

The 2005 NPT Review Conference: Reasons and Consequences of Failure and Options for Repair

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Introduction

The 2005 NPT Review Conference was the biggest failure in the history of this Treaty. While previous reviews did not succeed in adopting a consensus final declaration because of a single issue, the CTBT, as in 1980 or 1990, or while their failure was neutralised by the seminal indefinite extension of the NPT, as in 1995, this time there was disagreement among the parties across all frontlines. Worse still, at a most critical juncture for proliferation and non-proliferation, the parties engaged in lengthy quarrels about procedural issues, and devoted as much as four and half days (out of four weeks!) to substantive work. The implosion of the Conference is all the worse as it coincides with two major crises in the system, the one in East Asia and the one concerning Iran's nuclear program, and as the best way to deal with the three "holdouts", Israel, India and Pakistan, remains rather unclear. The continuing failure of the NPT to attract these three de-factor nuclear-weapon states cannot be papered over anymore, as previously, in triumphant praise for new accessions: No one is left to accede except for them. The regime is thus in bad shape, and the conference disaster has made things decidedly worse.

In this brief study, I will outline the reasons for this failure, discuss the attitudes and actions of the main actors, assess the damage and the consequences, and propose a few steps that could be undertaken to mitigate the negative consequences. It has to be stated at the outset, however, that no sustainable repair is possible without Washington's re-discovering multilateral arms control and disarmament as an important, useful and essential instrument of US national security policy.

Reasons for failure

The pre-history of the Conference did not augur well for success. All experts were sceptical if it could really complete its work by issuing a consensus final declaration. So much was clear from the very acerbic debates during the work of the Preparatory Commission in the three

preceding years.¹ On this basis, the game for shifting blame started with the first second of the Conference. The US delegation pursued from the beginning the skilful tactic of persuading the President to propose procedural steps that the most powerful State Party could agree to - notwithstanding the clear understanding that it was equally unacceptable for the non-aligned. Through this manoeuvre, the blame was laid at the step of the non-aligned movement for preventing progress and delaying the beginning of substantive negotiations. This tactic was largely successful initially: many Western delegations, the press, and even many NGOs became quite annoyed about the NAM, notably its most radical exponents, Egypt and Iran.

This game, however, concealed the substantive problem that had triggered the procedural quarrel in the first place: the refusal of the US (and, in its shadow, France) - unprecedented in the history of RevCons - to accept the consensus final declaration of 2000, a hard-won compromise in which 180 delegations had invested four weeks of diligent work, as part of the basis and standard against which the 2000-2005 period would be reviewed. In fact, the American position is prone to undermine one of the basic tenets of dynamic multilateral regimes. The Review Conferences of existing treaties are meant to interpret States Parties' rights and obligations authoritatively in a collective effort and to strengthen and to develop their regime in this way. Only this time-honoured practice creates a dynamic that keeps treaties alive in the light of a changing environment, and enables States Parties to put lessons learned into new rules and practices, thereby enhancing the regimes' effectiveness and stability.

American officials repeat time and again that the world had changed after Sept. 11, 2001 and that in the light of this new strategic situation old undertakings have to be fundamentally revised.² In the context of the NPT, however, this is no convincing reason for obstructionism. Sept. 11 has not generally affected the role of nuclear weapons; it has only highlighted the need to curb their spread and to strengthen instruments such as the NPT as best as we can. Concerning the risk of nuclear terrorism, the NPT offers useful elements that need to be complemented by other measures (such as an international convention against nuclear terrorism, UNSC Res. 1540, or the Proliferation Security Initiative (PSI)). Indeed, during the few days of substantive debate, some countries proposed measures to counter nuclear terrorism and to endorse Res. 1540, PSI and the amended Convention for the Physical

¹ Rebecca Johnson, The 2005 NPT Review Conference in Crisis: Risks and Opportunities, in: *Disarmament Diplomacy* 79, April/May 2005, 2-5

² Cf. Statement by Ambassador Jackie Sanders to the 2005 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons, US. Implementation of Article VI and the Future of Nuclear Disarmament, Main Committee I, New York, May 2005

Security of Fissile Material, but all these proposals, of course, remained ineffective in the absence of a final declaration. None of the considerations on a changed strategic environment would justify recanting on the results of the 2000 RevCon. The idea to bomb Osama out of the caves of Tora Bora with “mininukes” is too ridiculous to be discussed seriously. Likewise, the crises in North Korea and Iran offer no argument for throwing the 2000 final declaration over board, neither as a whole nor in parts. The talk about “fundamental change” is an empty rhetorical shell, used to conceal that the only fundamental change is the one in US policy, triggered through a change in government, and that this policy shift was well under way before Al Qaida struck in New York and Washington, D.C.³ The present administration strives to escape from all legal bounds that could entangle its freedom of action, notably, but not only, in the realm of military policy.

If this American denial of the validity of political commitments on the grounds that the former government had undertaken would become the general rule, quite a few non-legal regimes in which the present US government sees particular value would be invalidated, such as the various supplier groups, the Proliferation Security Initiative or the G-8 Global Partnership program, all of which rest solely on the political commitment of the participating governments. In other words, all undertakings by states that are not enshrined in a legally binding commitment would appear obsolete: Why, then, should states bother to engage in serious bargaining on politically binding documents if each partner can declare the next morning that it does not feel bound by them anymore? What sense do these commitments make if a change in government makes them obsolete? While the US manoeuvres at the 2005 Conference render legally binding treaties the only reliable result of any international negotiation, the Bush Administration refuses in the same breath exactly these legal bounds as far as it concerns the US themselves, such as in its refusal to ratify the CTBT, its quitting the ABM Treaty, its sabotaging of the BWC Protocol, and its apparent indefinite delay of ratifying the amended CFE Treaty. If treaties become impossible and political commitments unreliable, the law of the jungle obtains.

In this situation at the outset of the Conference lies the basic reason for the bizarre course it has taken. It was the rejection of the results of 2000 that instigated the attempt of certain NAM member states to insert into the procedure - the Agenda, the items of the Program of Work, the names of the Subsidiary Bodies - a focus on the results of 2000 with a view to ensuring that they would be properly dealt with. Against this stratagem, the US countered with its own procedural operations and, as just described, went on the offensive at the outset

³ Ivo H. Daalder/James M. Lindsay, *America Unbound: The Bush Revolution in Foreign Policy*, Washington, D.C. 2003

of the proceedings due to their close consultation with, and influence on, the Conference President. As a consequence, the NAM was only able to hold to its position by challenging the President; this attracted criticism from the other actors, but it was basically without alternative without surrendering the NAM stance even before real negotiations had started. Progress was only achieved when the President shifted gear, and when the European Union took a unified position on procedure that deviated from the American one. In the further course of the Conference, the NAM, and Egypt and Iran particularly, overplayed their hand and exaggerated the procedural game (as when they seriously tried to get a plenary decision on the precise allocation of time to subjects). From all this manoeuvring, one has to conclude that for those countries which took the most extreme positions in this Conference (the US, Egypt, and Iran) the stability of the Treaty was just not important enough to make the necessary concessions (more below).

Whither RevCon Procedures?

If we accept that the failure of the Conference rested on the interest calculus of a few players, it might appear useless to think about changing the procedures for future RevCons: If perceived national interests caused the stalemate, procedural reforms would not change that mutual blockade. Nevertheless, procedural change might diminish the leeway for “spoilers” to disturb the course of the conference through procedural manoeuvring. The disputes would then focus from the beginning on the substantive issues, and “spoilers” would have to expose themselves much more openly in order to sabotage the proceedings than in 2005.

The first change would be eliminating the rule of consensus for procedural decisions. It is hardly understandable why international disarmament forums such as RevCons or the CD remain exposed to a unit veto by every single member even on procedural issues: Even the Security Council itself can decide these issues by qualified majority, with the veto of the permanent five suspended. If one would set the quorum for procedural decisions at RevCons at three quarters of those present and voting, neither the Non-aligned nor the Western and Other Group could impose the agenda on the other. Essential interests would thus be protected. But terrorising the Conference by procedural filibuster would become impossible.

The second reform needed relates to the regional groups. The President miscalculated considerably in this regard. He put the chairs of the groups (Malaysia for the NAM, the United Kingdom for WEOG, and the Czech Republic for the largely defunct Eastern Group) in the role of speakers on procedural issues for their peers. This forced the chairs to try to achieve

consensus within their respective groupings because otherwise they could present no position in the presidential consultations. Unfortunately, this gave the radicals already a chance to block progress at group level, as it was only the radical positions around which the groups could converge. Since the group meetings are closed, while the plenary is open to the public and the media, the radicals could happily pursue their obstructionism in concealment, sheltered from public criticism. In the Western Group, this effect was exacerbated by the effort of the British chairman to protect the American ally as best as he could and to prevent an American isolation from the majority of the group (which held quite different positions). If these issues were debated and decided in the plenary, a “center” could emerge uniting those members of all groups who are interested in a positive result. The radicals would have to expose themselves publicly. This would certainly enhance the chances for compromise.

Thirdly, there is a need for much more intergroup consultations. The co-ordination within the EU and the WEOG absorbed a lot of available time. Little was left for Western delegations to consult with the key players of the NAM such as Malaysia, South Africa, Iran, Mexico, Cuba, Egypt, Algeria, Indonesia, Syria, Nigeria, Venezuela, Morocco or Sierra Leone - to name the few countries that were most visible and audible on the floor. This diminishes the opportunity to explore common interests and areas for potential compromise. Future RevCon diplomacy should reserve time and personnel for such consultations. Time can be gained if the NAM, WEOG and the Eastern Groups meet less frequently.

The Actors

The United States

The decisive responsibility of the US positions for the failure of the Conference has already been exposed. American policy was pursuing with great determination the John Bolton line of devaluing multilateralism and international law.⁴ In the context of this policy, the NPT has ostensibly lost a lot of its meaning for US security policy. This does not imply that the Treaty is worth nothing to the Bush administration: It imposes a useful constraint on those member states faithfully abiding by its norms and rules, and it is a welcome reference document for sanctions against parties striving for nuclear weapons, or suspected by Washington of doing so, for motivating initiatives pursuant to the model “coalitions of the willing”, and for justifying America’s national counterproliferation activities. Where, however, the strengthening of the regime require concessions by the US which run counter to the very idiosyncratic preferences of the present Administration - such as ratifying the CTBT - Washington

⁴ Harald Müller/Annette Schaper, US-Nuklearpolitik nach dem Kalten Krieg. Frankfurt/M, HSFK-Report 3/2003

dismisses the NPT as not important enough. This lower priority could be discovered in the language used by the US delegation. It called the NPT not “the” cornerstone, but “a” cornerstone of the global non-proliferation regime. It does not see it as an “essential fundament of disarmament”, but as “one essential element of disarmament”. It does not accept a balance between the “three pillars” non-proliferation, disarmament and peaceful uses of nuclear energy, as the overwhelming majority of States Parties, but declares non-proliferation as the “central objective” of the Treaty, while disarmament and peaceful uses figure only as “also important aspects”.

For the United States, the focus of non-proliferation is nowadays outside of the Treaty: it rests with the NSG, the PSI, UNSC Res. 1540, the G-8 Global Partnership, and its own military counterproliferation.⁵ In comparison with these measures, the Treaty is seen as rather marginal, not justifying painful concessions. If certain member states would consider violating or renouncing their commitments out of frustration with the lack of nuclear disarmament, the US could deal with them one by one.

For US nuclear policy this attitude implies that the current adaptation of the posture to the perceived strategic needs will proceed. As long as this means a reduction of weapon stocks, adaptation can be sold well as disarmament. But the nuclear posture is dictated by perceived strategic needs within the framework of existing policy, not by treaty obligations; in fact, the National Non-Proliferation Strategy does not even mention the US disarmament obligation in the context of NPT Art. VI! Nuclear-weapon research is being further pursued to find solutions for weapons that could successfully, and with diminished collateral damage, attack deeply buried bunkers and biological and chemical weapon stocks and facilities. Should these solutions look promising, the US will proceed from research to development. If this should require tests, the test moratorium will be terminated. If no tests are needed, the moratorium will be kept and will be presented as a contribution to implement Art. VI. The only showstopper on this route could be Congress that has twice refused to grant the budgetary means for pursuing new nuclear-weapon concepts.

As a consequence, the US attitude towards the NPT is opportunistic and instrumentalist, not legalistic or value-based. For the 2005 RevCon, the calculus was presumably that any consensus suiting US interests was not in the cards. Of course, Washington would have preferred a consensus along its own lines; but any achievable consensus would have

⁵ Statement by Stephen G. Rademaker to the 2005 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons, New York, May 2, 2005, S. 4; The White House, National Strategy to Combat Weapons of Mass Destruction, Washington, D.C., December 2002

required at least the recognition of the “Thirteen Steps” agreed in 2000, and maybe some adaptation of these steps to new circumstances (such as the scrapping of the ABM Treaty). This was beyond the political will of the Bush administration. Under these circumstances, no result was better for the US than a compromise beyond the US policy line. The blame, however, should be assigned to other parties. This interpretation of US strategy goes well together with the American behaviour at the Conference.

An indication was the degree of presence and activity of the delegation. At previous Reviews, the USA was represented by higher ranks. In the past, the statement during the General debate has usually delivered at least at the level of ACDA Director, and during the last two conferences even by the Vice President and the Secretary of State. This time, the Assistant Secretary of State spoke and disappeared immediately back to Washington. The operative head of the delegation used to be at Assistant Secretary (Deputy ACDA Director) level; this time it was the CD Ambassador who ranks below. The Ambassador, however, excelled through absence over large parts of the proceedings and left her colleagues wait for WEOG consultations up to a quarter of an hour. The US delegation was atypically passive during major parts of the Conference. Up to the last third, there was no visible attempt to exert the customary leadership. All this underlines, once more, the devaluation of the NPT in US eyes.

But seen from a long-term perspective, the world leadership role of the US will become more difficult with this Treaty in disarray. One could thus assume that Washington would undertake strong efforts to strengthen the NPT and its underlying norm, and to keep the Treaty community together. It is a paradox that the superpower’s practice under President George W. Bush takes exactly the opposite direction.

One thing, however, was remarkable: The US shied away from isolation. Whenever the US stood alone in the WEOG, as during the last phase of the discussion on the agenda, during the dispute about the subsidiary bodies, and on a few other occasions, Washington fell into line. There was a visible effort not to have the rift between the US and its allies becoming too strong and too publicly visible, and to avoid the exclusive responsibility for the Conference’s failure.

Russia

The Russian Federation played a subdued, but distinct role. It did not at all participate in the procedural games. The “Eastern Group” was easy going for the Conference President: it agreed to practically every procedural decision that would have dissolved the stalemate. This

is all the more remarkable as Russia had its own problems with the “Thirteen Steps”: the country’s security situation had changed due to the American renunciation of the ABM Treaty, and Russia has ratified, and is thus bound by, the CTBT while the US (and China) have not. But rather than agitating against the 2000 results, Russia was ready to apply a differentiated treatment, point by point. This moderate approach became visible during the brief work of Main Committee I and its subsidiary body. Sometimes, the Russian delegation sided with the US (as on sub-strategic weapons), and sometimes with China, (as on the prevention of an arms race in outer space).

The greatest merit of the Russian delegation was to prevent the issuing of a P-5 statement in the latest hour of the Conference. The European nuclear-weapon states, despite the praise for the CTBT in the EU Common Position, had given in to the US request to avoid all mentioning of the Test Ban, as had China. A P-5 statement weak on disarmament and silent on the CTBT would have added insult to injury in the eyes of many non-nuclear-weapon states, not only from the non-aligned world. Russia’s sturdy refusal to accept anything without the CTBT spared the non-nuclear armed countries this additional ordeal.

China

China counts among the clear winners of this Conference, even though it was certainly not the Chinese intention to wreck it. China was much more active than before, tabling as many as six working papers across the full spectrum of Conference subjects.⁶ Substantially, Chinese positions were fairly close to those of the non-aligned; the weak spot in the Chinese position, its interpretation of the “Thirteen Steps” as being severely undermined, and the political commitment to implement them thus being compromised because of the loss of the ABM Treaty, was not really exposed due to the much more visible US obstructionism. While the US and other Western nuclear-weapon states confronted the NAM, China presented herself as friend of the non-aligned and remained open for smooth consultation to all sides. China thus scored points notably among developing countries, even though it is presently the only nuclear-weapon states to expand its strategic arsenal quantitatively.

Already today, relations between China and Iran have been warming up, the economic exchange is rising. The same applies for Sudan, where China was instrumental in blocking harsher measures by the Security Council. In either case, the Chinese interest in oil imports is decisive. China is increasingly dependent on them for further economic growth, and pursues a strategy to establish a solid geostrategic position in and around the Persian Gulf. A

⁶ NPT/CONF.2005/WP.2-7

close relationship to the Arab world is thus most desirable. It can thus be predicted that in the near future, China will compete with the US for influence in the key Arab state, Egypt. The narrow Egyptian-American relations today rest almost exclusively on the massive financial aid by Washington for the fledgling Egyptian budget. Politically, the rift is becoming wider, and Cairo's disappointment with the perceived one-sided American Middle East policy has been rising steadily. Once China is willing and able to foot the bill, Egypt will jump, as it did 1972/73 from the Soviet to the American camp. The nuclear issue, an important part of the Egyptian frustration, will figure prominently in these considerations.

Overall, China is offering itself increasingly to the non-aligned as an understanding, more forthcoming, less demanding future great power that does not exert pressure, but rather supports NAM positions. Since China has discovered multilateralism while the US has shifted to unilateralism, the entente with China is becoming ever more attractive to the NAM. The Conference might have been another important step in a seminal re-alignment in global policy.

France

Apart from the United States, France was the most intransigent nuclear-weapon state. Like the US, Paris wanted to get rid of the 2000 RevCon results.⁷ This was all the more curious as the EU Common Position contained - with French agreement - a positive reference to 2000. Generally, France was hiding behind the broad shoulders of the United States and did expose herself only occasionally, for example in Main Committee I.

But France was more flexible on procedural issues than the US. If Washington tried to escape from isolation in the WEOG, the French had to solve this problem already within the EU. While France tried regularly to persuade the EU partners to accept the French line, she did not fight these battles to the end. When all other EU partners had reached agreement, France did not object, but did rather follow through.

The main objective of the French delegation appeared to be achieving a P-5 statement. It invested visibly more energy in that project than in the Conference proceedings proper. Of course, the P-5 statement was nothing more than a prestige issue, that is, to posture ostentatiously as one of the five great powers of the world. The failure of this effort was a bitter defeat for the French delegation.

⁷ Statement by H.E. Mr. Francois Rivasseau, Ambassador, Permanent Representative of France to the Conference on Disarmament, New York, May 2005

Altogether, the rather parochial, non-strategic French position is of concern. Paris was not at all unhappy about the non-result of the RevCon, because the unwelcome reference to the “Thirteen Steps” had been avoided. But as long as the main issue to the Grande Nation is symbolic well-feeling, the freedom of action for Europe’s Common Foreign and Security Policy will remain limited, and the opportunity for the EU to substitute for lacking US leadership in the non-proliferation regime will be missed, since that mission requires active French participation. The positive conclusion from the Conference, in contrast, is the French willingness to go along with European positions and to avoid isolation vis-à-vis her European peers.

The United Kingdom

On substantive issues, the United Kingdom was more flexible and forthcoming than either the US or France. In the framework of its national policy, London had no trouble with the “Thirteen Steps”. However, the British role became very problematic through its appeasement of the cherished big ally. One could have the impression that the British delegation was working under the instruction to do everything to avoid US isolation. As chair of the WEOG, the British ambassador steered a course to rally consensus around the US position. The rather eccentric attitudes of the Bush-Administration - measured by the average stance of the WEOG membership - became invisible through this carefully managed sheltering strategy. The demands and positions of the NAM were regularly ridiculed and criticized as exaggerated, unfounded, and unreasonable. In this way, Britain contributed to the confrontational course of the Conference, because the American representatives were forced only very late in the game to ask for new instructions from their capital. However, Britain, like France, was keen to avoid isolation within the EU: once a consensus was on its way, the UK delegation never blocked it.

The European Union

The EU, ironically, played a more prominent role in the course of the Conference than ever before, but without any outsider noting it. The positive impact of the EU was due to the procedural character of most of the proceedings. The deep substantial rifts within the Union did not come to bear. The overwhelming majority of the member states wanted the beginning of substantial negotiations. France was the exception, but did not wish to spoil the EU agreement when it emerged. The other countries with a strong commitment to a successful Review Conference, Sweden, Ireland, Germany, Poland, the Netherlands, the Czech Republic, Hungary, Italy all showed great interest in progress at the Conference. It was the EU that forced the Americans to shift their stance when the Europeans supported the

President's procedural compromises in the second and third weeks, and it was also the EU that made the eventual adoption of at least a formal report possible through peer pressure on France, and through collective pressure on the United States. In all these cases, the German delegation took the initiative within the Union.

The EU was handicapped by the fact that the Presidency rested with its second smallest member state, Luxembourg. The Luxembourgian representative, a retired ambassador, performed admirably and at the edge of the physically possible. But his delegation was too small and staffed with enthusiastic, but too young and inexperienced diplomats to be a really efficient Presidency. As soon as Conference activities split into several forums, this fact proved detrimental. The fact that the EU still played this prominent, useful role, underscores its huge potential as a leading political force.

The EU had entered the Conference with a Common Position that had been completed just before the opening. It covered all aspects of the NPT; even the recognition of the 2000 results figured in it, after France had ceased resistance.⁸ This document was used as a language mine to develop specific working papers for the Main Committees.⁹ In addition, the EU produced an excellent paper for how to deal with treaty withdrawals.¹⁰ This paper had the potential to impact upon a final declaration, but was lost as any other substantial input. Another working paper was tabled concerning the G-8 Global Partnership Initiative.

Despite this notable commonality, member states moved in differing directions. France sided with the US in her rigorous refusal of the 2000 results. Ireland and Sweden, in contrast, supported the New Agenda Coalition.¹¹ Denmark, Ireland, Sweden, Austria, Hungary and the Netherlands participated, as customary for these countries, in the working papers on Art. III and IV matters by the G-10 group of likeminded Western supporters of the NPT, together with Australia, Canada, Norway, and New Zealand.¹²

Then, there was the "NATO-7" group, brought together by the Netherlands, and also comprising Belgium Italy, Spain, Norway, Lithuania and Romania that produced a working paper on all sorts of questions.¹³ The hyperactivism by the Netherlands, signing working papers concerning the same issues in three different groupings, is imposing, but makes only

⁸ Council Common Position relating to the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Brussels, EU, 2005

⁹ NPT/CONF.2005/WP. 43, 44, 45

¹⁰ NPT/CONF.2005/WP.32

¹¹ NPT/CONF.2005/WP.27

¹² ¹² NPT/CONF.2005/WP.9-14

¹³ NPT/CONF.2005/WP.35

limited sense. It might be better to seek an even more substantial EU position and to try to promote it with the support of all member states and accession candidates.

The New Agenda Coalition

The NAC had been the decisive force during the 2000 RevCon. It had then played the counterpart to the five nuclear-weapon states and extracted a valuable compromise through skilful negotiations. In 2005 it was only a shadow of itself. While it produced a working paper defending the achievements of 2000,¹⁴ it played no visible role in the proceedings of the Conference. Its only success was a manoeuvre to replace the chairman-candidate for the subsidiary body of Main Committee I, the head of the Dutch delegation, by one of their own, the CD of New Zealand. Otherwise, the NAC countries accepted without protest or resistance patiently the procedural manoeuvring by the Western nuclear-weapon states.

In fact, the NAC was deeply divided. The rivalry between South Africa and Egypt - one of the main Conference "spoilers" - for an African permanent seat on the UN Security Council was tangible. Brazil was absorbed through the Conference Presidency. The Swedish delegation head - by far the most capable among the NAC diplomats - was deeply involved in the proceedings of the conference though her position as chair of Main Committee III and could not lend leadership to the NAC. Ireland, while committed, did not exert leadership either, and the ambition of New Zealand appeared to be fully satisfied with obtaining the chair of Subsidiary Body I.

The Non-aligned

Despite clear internal divisions, the non-aligned group stuck together. This was only possible because the more centrist majority accommodated the radical positions of Iran, Cuba and Egypt. This was facilitated by the general annoyance about the stubborn US position even among the more moderate NAM members. There was agreement that the achievements of 1995 and 2000 must be preserved.¹⁵ Malaysia, the chair of the NAM, would have preferred a constructive result of the Conference, but remained prisoner of its own mission: to protect NAM unity. Iran certainly enjoyed the non-result, notably because, by a shrewd positioning strategy, it succeeded in having the last word in the final minutes of the Conference, ending it with a blast in the direction of the US. A divided treaty community reduces the pressure on Iran's nuclear program, a politically much welcome outcome. Iran showed a clear profile,¹⁶ but left much of the spoiler role to Egypt and thus avoided the blame for the failure. The fact

¹⁴ NPT/CONF.2005/WP.27

¹⁵ NPT/CONF.2005/WP.17

¹⁶ NPT/CONF.2005/WP.47-50

that the US figured as one of the main culprits for the disaster is a plus for Teheran, too, as this view promises NAM solidarity for the coming controversies.

I have already speculated about the causes and the degree of the Egyptian frustration with the Treaty and with the relationship to the United States. Egypt did not want to go home with less than what was achieved in 2000. Probably, the Egyptian delegation would have accepted a final declaration that would have built upon the last one, and that would have contained a bit more “beef” on the Middle East issue. To backtrack from the status quo, however, was no option. Therefore, Cairo preferred the Conference to fail rather than to surrender to US wishes. This might just express the reasonable position that an agreement, once reached, must remain valid. It could also mean, however, that Egypt has come to the conclusion that the NPT is without value from the perspective of its national interest: It has not led to the denuclearisation of the Middle East, and Egypt is losing status to new nuclear-weapon states like Pakistan, Iran, or North Korea. Egypt had committed herself strongly to the NPT after its accession in 1981, leading the 1985 Conference to its successful outcome, and prompting more radical Arab states to compromise in both 1995 and 2000. The frustration about the deviation of the Bush administration from past agreements might have led Cairo to the conclusion that this past policy was a failure. In this case, the NPT would move from an essential element of Egyptian foreign policy to a political tool for other objectives: for public relations in favour of a permanent Egyptian seat in the Security Council, or as part of the presidential campaign at home by demonstrating independence from the unpopular American ally. An even more sombre interpretation would see the Egyptian behaviour in parallel to Iran: The sinking value of the NPT and the rising uneasiness about Iran’s nuclear program could tempt Egypt to plan a nuclear option for herself; a weakened treaty community presents a more favourable environment for such planning than a robust and united one.

Non-governmental Organisations and the Media

There were as many as 159 registered NGOs and research institutes present as observers. This should have provided sufficient critical mass to mobilise civil society when it became obvious that the delegations did not live up to their duty, but engaged in what must have looked from an NGO perspective as an obscene procedural dance. One may recall that the NGO had succeeded in mobilising forty thousand people to march on a disarmament demonstration before the beginning of the Conference.

Whoever had hoped that the observers would stop watching silently the unfolding scandal was disappointed in the second week at the latest. There was no civil society protest against the devaluation of the Treaty conducted by the diplomats. The NGOs performed bravely during their various workshops and seminars, exposed their brochures and pamphlets, reported day by day on the proceedings, cultivated their contacts with the delegates, and held, occasionally, rather boring press conferences, just as if this RevCon were business as usual. Apparently, the shocking, alarming events and the potentially fatal consequences did not come to their attention.

Symptomatic was the appearance of the NGOs during the one official three-hours Conference session devoted to the dialogue between diplomats and civil society. The two and half hours available to NGOs were packed with lengthy statements.¹⁷ Rather than focussing on a few pointed presentations and then to engage delegates in a discussion, as much as sixteen NGO representatives made the panel to a fair of vanity. When the speeches were over, there was no opportunity for exchange. Really, the NGOs were worthy of the delegations' "work"!

In the absence of visible mobilisation through the NGO community, the media, which hardly ever understand the priorities in the arcane proliferation scene, missed the Conference drama and its potential meaning for world politics completely. The reporting on the Conference was dismal, the role of the US was hardly characterised in real-world terms, and the consequences escaped the journalists thoroughly.

The Consequences

In their final statements, delegates tried desperately to give a positive tone to the bad events: "Lessons learned" from this meeting, several speakers maintained, should lead member states to a new and more useful approach. One would like to believe in this optimism, but the facts do not fit this wishful thinking. While it is correct that there are no physical laws and thus no pre-determined courses of events in politics, it is hard to have faith in the forces of change for the better. For where should these forces emerge from, as long as the superpower only feels confirmed in its disdain for multilateral legal instruments through the failure of the Conference which it was instrumental in bringing about, when the resentment of the non-aligned (to the detriment of their own security) continues to rise, and when in the shadow of

¹⁷ NGO's Statements to the States Party to the Seventh Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons, May 11, 2005, www.reachingcriticalwill.org

their solidarity countries like Iran, North Korea and, possibly, others in the future, proceed with their nuclear programs?

As long as the nuclear-weapon states are not ready to make real concessions - this is the message of this Conference - the non-aligned are averse to agreeing to any strengthening of the non-proliferation side of the NPT bargain. This might sound counterproductive, but why should the NAM be less stupid than the nuclear-weapon states? The distrust of the non-aligned has meanwhile become so high that even the most reasonable non-proliferation measure is suspected to be a ploy to suppress the non-nuclear-weapon states - notably those from the developing world - even more. What is most alarming is the visibly larger scepticism towards the NPT of former champions of the regime such as Egypt or South Africa.

On the other hand, we see now the nuclear powers' clear refusal to ever lay down their nuclear weapons and to move towards complete nuclear disarmament. Rather, they want to keep them forever, even though the strategic justification has become less than credible. Most indicative in this regard was the rejection by the US and France to re-affirm their "unequivocal commitment" to proceed towards complete nuclear disarmament that was given in the "Thirteen Steps". Disarmament measures are only conducted as a side effect of the restructuring of the nuclear posture. If this is not the case, Art. VI is ignored. This is a case of non-compliance. The consequences for the attitudes of the non-aligned are obvious.

For the present US government the NPT is much less important than for all its predecessors. It let it decline whenever leadership would mean compromise. In the absence of US leadership, the attempts of the handful of most committed countries - Canada, Sweden, Ireland, Hungary, Germany, Argentina and a few others - remain eventually helpless.

The normative authority of the Treaty has been weakened considerably through the events in New York. Today, there is a lower barrier against considering military nuclear options than there was in 2000 or 1995. This weakening occurs in parallel to two regional nuclear crises. If they are not solved, the erosion of the NPT might become unstoppable.

Alarmist statements from key Japanese politicians might indicate that a Japanese nuclear-weapons program cannot be excluded anymore, should North Korea become effectively and permanently a nuclear power. In this case, the South Korean nuclear-weapons program that

was finally halted in the eighties could also be revived.¹⁸ In the Middle East, the possibility cannot be ignored even today that Egyptian tactics in New York foreshadowed a movement away from the non-nuclear commitment by the most important Arab country. If the Israeli nuclear status was already difficult to accept for Egypt, an Iranian nuclear-weapon option is seen as an acute threat. The same threat could induce Saudi Arabia to attempt obtaining bombs for money. If Egypt approaches a nuclear option, Arab rivals such as Syria or Algeria might also not keep quiet. A nuclearising Middle East may then even induce Turkey to reconsider its non-nuclear stance.

At this point, the status-minded middle powers would be challenged: Brazil, South Africa, Nigeria, Indonesia, Argentina might feel compelled to put their long buried nuclear option back on the agenda for consideration. The NPT would inevitably erode.

This is a scenario for the next ten to fifteen years. In 2020 or 2025, we might confront the world that was President Kennedy's nightmare: a world with twenty or so nuclear-weapon states, some of which would be located in the world's most volatile regions. Whoever believes that in this constellation, stable deterrent relationships will blossom and we will keep nuclear weapons and fissile materials out of terrorists' hands may as well believe that the world is a disk, and the moon is made of cheese.

Options for Action

Against this risk, strengthening the NPT remains imperative. The most important mission is waiting in Washington: Concerned countries have to undertake every single effort to convince the US government to change course. One point of access might be the handful of centrist Republican senators with a non-provincial understanding of world politics, such as Senators Hagel or Lugar. It is almost equally important to work on France, since a constructive French attitude towards disarmament is the pre-condition for an effective EU policy, and such a policy is badly needed to fill the void left by the United States.

Here is a list of other essential steps, most of which would be a vital ingredient of an effective EU nuclear non-proliferation policy:

- Treaty parties must develop a viable idea to bring Pakistan and India in closer relationship to the regime without undermining the NPT's principles. A verifiable cut-off could be a very important step in this direction.

¹⁸ International Herald Tribune, 4/5 June 2005, pp. 1, 4

- The European Union and other like-minded countries could work on a realistic verification system for a cut-off. EURATOM has much experience with verifying dual-use nuclear fuel cycle facilities, and Britain's Aldermaston laboratory has done valuable work to explore the modalities of verifying complete nuclear disarmament.
- Efforts must be made to start a regular, well planned, continuing sequence of second-track meetings on a Middle East nuclear-weapon free zone and/or a Middle East zone free of weapons of mass destruction. Such meetings could elaborate verification measures, security guarantees, and measures to ensure compliance and to enact enforcement in the case of serious breaches of obligations.
- Countries in a position to do so could offer other countries a set of assistance measures to help implement the obligations under UNSC Res. 1540. Such assistance may cover licensing procedures, export controls, physical protection, and some technical equipment.
- Like-minded countries could initiate an initiative to realise a multilateral arrangement for nuclear-fuel assurances.
- Western supporters of the NPT should seek an intense dialogue, as before the 1995 Extension Conference, with Third World leaders such as Algeria, Brazil, Cuba, Egypt, Indonesia, Malaysia, Mexico, Nigeria, and South Africa.
- Countries in a position to do so should support the creation, within the UN Department for Disarmament Affairs, of a small unit for assessing weapons of mass destruction threats and for organising verification and compliance missions at the request of the UNSC in order to create a more viable and impartial machinery in the case of non-compliance crises.

It goes without saying that one main task is to deal successfully, and with peaceful means, with the two regional nuclear crises. But this subject is beyond the scope of this paper.

List of published studies and papers

All papers and studies are available as pdf-files at the Commission's website: www.wmdcommission.org

No 1 "Review of Recent Literature on WMD Arms Control, Disarmament and Non-Proliferation" by Stockholm International Peace Research Institute, May 2004

No 2 "Improvised Nuclear Devices and Nuclear Terrorism" by Charles D. Ferguson and William C. Potter, June 2004

No 3 "The Nuclear Landscape in 2004: Past Present and Future" by John Simpson, June 2004

No 4 "Reviving the Non-Proliferation Regime" by Jonathan Dean, June 2004

No 5 "Article IV of the NPT: Background, Problems, Some Prospects" by Lawrence Scheinman, June 2004

No 6 "Nuclear-Weapon-Free Zones: Still a Useful Disarmament and Non-Proliferation Tool?" by Scott Parrish and Jean du Preez, June 2004

No 7 "Making the Non-Proliferation Regime Universal" by Sverre Lodgaard, June 2004

No 8 "Practical Measures to Reduce the Risks Presented by Non-Strategic Nuclear Weapons" by William C. Potter and Nikolai Sokov, June 2004

No 9 "The Future of a Treaty Banning Fissile Material for Weapons Purposes: Is It Still Relevant?" by Jean du Preez, June 2004

No 10 "A Global Assessment of Nuclear Proliferation Threats" by Joseph Cirincione, June 2004

No 11 "Assessing Proposals on the International Nuclear Fuel Cycle" by Jon B. Wolfsthal, June 2004

No 12 "The New Proliferation Game" by William C Potter, June 2004

No 13 "Needed: a Comprehensive Framework for Eliminating WMD" by Michael Krepon, September 2004

No 14 "Managing the Biological Weapons Problem: From the Individual to the International" by Jez Littlewood, August 2004

No 15 "Coping with the Possibility of Terrorist Use of WMD" by Jonathan Dean, June 2004

No 16 "Comparison of States vs. Non-State Actors in the Development of a BTW Capability" by Åke Sellström and Anders Norqvist, October 2004

No 17 "Deconflating 'WMD'" by George Perkovich, October 2004

No 18 "Global Governance of 'Contentious' Science: The Case of the World Health Organization's Oversight of Small Pox Virus Research" by Jonathan B. Tucker and Stacy M. Okutani, October 2004

No 19 "WMD Verification and Compliance: The State of Play" submitted by Foreign Affairs Canada and prepared by Vertic, October 2004

No 20 "WMD Verification and Compliance: Challenges and Responses" submitted by Foreign Affairs Canada, October 2004

No 21 "Meeting Iran's Nuclear Challenge" by Gary Samore, October 2004

No 22 "Bioterrorism and Threat Assessment" by Gary A. Ackerman and Kevin S. Moran, November 2004

No 23 "Enhancing BWC Implementation: A Modular Approach" by Trevor Findlay and Angela Woodward, December 2004

No 24 "Controlling Missiles", by Jonathan Dean, December 2004

No 25 "On Not Confusing the Unfamiliar with the Improbable: Low-Technology Means of Delivering Weapons of Mass Destruction" by Dennis M. Gormley, December 2004

No 26 "A Verification and Transparency Concept for Technology Transfers under the BTWC" by Jean Pascal Zanders, February 2005

No 27 "Missing Piece and Gordian Knot: Missile Non-Proliferation" by Mark Smith, February 2005

No 28 "The Central Importance of Legally Binding Measures for the Strengthening of the Biological and Toxin Weapons Convention (BTWC)" by Graham S. Pearson, February 2005

No 29 "Russia in the PSI: The Modalities of Russian Participation in the Proliferation Security Initiative" by Alexandre Kaliadine, August 2005

No 30 "Indicators of State and Non-State Offensive Chemical and Biological Programmes" edited by Ingrid Fångmark and Lena Norlander, August 2005

No 31 "The 2005 NPT Review Conference: Reasons and Consequences of Failure and Options for Repair" by Harald Müller, August 2005

No 32 "National Measures to Implement WMD Treaties and Norms: the Need for International Standards and Technical Assistance" by Andreas Persbo and Angela Woodward, August 2005

No 33 "Russia and the Chemical Disarmament Process" by Sergey Oznobistchev and Alexander Saveliev, August 2005

No 34 "Transparency and Secrecy in Nuclear Weapons" by Annette Schaper, August 2005

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