our discussions here, will certainly be brought to the Review Conference.

The forthcoming Review Conference should also address firmly the new and serious challenges to international peace and security and to the non-proliferation regime, which arose as a consequence of the emergence of terrorism as a tool of political extremism. This is a subject of special precaution to several Parties, and indeed concerns the whole international community. Although specifically dealing with States, not individuals, the NPT has an important role to play in preventing the acquisition of nuclear weapons by the so-called non-State actors. All Parties to the instrument have equal responsibilities in that regard. The reduction and eventual elimination of the threat posed by international terrorism, however, cannot be achieved solely through the NPT. Other tools and mechanisms exist, and some have already been put in motion. It is important that such mechanisms be multilaterally agreed, non-discriminatory in character and universal in their application, rather than simply arrangements among a limited number of willing, or, as some have said, willful Parties. There are those who seem to think that by avoiding tedious and time consuming diplomatic negotiations questions considered to be of high priority would be tackled in a more efficient and flexible manner. In the long run, however, bypassing multilateral institutions in favor of ad hoc mechanisms risks creating instances of limited or questionable legitimacy. They lack the necessary broad membership and support that makes treaties and organizations lasting and respected. The price for quick action may prove to be too high in terms of the erosion of credibility of traditional international institutions and instruments.
May I make a final comment on the value of political commitments. The recorded result of the 2005 Review Conference will hopefully, like its predecessors, reflect political commitments of the Parties towards the goals of the Treaty. Whatever new political commitments arise, it seems obvious that previous ones should not be downgraded or simply dismissed. If this practice becomes customary, we might easily foresee a situation in which every five years we accept by consensus a number of solemn commitments, only to forget them during the following five years until the next Review Conference.

I would close my remarks by stating an obvious truth: it is very important to understand clearly the legitimate concerns of different Parties or groups of Parties so as to move towards dissipating misunderstandings and mistrust. Rather than reiterating confrontational positions or to seek gaining selective advantages at the 2005 Review Conference, all Parties should strive together to advance a common agenda based on the essential bargain that made the Treaty possible. This is, in my view, a sure recipe for success.
1. Challenges to Article IV right.

- The extent to which the inalienable right to peaceful uses of nuclear energy provided for in Article IV of the NPT can be allowed is among the most highly charged divisive issues on the nonproliferation and disarmament agenda. Its contentiousness is compounded in the post-9/11 international security context as the global nonproliferation regime now faces unprecedented challenges. This fundamental right tends to be seen by some in terms of the possibility of it being abused by potential proliferators for non-peaceful purposes.
- A fatal loophole in the NPT is that it allows potential proliferators to come to the brink of nuclear weapons capability without violating the Treaty under the cover of ostensibly civil nuclear energy programs.
- If the NPT parties are allowed to break out of the Treaty with impunity as they are now, it would be a smart and rational choice for determined potential proliferators to technically comply with the NPT and safeguards obligations until they have successfully acquired the nuclear technologies and materials usable for a weapons program.
  - When the moment of truth arrives, they can renounce the Treaty and manufacture nuclear weapons.
- Therefore, the mere acceptance of IAEA safeguards no longer proves that a government is not seeking nuclear weapons, any more than mere NPT membership does.
- This unfortunate reality lies at the heart of the crisis of confidence in the NPT. And that is why legalistic approaches alone focusing on compliance and verification have inherent limitations in achieving the intended objectives of the Treaty.
- Therefore, these conventional legalistic approaches should be supplemented by new substance-oriented approaches.
  - In achieving nonproliferation objectives, form is nothing more than a means to an end. Substance should not be defeated by form.

2. The link between the inalienable right to peaceful uses of nuclear energy, safeguards and nonproliferation obligations.

- The Article IV right may be inalienable, but it is neither absolute nor unconditional. It should be interpreted in the broader context of the purpose of the Treaty.
  - The right to nuclear cooperation under Article IV is contingent on compliance with nonproliferation and safeguards obligations under Articles II and III. Therefore, it can be withheld from those States parties found by the IAEA Board of Governors to be in non-compliance with Articles II and III obligations.
- However, there are opposing views as to whether all countries in good standing under the NPT are automatically entitled to the entire range of nuclear fuel cycle activities.
- No one will dispute the compliant states’ right to nuclear facilities and technologies for which they have a legitimate peaceful need.
  - Legally any compliant State Party can claim the right to own and operate any nuclear facilities as long as they are verifiably used for peaceful purposes only.
- The question arises when a compliant State attempts to acquire and operate facilities for which its legitimate need is questionable. If the compliant State’s past record of international behavior is not particularly conducive to confidence in its nonproliferation commitment, its
legal right under the NPT is likely to become a cause for international security concern.

- There is a wide range of peaceful nuclear activities with varying levels of proliferation risk. Moreover, governments enjoy varying levels of international confidence in their nonproliferation commitment. Thus, the right to nuclear energy has a different meaning depending on the level of proliferation risk of the nuclear activity in question and the level of confidence that the government enjoys in its peaceful intent.

- In terms of proliferation risk, there is no comparison between operating power reactors and operating enrichment or reprocessing plants.

- Even in the area of the sensitive fuel cycle, scientific research activities cannot receive equal treatment as operating enrichment or reprocessing plants. The right to some nuclear activities is more fundamental and inalienable than others.

- While no objection has been raised with regard to the enrichment or reprocessing activities of some non-nuclear weapon states (NNWS), there are other countries which have not earned sufficient international confidence in their peaceful intent even to acquire power reactors. Thus, the right to nuclear energy is one thing for those countries equipped with a sizable nuclear power capacity and whose peaceful intent is taken for granted. The same right could be a totally different matter for others. Double standards are the order of the day in the world of unequal legitimate needs and unequal nonproliferation credentials.

- Although the entire range of the nuclear fuel cycle is lumped together under the name of peaceful nuclear energy programs, the all-encompassing one-size-fits-all approach to all peaceful nuclear activities without regard to the proliferation potential of the specific activities has thus lost relevance in dealing with today’s challenges to the nonproliferation regime.

- As such, the extent to which the Article IV right can be enjoyed by individual countries should be differentiated on the basis of the safeguards standards they have accepted and the legitimacy of the need for the nuclear facilities and technologies they seek.

- The level of safeguards standards that the NPT parties accept is an indicator of the level of their commitment to non-proliferation. Those countries that have accepted the AP deserve preferential treatment in terms of the scope of peaceful nuclear activities they should be entitled to.

3. Possible ways to control or limit access to the nuclear fuel cycle.

- At the heart of the whole debate on the Article IV right lies the issue of tightening controls on international transfers of the sensitive fuel cycle technologies related to enrichment and reprocessing.

- There are already a number of proposals on the table, including IAEA Director General ElBaradei’s for multilateral approaches and President Bush’s put forward on 11 February 2004 in his speech to the National Defense University that possession of enrichment and reprocessing plants be limited to those States that have already acquired them.

- From academia, John Deutch, Arnold Kantor, Ernest Moniz and Daniel Poneman proposed in the Winter 2004-05 edition of Survival “Assured Nuclear Fuel Services Initiative (ANFSI)” which focuses on economic and political incentives for foregoing the sensitive fuel cycle while addressing concerns about the security of supply through multiple layers of commercial, inter-governmental and multilateral assurances of supply to be backed up by a nuclear fuel reserve system.

- All these proposals are predicated on the assumption that, in view of the particular danger of proliferation associated with enrichment and reprocessing, limiting access to the sensitive parts of the nuclear fuel cycle is inevitable.

- In so doing, it is essential to establish objective and sensible criteria for export controls in order to minimize controversies over the political legitimacy of the controls.

- Such criteria must be based on the safeguards standards accepted, the economic feasibility of
building indigenous enrichment or reprocessing plants as well as energy security.

- Economic feasibility is determined by the price of enriched uranium fuel and the level of the annual demand for the fuel, while energy security depends on the share of nuclear energy in a country’s total energy supply.

- As such, it would be least controversial to deny access to the sensitive fuel cycle for those countries that do not have evident justification for uranium enrichment or spent fuel reprocessing on the grounds of economic feasibility or energy security.

4. Possible incentives to forego the sensitive fuel cycle.

- States with peaceful intent have no compelling rationale to seek enrichment or reprocessing unless economic benefit can be expected from such investment or they have anything to worry about in terms of the security of their requisite nuclear fuel supply or the disposal of the spent fuel.

- By addressing these three underlying root causes driving the pursuit of the sensitive fuel cycle, even those countries with sizable existing nuclear industries or ambitious nuclear energy programs can be persuaded to reconsider their own enrichment or reprocessing option.

- The security of nuclear fuel supply can be enhanced at the national level by diversifying supply sources and building up domestic stockpiles. The residual risk beyond the control of the user-State can be addressed for the most part through multiple layers of protection against possible disruptions of supply.

- The first line of protection for commercial supply contracts between suppliers and users must come in the form of a government-to-government guarantee whereby the government of the supplier-State would be responsible for the supply in the event that the commercial supplier fails to fulfill its contractual obligations. However, there is no 100 percent assurance that the supplier government will honor its guarantee under any circumstances. For instance, the supplier government may decide to suspend the promised supply on the basis of a unilateral, arbitrary judgment or suspicion on the user-State’s compliance behavior or proliferation intent. The supplier-State can also fail to honor its commitment due to insufficient fuel reserves under the government’s control in the event that the supplier company is unable to implement its contract due to technical failures or long strikes.

- Such contingencies require the second line of protection in the form of a multilateral standby arrangement by the consortium of supplier-States, whereby another nuclear supplier would step in should the first line of protection fail. Such arrangement will reduce the uncertainties of supply to some extent. However, it cannot altogether eliminate the vulnerability of the user-States to the oligopoly of the supplier-States. It still lacks a safety net against the possibility of the supplier-States to use fuel supply as a means of political pressure when other means are not available or when they cannot trust the peaceful intent of a user-State.

- That is why we need a guarantor of supply of the last resort to back up these two lines of protection. The IAEA may be mandated with the role of the guarantor. To be credible and reliable, the guarantor of the last resort should have sufficient stockpiles of fuel at its disposal which are exempt from the national legal jurisdiction of supplier-States. An iron-clad guarantee should be built into the mandate of the guarantor that fuel supply or enrichment services to users not be withheld for any reason other than a material breach of their nonproliferation commitments. Whether the IAEA can effectively function as the guarantor will depend largely on whether its Board of Governors can agree, among others, on a workable cost-sharing arrangement to cover the expenses of managing the contemplated fuel bank and emergency back-up supply arrangement.

- These multiple layers of protection may be provided only to those user-States that opt to forego the sensitive fuel cycle. Nevertheless, those user-States which deem the level of
residual risk left over by these triple layers of supply assurances still too high to tolerate are likely to adhere to the enrichment option.

- In addition to addressing energy security concerns through such assurances of supply, fuel supplier-States can provide additional incentives for foregoing reprocessing by introducing a system of fuel leasing and take-back of the spent fuel to the country of origin as proposed recently by John Deutch and others as well as the Expert Group on Multilateral Approaches for the Nuclear Fuel Cycle appointed by IAEA Director General ElBaradei. In this regard, the recent fuel supply agreement between Iran and Russia provides an instructive example.

- The supplier-States can also reduce the user-States’ economic incentive to acquire an enrichment plant by lowering the price of enriched uranium fuel. At the current price level of enriched uranium fuel, an installed nuclear power generation capacity of 25,000 megawatts would provide the economic justification to build an indigenous enrichment plant. A lower price will require a larger capacity to justify an indigenous enrichment program.

- If a user-State seeks to build an enrichment or reprocessing plant despite stability in the international nuclear fuel and enrichment services market, the availability of the multiple layers of supply assurances and the system of fuel-leasing and fuel take-back, its intentions will come under an intense international spotlight and scrutiny, thus compounding the political burden of that State to justify such a choice. If the State fails to persuade the international community that its actions and intentions were benign, it will facilitate a concerted international response.

- However, if the supplier-States fail to supply nuclear fuel and enrichment services at a “reasonable price” or to work out reliable assurances of supply and a workable mechanism for spent fuel management, they would unwittingly be providing the justification for the acquisition of the sensitive fuel cycle by the user-States.

5. Would further inroads into the Article IV right change one of the core bargains of the Treaty?

- We all know the nature of the grand bargain between nuclear weapon States (NWS) and non-nuclear weapon States (NNWS) which brought the NPT into being in the first place. NNWS accepted nonproliferation and safeguards obligations under Articles II and III in return for their unimpeded access to technologies for peaceful uses of nuclear energy under Article IV. On their part, NWS accepted disarmament obligations under Article VI. As such, the Treaty is sustained by an intricate balance between the rights and obligations of the two.

- If restrictions are imposed on the inalienable right of NNWS to nuclear energy and the nonproliferation obligations of NNWS are strengthened while NWS are widely perceived as failing to meet the rising expectations in the implementation of their disarmament obligations, this would be deemed by many NNWS to change the balance of the core bargain.

- There are two ways to restore this balance. One is to strengthen disarmament obligations of NWS. Another is to facilitate and expand access to nuclear technologies by the majority of the NPT parties which harbor no proliferation intent.
Some Thoughts on Nuclear Weapons Issues

By
Dr. Lewis A. Dunn
Senior Vice President
Science Applications International Corporation
Former U.S. Ambassador for the Nuclear Non-Proliferation Treaty

The views herein are those of the author not necessarily those of SAIC or any of its sponsoring organizations

• Asked to make some introductory remarks on non-strategic nuclear weapons
• Pleased to do so – with three caveats
  ⇒ It is important to place this issue in a larger strategic context
  ⇒ Will focus on non-strategic nuclear weapons but also on a broader category of surplus nuclear weapons
  ⇒ What’s “practical” clearly is in the eye of the beholder
• Thus, let me do two things in the time allotted
  ⇒ First, present my view of the larger strategic context
  ⇒ Second, set out very quickly three “practical” suggestions on nuclear warhead related initiatives, or at least suggestions that could provide “grist for someone’s mill”
  ⇒ Apologize in advance for not being suitably diplomatic

Strategic Context:
• First, turn to the larger strategic context in which any discussion of practical suggestions for next steps on nuclear weapons needs to be placed
• What’s today nuclear threat?
  ⇒ A North Korea which could decide to roll the dice, invade South Korea, and use nuclear, biological, and chemical weapons in the process
  ⇒ An Iran which seems bent on following the Pakistani model – that is, claiming it has no interest in nuclear weapons while diligently building the bomb
  ⇒ An Osama bin Laden and al-Qaeda – and possibly other terrorist organizations – attempting to acquire nuclear weapons
• What’s not today’s nuclear threat?
  ⇒ The now long-gone danger that the United States and Russia, with once highly-alert and finely-tuned nuclear postures, could stumble into a military confrontation escalating into an Armageddon-like global nuclear conflict
  ⇒ Nor is nuclear deterrence per se the threat
    – That is, the now-very veiled reliance on the possibility that certain extremely threatening and destructive actions by an aggressor – take for example a possible North Korean use of nuclear weapons against Japan in a new Korean war – could trigger a nuclear response
    – Rather, deterrence remains a perhaps regrettable but preferable alternative to open conflict, especially conflict with vast civilian loss of life from nuclear or biological weapons use by an aggressor
• Who’s doing what among the NPT nuclear weapon states is another part of today’s strategic context – very brief since want to turn to my three “practical” suggestions
• Here, be so brash or undiplomatic to sketch all five: do so via a “bumper sticker phrase” and an example or two
• UK and France: “Slipping toward Phantom Nuclear Postures”
  ⇒ Bare minimum strategic submarine deployment; getting out of the tactical nuclear deployments; but hanging onto to nuclear weapons as general good things
United States: “Advanced Conventional Weapons are the Future -- but Nuclear Weapons Still May be Useful in Extremis”
- Prompt Global Strike with conventional weapons exemplifies what excites today’s U.S. military
- Warheads down; force posture in terms of deployments, bases, air wings down; laboratory funding and recruitment for nuclear weapons down; flag rank and enlisted personnel devoting careers to nuclear weapons down; expertise down – you name it, if it’s nuclear, its going down and into the cellar
- But Cold War nuclear psychology still a brake – along with arms control skepticism
- Plus concerns that legacy nuclear posture from Cold War is not the right posture to deter a North Korea with nuclear weapons, an Iran with nuclear weapons, or whatever
- So there continues to be an ongoing U.S. debate about some very limited modernization to enhance deterrence
- But Congress not prepared to support so far
- Plus it is a complete caricature to argue as some NGOs do that the U.S. is lusting after new nuclear weapons to lower the nuclear threshold and use those weapons

Russia: “Tactical Nukes are Us”
- Modernizing and deploying battlefield nuclear weapons – sort of a back to the future approach which looks like and makes reference to NATO in the 1960s; not quite clear from outside whom these modernized tactical nuclear weapons are deterring from invasion

China: “Stealthy but Steady Strategic Nuclear Modernization – with Thinking about Use”
- Growing numbers, more capable missiles, MIRVs on the horizon
- Multiple rationales:
  - Response to US missile defense
  - Consistent with overall claim to 21st century Asian preeminence and global role
  - Plus talk at least among some retired military, outside analysts that China should have the option to escalate with limited use of nuclear weapons if a China-US confrontation over Taiwan began to go badly for China
  - I know China has pledged no first use of nuclear weapons – but China also has said that a Taiwan declaration of independence means war

Three “Practical” Suggestions

- Turn now to three “practical” steps that could be pursued, with reference to non-strategic nuclear weapons narrowly, surplus nuclear warheads more broadly
- **First, PNI Transparency Initiative**
  - Recall: 1991 Presidential Nuclear Initiatives or PNI under which Presidents Bush and Gorbachev pledged to withdraw ground-launched tactical nuclear weapons from Europe as well as ship-based tactical nuclear weapons from ships at sea – and eliminate them
  - Since then, withdrawals taken place, U.S. and Russian officials have stated that eliminations have occurred, but some uncertainty about whether process is complete
  - Two part transparency initiative:
    - Part one: make the records of the transfers and the eliminations public
      - That is, my assumption is that there is an inventory of all nuclear weapons, that when these tactical nuclear weapons were moved and eliminated, some type of inventory changes were made – so make those records available, sanitized if need be for any sensitive classified material, e.g., on weapon details
      - In effect: warhead # x, sent to facility y, on day z, and destroyed on day zz
    - Part two of my PNI Transparency Initiative: visits if any warheads still to be dismantled
      - Maybe all the warheads not yet eliminated – though believe that on US side this probably not so
      - For final eliminations, perhaps periodic, perhaps only for the very last one, provide for some type of international visits to the site – again working classification
  - Is a PNI Transparency Initiative practical? Why not? Need to work the classification issue, places some extra bureaucratic burden
Main constraint will be a sense of “why do it” on part of US and Russia? Personal answer: useful as means to strengthen legitimacy and support for other non-proliferation efforts; plus since doing it anyway, why not get the credit

Turn now to second “practical” suggestion

Second, Surplus Nuclear Warhead Sequestration

Both U.S. and Russian officials acknowledge that each side has some number of “surplus” nuclear warheads, though maybe not use that term

How define surplus?

Warheads removed from systems or deployments and slated for eventual elimination – some strategic, some non-strategic warheads

Eventual elimination may take some time, however, because for technical, practical, and operational reasons it is simply a slow process to get rid of these legacy capabilities

Is this a large number of warheads? A small number? Actual figure is classified but probably not insignificant; plus would expect that the actual figure will grow not shrink over time

How define sequestration?

Both US and Russians have storage sites for nuclear warheads

Take either part of one storage site, a whole storage site – and put all of the warheads slated for elimination in one overall location

That is, imagine a sort of a “to be eliminated vault” with many smaller vaults contained within it

Then consider how to use those security and control features that already are in place to permit not only national but also international monitoring – e.g., assume a site with electronic locks and chains so to speak – o.k., why not provide electronic feed to a nearby or even remote monitoring location to confirm that warheads still in the “to be eliminated vault”

Of course, need to provide for some removals – if only for elimination; do that with notifications

Two sides could work out the sequestration details – along with type of involvement of IAEA as in IAEA already monitoring some surplus nuclear weapons materials

Is this practical? Depends again on the why should U.S. and Russians consider doing it?

Likely to increase security and control over Russian nuclear warheads and facilitate CTR-type assistance in that regard – so a useful anti-terrorist measure

Going to eliminate these warheads anyway – so why not get some good will for doing so

Perceived downsides: dealing with classification and avoiding any unintentional security lapses; won’t the non-nuclear weapon states simply “pocket” this action – and march on to “well, what are you going to do for us now?”; cost – though security needed regardless

Third, resuscitate the U.S.-Russian Nuclear Warhead Elimination Technical Exchanges

Back in the 1990s, considerable technical work by U.S. and Russian nuclear weapon laboratory personnel and others on technical issues related to nuclear warhead monitoring and elimination

Explored what could be done to provide mutual transparency in the process of storing and then eliminating surplus nuclear warheads

Tied to the START II process – so set aside when START II set aside

Could be brought back to life, updated, possible pilot projects with some of the already surplus warheads

Why do it?

Main argument:

- Both U.S. and Russian nuclear postures are on an inexorable downward glide path to fewer and fewer deployed warheads -- budget and strategy driven
- Even in the new non-adversarial relationship, uncertainties about what’s “going on” on the other side could be a constraint, could lead to hanging onto warheads – and paying to secure them – that otherwise would get rid of

Secondary argument for why do it:

- Support NPT, buy good will and legitimacy for other non-proliferation actions
• Thus, these are my three suggestions
  ⇒ PNI Transparency Initiative
  ⇒ Surplus Nuclear Warhead Sequestration
  ⇒ Resuscitate U.S.-Russian Nuclear Warhead Elimination Technical Exchanges
• Are they practical: maybe yes, maybe no – as said, it’s in the eye of the beholder
• But all three would be useful steps
• Thank you
“Overview of the Current Developments in the DPRK nuclear issue and its NPT-related issues”

By Yukiya AMANO
Ambassador, Director General of Non-proliferation, Disarmament and Science Department, Ministry of Foreign Affairs, Japan

Excellencies,
Distinguished participants,
Ladies and Gentlemen,

First of all, I would like to express my sincere appreciation to the Center for Nonproliferation Studies, Monterey Institute of International Studies and the Mountbatten Center for International Studies, University of Southampton for organizing this useful workshop which will certainly contribute to our preparation for the upcoming NPT Review Conference in May.

Today, upon the request of the chair, I would like to briefly introduce the current developments in the DPRK nuclear issue and draw your attention to some issues regarding the DPRK’s announcement in January 2003 to withdraw from the NPT, which we should be reminded of as we approach the upcoming NPT RevCon.

Bringing about an early and peaceful resolution to the DPRK nuclear issue is essential to securing peace and stability in Northeast Asia as well as for maintaining authority of and confidence in the international nuclear non-proliferation regime based upon the NPT. The international community has made considerable efforts towards achieving such a goal. In this regard, the Six-Party Talks process has played a significant role and its early resumption is eagerly-awaited.

On February 10th, however, the DPRK suddenly issued a Foreign Ministry Statement publicly declaring that the DPRK would suspend its participation in the Six-Party Talks for an indefinite period and that it had manufactured nuclear weapons. Japan considers this statement to be extremely regrettable and has already expressed deep concern over it on several occasions such as at the latest IAEA Board of Governors Meeting in early March.

Not only do the DPRK’s nuclear programs represent a direct threat to the peace and stability of the Northeast Asian region including Japan, but also pose a serious challenge to the international nuclear non-proliferation regime. The international community must not accept, under any circumstances, any development, acquisition, possession, test or transfer of nuclear weapons by the DPRK.

The DPRK should observe all nuclear related international agreements, including the NPT, and implement completely and immediately its Comprehensive Safeguards Agreement with the IAEA. This commitment by the DPRK was also confirmed in the Pyongyang Declaration agreed at the Japan-DPRK Summit Meeting in 2002.

As I mentioned earlier, the Six-Party Talks process has played a significant role towards the peaceful resolution of the DPRK nuclear issue. Japan firmly believes that the DPRK nuclear issue should be resolved peacefully through dialogue. The Six-Party Talks is currently the most realistic framework and should continue to be fully utilized. Japan has long urged the DPRK to agree to the resumption of the Six-Party Talks at an early date without preconditions. Japan is ready to continue to make every effort for a resolution by diplomatic efforts, primarily by actively contributing to the Six-Party Talks. Furthermore, Japan believes that, should there be no progress made towards resolving the DPRK nuclear issue, the international community should deal with the situation in a more befitting manner and with a greater sense of urgency.
In order to remove the threat posed by the DPRK’s nuclear programs and to maintain peace and stability in Northeast Asia, Japan believes that the international community should further call on the DPRK to ensure the complete dismantlement of all of its nuclear programs in a permanent, thorough and transparent manner subject to credible international verification. The DPRK must immediately commit itself to dismantling expeditiously all of its nuclear programs, including its clandestine uranium enrichment program, and declare complete information related to all of its nuclear programs. At the same time, the international community should continue to persuade the DPRK that the benefits of dismantling its nuclear programs are much greater than their possession, and that complete dismantlement of all of its nuclear programs under credible international verification would benefit the DPRK most.

This is my overview of the current developments in the DPRK nuclear issues and what the international community should do in order to tackle this most imminent problem. I would now like to draw your attention to some issues regarding the DPRK’s announcement in January 2003 to withdraw from the Treaty.

The announcement by the DPRK in January 2003 to withdraw from the Treaty posed a serious challenge to the NPT regime. Japan believes that, in response to this challenge, the international community should behave in concert, under the premise that the DPRK still remains responsible for the obligations under the NPT. The interpretation of the legal status of the DPRK under the NPT, however, differs among states parties.

Under such circumstances, the international community should avoid getting involved in unproductive and unnecessary legal arguments per se on the legal status of the DPRK under the NPT. I believe that the most practical way to address this issue at the upcoming NPT RevCon is to follow the example of the Second and Third Preparatory Committees of the 2005 NPT Review Conference. Japan believes that the specific question of the status of the DPRK should not be linked to the issue of how effectively the international community deals with the issue of the withdrawal in general.

Japan, however, takes the issue of the withdrawal from the Treaty very seriously. There are two main reasons for this. Firstly, we cannot tolerate a state withdrawing from the Treaty after having developed nuclear weapon capabilities under false pretenses. Secondly, the withdrawal of any state from the Treaty would significantly undermine the universality of the NPT and the confidence of the states parties in the international nuclear nonproliferation regime based on the NPT. There are several proposals to address this issue, including exploring the possibility of making adjustments to modalities for withdrawal. In this regard, Japan believes that the best way to deal with this issue is to discourage withdrawal by making it more costly. A state withdrawing from the Treaty should not be allowed to make military use of nuclear capabilities acquired under the pretext of peaceful use of nuclear energy, while being a party to the Treaty, by virtue of the Article IV of the Treaty.

The upcoming RevCon should properly take up this issue and reaffirm that a state party which has withdrawn from the Treaty remains responsible for violations it committed while being a party. Japan also believes that the RevCon should urge any supplier country of the nuclear material, facilities, equipment or components to make necessary arrangements entitling them to require the return of any nuclear material etc. transferred prior to the withdrawal or to take equivalent measures to neutralize them. The DPRK’s announcement to withdraw from the Treaty is unprecedented, and the international community should learn lessons from its experience for the future of the NPT regime. This is my proposal for people here to think about and, hopefully, we can reach a common understanding on this issue at the upcoming NPT RevCon.

Lastly, I would like to emphasize again the importance of the NPT in strengthening regional and international security. From this perspective, we should continue to actively address the issue of the DPRK, since the compliance with and the universality of the NPT are both at stake.

(End) 42
Addressing the Universality of the Treaty

Presented by Knut Langeland

The NPT is the most universal arms control treaty, but three countries remain outside the Treaty. There has always been a consensus among States Parties to urge India, Pakistan and Israel to join the NPT as NNWS. Yet, it is evident that these three countries have not responded to this call.

Israel pursues a policy of nuclear ambiguity. It does not want to confirm or deny possession of nuclear weapons. Israel is not party to other WMD instruments such as the BTWC or the CWC. On the other hand Israel has signed the CTBT.

The situation is different for India and Pakistan. Both have declared themselves as NWS, but have not obtained an international recognition of that status. India and Pakistan are parties to the two other WMD instruments. They have, however, not signed the CTBT.

For the time being it seems not realistic that India and Pakistan would join the NPT as NNWS. At the same time it would not be possible or acceptable to let them become states parties as NWS.

All UN members are bound by the Security Council Resolution 1540. Given new proliferation challenges such as the revelation of the A. Q. Khan-network, we have to ask ourselves if there are pragmatic ways in moving India and Pakistan closer to the nuclear non-proliferation regime. That was the topic for a Roundtable discussion in Islamabad one week ago.

The Roundtable did not address the question of Israel. In this respect let me remind you of the resolution from the Review and Extension Conference as well as the annual NWFZ resolution in the GA, which is adopted without a vote.

The Roundtable was organised by the Norwegian Institute of International Affairs (NUPI) and the Islamabad Policy Research Institute. It was sponsored by the Norwegian Ministry of Foreign Affairs. Researchers and academics from India and Pakistan as well as other countries participated.

The Director of NUPI and former Director of UNIDIR, Sverre Lodgaard, has shown a particular interest on how to bring India and Pakistan closer to the non-proliferation regime. He has written a paper to Weapons of Mass Destruction Commission on ways to universalise the non-proliferation regime. This article is available at the WMDC web-site.

A number of possible approaches were discussed at the Islamabad round table. I will refer to some of them. Let me underline that the purpose of this presentation is to stimulate further discussions. The options discussed in Islamabad are not positions of the Norwegian Government.

One idea is to have India and Pakistan to act as if they were parties to the NPT. That would imply that the two countries would commit themselves to principles of disarmament and non-proliferation that are consistent with the NPT and benefit from the rights of the Treaty.

By doing that they would demonstrate their support for nuclear non-proliferation and disarmament as well as the implementation of 1540.

It has been argued that such commitment could either take form of a protocol to the NPT or through unilateral declarations by India and Pakistan which then could be registered by NPT states.

There may be a number of interesting opportunities by such an approach. Firstly, we would secure a near universal adherence to the non-proliferation norm set out by the NPT. Secondly, both countries
would be committed to the disarmament principle set out by Article VI of the NPT. Thirdly, that might open up for bringing India and Pakistan into peaceful nuclear co-operation.

There are, however, drawbacks. The most serious one is that such an arrangement might seem to imply a de facto recognition of India and Pakistan as NWS. Secondly, it could inspire existing NNWS States Parties to withdraw and seek a similar arrangement as India and Pakistan. Hence the question of withdrawal must be addressed. Thirdly, could such an approach complicate the realisation of the Middle East as a NWFZ?

So the question is would it be feasible to develop an informal arrangement with India and Pakistan?

On the other hand, the two countries could by their own actions demonstrate commitment to nuclear non-proliferation and disarmament, without necessarily re-defining their relationship with the NPT. Let me flag some possible steps.

Four nuclear weapons states have declared moratorium on their production of fissile materials for weapons purposes. These moratoria are useful pending negotiations of a non-discriminatory and verifiable Fissile Material Cut-off Treaty (FMCT). Given the current deadlock in the CD, it would be extremely useful if India and Pakistan also could sustain the cut-off norm by declaring moratoria. Would that be feasible?

Neither India nor Pakistan are signatories to the CTBT. Yet, the two countries have since 1998 abstained from further testing. An accession of the two countries to the CTBT would be a highly welcome move. In the meantime, they should be strongly encouraged to declare unilateral test moratoria and reaffirm the bilateral arrangement. Would an accession to the CTBT by the two countries be an realistic option?

The overall target of the NPT is to reach a total elimination of nuclear arms. From our perspective, nuclear weapons states have the responsibility to carry out arms reductions through a step-wise incremental approach. Norway has welcomed the Moscow Treaty between the US and the Russian Federation as a valuable contribution. At the same time, we call for more and irreversible cuts.

We have to ask ourselves if it would be possible for India and Pakistan to move for nuclear arms reduction, on the basis of transparency and irreversibility. In Islamabad it was repeated that when the NPT NWS in particular US and Russia considerably reduce the levels of nuclear weapons, India and Pakistan would follow suit. Is such a conditionality acceptable?

It is however evident that the impass in the CD prevents us from having a dialogue with India and Pakistan on the reduction of their nuclear weapons. If the CD was to negotiate a FMCT, that would include the two countries.

Among the range of outstanding issues in Islamabad were the following questions; first use and operational status of weapons.

Lastly, we will have to look into the question of both countries’ possible co-operation with existing export control regimes. An example would be to encourage them to follow the NSG guidelines.

The purpose with these questions is to seek ways to bring India and Pakistan closer to the NPT on a realistic basis, pending their accession to the NPT as NNWS. We should maintain that as our overall aim, but should we explore intermediate options in the meantime.
Possible products of the Review Conference
by
Kjetil Paulsen

The following is not a Norwegian position on what the outcome should be from the Review Conference. It is a Norwegian identification of elements that possibly could command consensus and be included in a final declaration:

(Part A)
1. A recognition by all States Parties that the international security environment has changed dramatically in recent years. Non-state actors, terrorists and States in non-compliance with non-proliferation and disarmament obligations have challenged and continue to pose a threat to international stability, peace and security.

2. An acknowledgement that the NPT also has a vital role to play in addressing new security challenges. Both States Parties and States outside the Treaty are urged to undertake all necessary measures to prevent non-state actors from participating in illegal trading in nuclear material and technology, weapons of mass destruction or any other components that will threaten peace and security. Particular attention should be paid to combatting terrorism and prevent terrorists from obtaining access to weapons of mass destruction.

3. A recognition that non-compliance threatens the integrity of the Treaty. The DPRK is urged to reconsider its policies and honour its NPT non-proliferation and disarmament obligations, in full and unconditional cooperation with the IAEA. States Parties are obliged to respect the verification regime under the Treaty and refrain from any action that may cause obstacles to the implementation of IAEAs verification activities. Under article III of the Treaty all States Parties are obliged to conclude safeguard agreements with IAEA. Comprehensive Safeguards Agreements combined with the Additional Protocol could be the possible new verification standard under the NPT.

4. Article X: identification of disincentives for States Parties that are contemplating to leave the Treaty.

(Part B)
5. A reaffirmation of the urgency and importance of achieving universality of the Treaty. All States not yet party to the Treaty, namely India, Israel and Pakistan, are urged to accede to the Treaty as non-nuclear weapon states promptly and without delay.

(Part C)
6. A recognition of the fact that progress has been made in implementing many provisions contained in the final documents from the 1995 and 2000 Review Conferences. But equally recognizing that more needs to be done. The States Parties commit themselves to actively continue efforts to implement previously agreed action in the field of non-proliferation, nuclear disarmament and peaceful use of nuclear technology.

7. Particular attention should be paid to the following areas:
   - Efforts to achieve an effective prohibition against the production of fissile materials for nuclear weapons purposes.
   - Continued nuclear disarmament, emphasizing predictability, transparency and irreversibility.
   - Continued moratorium on nuclear weapon tests, pending the entry into force of the CTBT.
   - A solution to the issue of negative security assurances should be sought, also in relation to the States Parties not belonging to nuclear weapon free zones.
• A verifiable and transparent destruction of the remaining non-strategic nuclear weapons.
• Means to achieve accountability and control with the nuclear fuel cycle is to be explored as a matter of urgency, bearing in mind the right of States Parties to utilize nuclear energy for peaceful purposes and receive assistance to this end provided they are in compliance with the Treaty.

(Part D)
8. Regional issues. Expressing support to the objective of establishing an effectively verifiable Middle East Zone free of nuclear weapons as well as other weapons of mass destruction.

(Part E)
9. A reform of the institutional machinery in view of recent challenges and events, possibly by a decision to convene annual meetings of the States Parties as a replacement for the preparatory committees for the Review Conferences. The bureau of the annual meetings could be authorized in the consecutive year to convene special meetings of the States Parties in cases of an emergency which are not more appropriately handled by the IAEA and the United Nations Security Council.

10. At the annual meeting to be convened in 2006 the States Parties are invited to review progress in implementing the paragraphs 1-8 above.
This session is to consider the products of the Review Conference and since we all want this RevCon to appear productive, it behoves us to think through how this can be achieved. We also have to be conscious of the expectations concerning an outcome from the RevCon at a time when the NPT regime is under unprecedented stress and its continued viability at risk. The UN High Level Panel on Threats, Challenges and Change - a group of senior statesmen not prone to alarmist utterances, has raised the spectre of a collapse of the Treaty regime and issued a warning that “We are approaching a point at which the erosion of the no-proliferation regime could become irreversible and result in a cascade of proliferation”.

Against this backdrop, I think we should be aiming at an outcome that provides some reassurance as to the Treaty’s health and future relevance. This in turn suggests that from the beginning of the Review Conference, including in Ministerial statements, we should be espousing an agreed, balanced and substantive outcome. A mere exchange of views is not sufficient for a quinquennial NPT Review Conference. We owe ourselves and the world something more tangible to show for our four weeks in New York this May than just bloated credit card statements.

Ten years after the indefinite extension of the NPT and in the wake of several severe challenges to its integrity and authority, we cannot be complacent or unimaginative. The last two NPT Review Conferences yield models for what a balanced and significant outcome could look like. In 1995, there was a set of specific decisions addressing all the principal themes of the Treaty and including the key political agreement on extending the Treaty indefinitely. In 2000, there was a comprehensive Final Document that covered all the chief aspects of the Treaty as well as deciding on a further strengthening of the review process. It considering these two outcomes it is evident that the 2000 document builds on the 1995 result and that the two taken together represent a progressive articulation and consolidation of States Parties political commitments to implementing the Treaty. In our view, the logic underlying this process points to a 2005 outcome that similarly builds on the agreements of the past while articulating a future course of action intended to ensure a fuller implementation of Treaty obligations. It should also incorporate decisions on how the processes of the Treaty can be further strengthened in the interests of the States Parties.

Canada has recently prepared an overview paper (copies of which are available here) setting out our approach to the Review Conference and providing some specific suggestions as to desirable outcomes that could figure in a result along the above lines and I would commend them to your consideration. As a general principle, I would add that we should be careful not to dispute or denigrate the past decisions taken by the NPT membership as this will only further detract from the credibility of the Treaty and any undertakings or assurances forthcoming from the May Review Conference. As we have heard emphasized not only during the past two days, but also in all NPT Review Conference related discussions, there will be a crucial need for balance. There should be attention and tangible supporting action devoted to all three main pillars of the Treaty or we run the risk of further exacerbating the discriminatory elements of the NPT rather than reducing them. Let me outline a couple of scenarios for outcomes as cautionary tales that delegations might wish to bear in mind as they prepare for the May meeting.

As noted in the Canadian Overview Paper, one possible outcome is a declaratory or rhetorical document that reconfirms basic principles, reflects all three pillars in a general fashion and promises further efforts in future in certain aspects of the regime’s mandate, but not in a concrete or measurable fashion. Canada - and most others, I believe - does not favour this type of outcome. While such a minimalist outcome would at least provide a superficial reinforcement of the Treaty’s work, it would
not actually advance its objectives in a meaningful way. What is really required - and what we will strive for - are concrete new commitments (or specific and practical derivatives of existing commitments) on all three pillars. Wherever possible these commitments should be amenable to measurement so there is an objective basis on which to judge progress in implementation. Such a substantive outcome will be a harder one to negotiate, and will mean making some hard choices, but it will also constitute a result worth the effort and worthy of presenting to the concerned public. Given the spotty performance of the last five years it would enhance the NPT’s authority in the eyes of the world if a solid product could be offered at the end of May. As Mayor Akiba of Hiroshima has stressed: “The world cannot allow proliferation and disarmament to fester for another five years ... we are going to have to do better in 2005-2010 than we did in 2000-2005”.

A scenario that we would not consider realistic is to mix declaratory measures on some pillars with concrete commitments on others. Different States Parties have different objectives linked to their conceptions of national security, and it will be necessary to satisfy all sides to reach a compromise. An outcome that attempted, for example, to trade rhetoric on non-proliferation for new concrete commitments on disarmament and peaceful use would not be accepted by some states; equally, an outcome that attempted to combine concrete new commitments on non-proliferation with rhetoric on disarmament would be unacceptable to others.

Having reviewed some possible outcomes and identifying the features of what we believe would be generally perceived as a successful outcome, how do we go about arriving at it? Each of the three Main Committees, under the strong leadership of their Chairs, who are with us here in Annecy, will need to ensure a thorough discussion of the principal issues and develop concrete recommendations with respect to them. These should reflect the current needs within each of these three issues areas and the best ways to address them over the next five years. Each Committee should strive to develop these concrete responses without awaiting what emerges from the other Committees. The Chairs, working with Ambassador Duarte, the Review Conference President, aided by the Bureau members and others, will then be able to collate these into a package, which can then be considered from an overall perspective.

I would now like to turn to the other set of questions posed by this panel: “Should the improved strengthened review process be reformed? Would additional mechanisms improve the implementation of the Treaty and the review process?”
In brief, my answer to the first question is “no”, to the second is “yes”. The Strengthened Review Process was an important element of the 1995 Review and Extension Conference package of decisions. The Strengthened Review Process was further enhanced in 2000 and Canada was an active promoter of this concept. Our processes however have to adapt to circumstances and taking into account the events since the last Review Conference, we have come to the realization that the Strengthened Review Process as currently defined is not sufficient to nurture our treaty and promote the full implementation we seek. A more sustained attention is required, as is greater opportunity for discussion among States Parties and the ability to take decisions or express their views on critical issues affecting its health and credibility. It is no longer adequate to do this only once every five years. Also, we think the PrepCom experience has shown that this preparatory process, with its inherent limitations, fails to provide for a annual forum worthy of the Treaty and our collective interests in it. Hence, our proposal to have the NPT membership adopt a new arrangement for our meetings within the existing time envelope we devote to the Treaty’s gatherings.

Our proposed re-arrangement would bring the NPT into greater conformity with other multilateral disarmament and non-proliferation instruments, most of which have provisions for or the practice of annual substantive meetings and other inter-sessional mechanisms. You are all familiar, so I will just summarize briefly. An annual one week Conference of States Parties, which would empower members, provide an annual forum in which to comment on the NPT’s state of health, promote implementation, raise concerns and detail how members intend to carry forward their commitments. In the last year or two prior to a RevCon, the annual meeting would be extended by a week, to undertake preparatory work. Overall, the meeting time would be the same as at present (six weeks of meetings between each Review Conference), but distributed in a different fashion.

Another element, which we have already discussed, concerns the response to possible withdrawal. Recent experiences demonstrate that States Parties require a rapid reaction capacity, the ability to come together in case of extraordinary circumstances involving major threats to the Treaty and its authority. Extraordinary meetings would enable the Treaty membership to consult in a timely fashion and take whatever action they would be able to agree on. This need not affect either the IAEA’s mandate or the role of the UNSC, but would complement any action by these bodies, by focussing and reflecting the views of the entire Treaty membership.

Linking these together, and providing oversight and guidance from States Parties, we see value in a small standing Bureau, elected at each Review Conference with tenure until the subsequent one. The Chair could be the President of the incoming Review Conference, with members being the Chairs of the annual meetings leading up to the subsequent Review Conference (who could then also serve as Main Committee Chairs, following current practice). This body, which would reflect geographic representation, would also provide improved continuity, which would benefit our work overall (we have had a foretaste of the benefits through the excellent cooperation among the Chairs of the three PrepComs). This Bureau would be empowered to convene extraordinary meetings when circumstances warrant, permitting rapid reaction to critical events.

Let me just remark that these ideas were set out to address what we perceived as a weakness of our current arrangements that was widely acknowledged to exist. If others believe on the contrary that we are well served by the status quo, we would be interested in hearing this or of course other suggestions on how NPT States Parties could make the best use of our meetings.

Let me conclude here, as I would prefer not to address the question of the potential consequences of a Conference with no agreed product now, apart from saying that no agreed
product would be widely perceived as representing a collective failure. Let’s put aside these pessimistic scenarios. My sense is that all NPT States Parties are committed to their Treaty. This commitment should translate into the necessary action that will yield a good substantive outcome. The viability of the NPT demands no less. It is up to each of us to make this happen.

Thank you