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NPT PrepCom ends on a positive, though not triumphant, note

By Ernie Regehr

While no major breakthroughs marked the final two-week meeting of the Preparatory Committee (PrepCom) for the 2010 Review Conference of the Nuclear Non-Proliferation Treaty (NPT), there was no denying the renewed spirit or the heightened expectations. Alone, they won't guarantee success in 2010, but they help to set the stage for a serious try at building a new consensus on nuclear disarmament.

Agenda approved

The most concrete achievement of the May sessions was the approval of the agenda for next year's conference. In the context of the rancor and discord that have characterized other meetings of the parties to the NPT, and in the context of the 2005 Review Conference, which foundered on more than a week of wrangling over a contentious draft agenda, advance agreement on it is a significant accomplishment that reflects a promising change in attitude and morale.

The agenda dispute was rooted in substance; thus its resolution is a matter of substance as well.

Since the 1995 and 2000 Review Conferences produced major agreements, including the 13 "practical steps" on disarmament, at the 2005 conference the overwhelming majority of states wanted the agenda to refer not only to the review of the Treaty, but also to a review of progress made in implementing the 1995 and 2000 agreements. The United States under the Bush administration led the opposition.

This time the US had no objection, and the unanimously agreed agenda item now reads: "Review of the operation of the Treaty..., taking into account the decisions and the resolution adopted by the 1995 NPT Review and Extension Conference and the final document of the 2000 Review Conference" (PrepCom 2009a). The wording is more than technical—it acknowledges that past agreements mean something and that all NPT states are obliged to give account to each other for actions taken or not taken in support of those decisions.

Working to achieve consensus

Delegates even dared to hope that agreement could be reached on a set of recommendations, and even though the debate reflected broad areas of common ground and a new willingness to acknowledge the concerns and expectations of particular groupings, the old divides prevailed.

While the nuclear weapon states gave their usual assurances that they were making genuine progress on their Article VI disarmament obligations and promised renewed energy in that direction, they also wanted more focus on strengthened safeguards and new limits on access to proliferation-sensitive technologies. Non-nuclear weapon states, those within the nonaligned movement in particular, gave their usual assurances that their disavowal of nuclear weapons remained firm, but also insisted that their acceptance of additional restraints, as well as the long-term viability of the Treaty, depended on much more significant and concrete progress on disarmament.

US President Barack Obama (Gottemoeller 2009) sent a message to the PrepCom in which he acknowledged “that differences are inevitable and that NPT Parties will not always view each element of the Treaty in the same way.” He added, however, that “we must define ourselves not by our differences, but by our readiness to pursue dialogue and hard work to ensure that the NPT continues to make an enduring contribution to international peace and security.”

The Chair’s summary of recommendations

The PrepCom Chair, Boniface Chidyausiku of Zimbabwe (UN Dept. of Public Information 2009) expressed confidence that with more time consensus could have been reached. While his recommendations document, appearing in three similar versions, did not win consensus, it did provide a good summary of the issues on which there is widespread, though not unanimous, agreement and on an ambitious program of action intended, as the draft put it, to lead “to the elimination of nuclear weapons.”

Chidyausiku characterized the recommendations, which states had put before the PrepCom, as “practical initiatives that stand a reasonable prospect of producing a consensus.” The summary document in its first iteration (PrepCom 2009b) began by referring to a number of clear affirmations, including three important principles or observations:

1. The NPT “is an expression of fundamental principles of nuclear disarmament and non-proliferation that are universal in scope,” and Treaty obligations are “legally binding.” The implication is that, even for the three states that have never signed the NPT, its provisions are normative.
2. Implementation of all the provisions of the Treaty “is vital to international peace and security.”
3. Several of the decisions and commitments made in the 1995 and 2000 review conferences still need to be implemented through an action plan of “practical, achievable and specified goals, and measures leading to the elimination of nuclear weapons.”

Disarmament priorities

Then followed a list of familiar disarmament commitments that states had reinforced:

- “Entry into force of the Comprehensive Nuclear Test Ban Treaty and, pending its achievement, maintaining the moratoria on nuclear testing”;
- “Commencing negotiations at the Conference on Disarmament on a verifiable fissile materials treaty and, pending the conclusion of negotiations, encouraging a moratorium on the further production of weapon-usable fissile material” (it is an interesting and welcome departure from the usual wording that it is not described as a “cut-off” treaty, indicating that controls over existing stocks should be included in the negotiations as well);
- “Achieving deep and verifiable reductions in the nuclear arsenals”;
- “Expanding the transparency in implementing disarmament commitments” (this PrepCom paid very little attention to the 2000 commitment to regular reporting, making this broader reference to transparency a welcome inclusion);
- “Ensuring the irreversibility of disarmament activities”;
- “Reducing the operational status of the nuclear forces”;
- “Diminishing further the role of nuclear weapons in security policies”;
- “Refraining from the qualitative improvement of nuclear weapons”;
- “Reducing non-strategic nuclear weapons pending their elimination”;
- “Placing fissile material recovered from dismantled nuclear weapons under IAEA monitoring and verification.”

In a surprising but also welcome addition, the draft recommendations proposed that NPT state parties explore the commencement of negotiations on “a convention or framework of agreements to achieve global nuclear disarmament” and in the process also engage states that are not parties to the Treaty. The reference to “a framework of agreements” acknowledges that a nuclear weapons convention would not be conceived as a replacement to the NPT, but rather as a kind of omnibus bill to consolidate all relevant disarmament and nonproliferation measures into a single, legally binding instrument.

Nonproliferation priorities

International Atomic Energy Agency (IAEA) safeguards were reaffirmed as “a fundamental pillar” of the nonproliferation regime, in part because they help to “create an environment conducive to achieving nuclear disarmament.”¹ A Canadian statement to the PrepCom reflected the views of many states, namely, that all states should enter into Comprehensive Safeguards Agreements with the IAEA, and that the IAEA’s Additional Protocol should become the essential verification standard under Article III of the Treaty.

On proliferation-sensitive elements of the civilian nuclear fuel cycle, the document sought to establish a delicate balance. On the one hand it noted the call for further consideration of multilateral approaches to managing and controlling fuel production for civilian reactors, accompanied by assurances of supply to states without such production facilities. On the other

hand it also noted that states had called for each country's national prerogatives to be respected—an important nod to the Article IV right of access to nuclear technologies for peaceful purposes. Ultimately, however, national choices and preferences cannot be unfettered if there is to be any collective brake on the spread of enrichment and reprocessing technologies, which have direct application for building bombs. The Chair managed a fairly skillful navigation between these two poles with the affirmation that the exercise of national choices should not jeopardize international cooperation agreements.

The Chair's summary document also recognized and affirmed the importance of nuclear weapon-free zones generally, and highlighted a particular proposal for the five nuclear weapon states under the NPT "to convene a conference of all states of the Middle East region to address ways and means to implement" the 1995 Resolution on the Middle East.

Several recommendations promoted transparency, in the context of measures to implement export controls and strengthen accountability related to all provisions of the Treaty, and an expanded reporting mechanism. The impact of these measures would be to expand the current reporting obligations—now focused on Article VI of the Treaty and the Middle East Resolution—to cover all elements of the Treaty, something which Canada has long advocated. One recommendation called on states to "consider establishing a uniform, practical and cost-efficient reporting system for the implementation of the Treaty." This would in fact be an important maturation of the 2000 reporting provision and might reinvigorate the idea that accountability depends on transparency, and that transparency depends on regular and comprehensive reporting by states.

Canada (2009) once again submitted a set of well developed recommendations to address the absence of an institutional and governance infrastructure for the Treaty. The Chair's summary of recommendations on institutional and procedural reforms was put in the context of a strengthened review process; states were asked to consider the various proposals "with a view to achieving a consensus on agreed measures." That may still be a hard sell, given that a diplomat from one of the nuclear weapon states told NGOs in an off-the-record briefing that in his view the reform proposals were unnecessary and had in fact garnered little support.

Unlike other Treaties, the NPT does not have a secretariat. Hence, Canada recommends that States Parties meet annually in a decision-making "General Conference," that a standing bureau be created to provide leadership and continuity during and between meetings, and that a permanent administrative support office be created to support and facilitate Treaty meetings and intersessional work. The working paper elaborates on the rationale, budget, and functions of these institutional enhancements.

The Chair's summary also included a call on states to consider ways of enhancing NGO participation in the Treaty review process.²

Hope for 2010

Even on its good days, the NPT review process amounts to an exercise in being grateful for small mercies. The PrepCom produced an agenda for the 2010 conference. Even if they did not win

consensus, the three sessions from 2007 through 2009 produced an impressive array of recommendations to guide deliberations in 2010. And the 2009 session seemed to indicate that all the recent prominent proclamations of the goal of a world without nuclear weapons are having an impact on real world expectations and negotiations. These three mercies warrant some genuine gratitude.

For more information and discussion on the NPT, go to the Project Ploughshares website <http://www.ploughshares.ca/abolish/index5.htm> and to the Reaching Critical Will website <http://www.reachingcriticalwill.org/legal/npt/nptindex1.html>.

Notes

1. Reflecting the views of many states, a Canadian statement to the PrepCom indicated that all states should enter into Comprehensive Safeguards Agreements with the IAEA, and that the IAEA's Additional Protocol should become the essential verification standard under Article III of the Treaty.
2. In the previous review cycle Canada (2003) submitted a working paper on NGO participation but has not raised the issue in the lead-up to 2010.

References

Canada, Government of. 2003. *NGO participation in the NPT review process*. NPT/CONF.2005/PC.II/WP.16. May 6. <http://www.reachingcriticalwill.org/legal/npt/2003statements/Working%20Papers/WPCANADANGOS.pdf>.

Canada, Government of. 2009. *Strengthening the review process of the Treaty on the Non-Proliferation of Nuclear Weapons*. Working paper. NPT/CONF.2010/PC.III/WP.8. April 15. <http://www.reachingcriticalwill.org/legal/npt/prepcom09/papers/WP8.pdf>.

Gottemoeller, Rose. 2009. Statement by Rose Gottemoeller, Assistant Secretary of State for Verification, Compliance, and Implementation, Department of State, United States of America to the Third Session of the Preparatory Committee, 2010 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, May 5, 2009. <http://www.un.org/disarmament/WMD/Nuclear/NPT2010Prepcom/PrepCom2009/statements/2009/05May2009/05May2009AMSspeaker-4-USA.pdf>.

Preparatory Committee. 2009a. Provisional agenda of 2010 NPT Review Conference. <http://www.reachingcriticalwill.org/legal/npt/prepcom09/2010Agenda.pdf>.

Preparatory Committee. 2009b. Draft Recommendations to the Review Conference. NPT/CONF.2010/PC.III/CRP.4. May 7. <http://www.reachingcriticalwill.org/legal/npt/prepcom09/papers/CRP4.pdf>.

United Nations Department of Public Information. 2009. Press conference by Preparatory Committee Chairman for 2010 Nuclear Non-Proliferation Treaty Review Conference. May 15. http://www.un.org/News/briefings/docs/2009/090515_NPT_Chair.doc.htm.