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## **CNS SPECIAL REPORT**

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### **The 2010 NPT Review Conference: Deconstructing Consensus**

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#### **Introduction**

The eighth Review Conference (RevCon) of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) took place in New York on May 3-28, 2010, under the presidency of Ambassador Libran Cabactulan of the Philippines. Many diplomats and experts (including those from civil society) viewed the Conference as an important opportunity to restore faith in the international nonproliferation regime and to chart future progress towards nuclear disarmament. Coming after a decade of decline in multilateralism, and on the heels of recent achievements in bilateral arms control and nuclear security initiatives, the Conference bore the weight of great expectations. As one delegate stated at the RevCon closing, “failure was never an option.” And yet, the prospect of such a failure was very real at times during the RevCon with two issues largely defining the outcome—progress on nuclear disarmament, and, even more importantly, implementation of the 1995 Resolution on the Middle East<sup>2</sup>. Agreement on both was finally achieved in the last days of the Conference, through the efforts of key RevCon officers, the five nuclear-weapon states, Egypt, and a number of other delegations in the inner-circle “Focus Group” that met in parallel with deliberations in the Conference’s main committees and subsidiary bodies.

While the Conference did adopt a final document, consensus was not reached on the review portion, which reflected the views of the Conference president. As such, only the forward-looking section on “Conclusions and Recommendations” enjoyed consensus support. A comparison of the “action” elements for the three pillars of the NPT—disarmament, nonproliferation, and peaceful uses of nuclear energy—suggests that those related to disarmament represent the greatest changes from past outcomes. This product reflects in no small measure the change in the U.S. stance toward nuclear disarmament and multilateralism more generally. Comparatively weaker action items in the nonproliferation and peaceful use sections of the Final Document indicate that the non-nuclear-weapon states (NNWS), especially those

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<sup>1</sup> We are grateful to Katherine Bachner for her assistance in preparing this report.

<sup>2</sup> Resolution on the Middle East, NPT/CONF.1995/32 (Part I), Annex,  
[http://www.un.org/disarmament/WMD/Nuclear/1995-NPT/pdf/Resolution\\_MiddleEast.pdf](http://www.un.org/disarmament/WMD/Nuclear/1995-NPT/pdf/Resolution_MiddleEast.pdf).

among the Non-Aligned Movement (NAM), are not yet ready to embrace initiatives such as universalization of the International Atomic Energy Agency's (IAEA's) Additional Protocol (AP) or tougher provisions on noncompliance with and withdrawal from the Treaty.

It was clear that notwithstanding headway in U.S.-Russian arms control and the new orientation of the U.S. Nuclear Posture Review, the majority of NNWS continue to expect further concrete commitments from nuclear-weapon states (NWS) regarding nuclear disarmament. In this respect, the Conference was characterized not only by renewed demands for further reductions in arsenals, de-alerting, and transparency, but also unusually broad support for a nuclear weapons convention and timelines for complete nuclear disarmament. While most of the suggested language on a nuclear weapons convention and timelines did not receive consensus approval, it was noteworthy that the "Conclusions and Recommendations" section of the Final Document contained reference to the former of these objectives by "noting the Five-Point Proposal for Nuclear Disarmament of the Secretary-General of the United Nations, which proposes *inter alia*, considerations of negotiations on a nuclear weapons convention." The first part of the Final Document—the president's reflections—also specifically "affirms that the final phase of nuclear disarmament process and other related measures should be pursued within an agreed legal framework, which a majority of states parties believe should include specified timelines." It therefore is evident that ideas once regarded as disarmament pipe dreams are now considered appropriate topics for mainstream debate.

At the same time, contrary to some expectations, the main nonproliferation crisis of the day—the question of Iran's compliance with its nonproliferation obligations—was not directly addressed at the Conference. While calls for insuring compliance and punishing violations were made on the conference floor, primarily by Western states, and some language to that effect is included in the Final Document, these issues tended to be dealt with primarily outside the NPT review context. Simultaneous with the RevCon deliberations, the Security Council was negotiating a new round of sanctions against Iran. The Council eventually adopted a new sanctions resolution on June 9, 2010, a little over a week after the RevCon's successful conclusion.

Conspicuous by their absence at the RevCon were "bridge builders," or states and groupings that act to narrow the gap between the views typically expressed on the part of the NWS and the NNWS. In the past, especially at the 2000 NPT Rev Con, this role was played effectively by the New Agenda Coalition (NAC), and in 1995 individually by countries such as Canada and South Africa. Although the inner circle "Focus Group" with varying membership met frequently during the RevCon to try to find common ground, no political grouping emerged during the 2010 Conference to play the role of a bridge builder. As a consequence, divisions among states parties as expressed in debates in the main committees and subsidiary bodies often ran as deep as ever. Furthermore, President Obama's inspired vision and stated commitment to nuclear disarmament did not translate into an ability by the United States to forge compromises on a regular basis among key delegations on the major issues related to the three NPT pillars. The United States, however, did demonstrate the political will and flexibility on the most contentious issue at the Conference—the Middle East—and ultimately managed to strike a behind-closed-door deal with Egypt on steps to implement the 1995 Middle East Resolution enabling the Review Conference to produce a consensus final document and positive outcome.

## The Backdrop

As 172 NPT states parties gathered in New York in May 2010, it was evident that the eighth NPT Review Conference was more than the normal quinquennial meeting mandated in the treaty. The failure of the 2005 Review Conference, North Korea's two nuclear tests, the Bush administration's neglect of arms control and multilateral institutions, its nuclear deal with non NPT-member India, and Iran's hidden nuclear activities had all fostered the perception that the NPT regime was in danger of falling apart and dramatic action was needed. When U.S. President Barack Obama took office in 2009, he sought to halt this downward slide, most notably by reasserting the U.S. commitment to nuclear disarmament in his April 2009 Prague speech setting the goal of a "world free of nuclear weapons."<sup>3</sup>

The 2009 Preparatory Committee (PrepCom) meeting of NPT parties made clear that emotionally, if not yet substantively, Obama's appeal and related policy pledges had served to restore some of the international community's confidence in the NPT review process. Moreover, the "Arms Control Spring" of 2010 featuring the New START agreement, a diminished role for nuclear weapons in the new U.S. Nuclear Posture Review,<sup>4</sup> and a forward looking communiqué from the U.S. hosted Nuclear Security Summit represented something of a good-faith deposit on Obama's Prague promises.<sup>5</sup> Nevertheless, in the lead-up to the Review Conference, major differences remained between the priorities of the NWS and leading members of the NNWS and NAM.

For example, in the early days of the Obama administration, U.S. and Western officials had hoped that the president's disarmament initiatives would lead to progress at the NPT conference on efforts that they considered particularly important aimed at dealing with North Korea, curtailing the nuclear ambitions of Iran and other potential proliferators, and decreasing the likelihood of nuclear terrorism. One specific objective was obtaining the endorsement of the IAEA's 1997 model Additional Protocol as a verification standard for the NPT as well as a condition of nuclear supply. A second objective of a number of Western countries was to promote efforts that would make it more difficult for states to withdraw from the NPT, or at least impose greater costs for such behavior. For their part, members of NAM in the developing world and a number of developed NNWS strongly desired firm commitments by the NWS to nuclear disarmament including benchmarks, phased reductions, and support for a nuclear weapons convention.

Yet even before the RevCon started, it was clear that agreement on these issues would be very difficult to achieve. Domestic political difficulties and diplomatic obstacles interfered with President Obama's efforts to implement some of the key promises he made in Prague, including the initiation of negotiations on a treaty banning the production of fissile material for weapons

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<sup>3</sup> "Remarks By President Barack Obama," The White House Office of the Press Secretary, April 5, 2009, <http://www.whitehouse.gov/the-press-office/remarks-president-barack-obama-prague-delivered>

<sup>4</sup> "Nuclear Posture Review," U.S. Department of Defense, <http://www.defense.gov/npr/>.

<sup>5</sup> The Nuclear Security Summit Communiqué available at <http://www.whitehouse.gov/the-press-office/communiqu-washington-nuclear-security-summit>, and the work-plan at <http://www.whitehouse.gov/the-press-office/work-plan-washington-nuclear-security-summit>

(FMCT) and U.S. Senate ratification of the Comprehensive Nuclear-Test-Ban Treaty (CTBT). Although the United States had posted considerable nuclear arms control and nonproliferation achievements during the first part of 2010, President Obama's political standing had slipped at home, and there remained the perception that other members of his administration, not to mention the Congress, were less enamored with his vision of a world free of nuclear weapons. In addition, the other four NWS—with perhaps the exception of the United Kingdom—did not seem to be nearly as enthusiastic as the United States about the “road to zero.”

There also was the issue of simple mathematics. Unlike other bodies such as the UN Security Council and the Nuclear Suppliers Group (NSG) where the United States (and the other NPT nuclear-weapon states) hold great sway, NPT review conferences tend to be dominated by the single largest political grouping of countries, the 116 non-nuclear-weapon states of the NAM.<sup>6</sup> While far from a monolith, NAM traditionally emphasizes a disarmament-and-peaceful uses agenda rather than one that promotes additional nonproliferation measures. The NAM spent much of the time following President Obama's Prague speech in a “wait and see” mode, expecting some concrete actions from the United States. Those initiatives which did come, however, came largely in the last few months before the Conference, leaving NAM members little time to negotiate amongst themselves to determine how willing or able they were to compromise on nonproliferation issues.

President Obama's disarmament and nonproliferation initiatives had raised the political stakes for the United States to ensure that the Conference was perceived as a success. The stakes were doubly high because simultaneous efforts by the United States to step up pressure on Iran after attempts to seek a diplomatic solution to the nonproliferation dilemma posed by Iran's nuclear program failed to bear fruit even as Tehran's uranium enrichment efforts reached potentially dangerous new levels.

As a consequence, in the final weeks before the Conference U.S. officials sought to dampen expectations of what a successful conference might entail. In particular, they emphasized the imperative of preventing Iran, or any other country, from holding the Conference hostage to its singular concerns. Arguing that winning approval for a final consensus document in the face of intransigence from Iran and a small number of its allies would be difficult, U.S. officials indicated that they were prepared to accept a conference outcome that did not include consensus if Iran were isolated and a large majority of states supported an action plan of next steps related to the Treaty's three pillars of disarmament, nonproliferation, and peaceful uses of nuclear energy. At the same time, Washington continued its intense efforts to gain support from Egypt for its Review Conference objectives. Egypt was especially important as it held the chairs of both the NAM and NAC, and is a leading country in the League of Arab States.

Yet it would not be a simple task for the United States to win support from Egypt while achieving an outcome that was politically sellable at home. Much would depend on the ability of the United States to fashion a compromise plan with Egypt on a program to implement the 1995 Resolution calling for steps towards establishing a zone free of weapons of mass destruction in the Middle East.

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<sup>6</sup> The overall NAM membership is 118 states, but India and Pakistan—both members—are not party to the NPT and possess nuclear weapons. North Korea is also a NAM Member State but its status in the NPT is under dispute.

## Opening Moves

The promise and pitfalls presented by the 2010 Review Conference were evident on the first day of the meeting. Following addresses<sup>7</sup> by UN Secretary General Ban Ki Moon and IAEA Director General Yukiya Amano, Iranian President Mahmoud Ahmadinejad delivered an often insulting, but by his standards, mild-mannered speech. Although he included the usual criticisms of Israel's nuclear weapons capabilities and assertions that it was the United States, not Iran, that was violating its treaty commitments, President Ahmadinejad's avoided more inflammatory statements such as a denial of the Holocaust or threats to annihilate Israel that would have ensured a walkout by many delegations. Nevertheless, his speech still prompted what appeared to be a premeditated exodus by a sizable number of Western delegations, including France and the United States. Commenting subsequently on Ahmadinejad's speech in her own address to the Conference, U.S. Secretary of State Hillary Clinton called his accusations "tired," "false," and "sometimes wild" and said, "Iran will do whatever it can to divert attention away from its own record and to attempt to evade accountability."

Secretary Clinton's also announced several important new U.S. initiatives in her opening remarks regarding transparency, security assurances, and increased funding for peaceful uses that were welcomed by the Conference. In particular, Secretary Clinton announced that the United States would submit the protocols to the nuclear weapon-free zone (NWFZ) treaties of Pelindaba and Rarotonga (for Africa and South Pacific, respectively) for Congressional approval and expressed its readiness to work with states parties to the South East Asian and Central Asian NWFZ treaties to resolve outstanding issues. The United States also, for the first time, disclosed the number of nuclear warheads in its arsenal. Also particularly notable in the opening session was the address by Indonesia's Foreign Minister Marty Natalegawa, which set a positive tone at the outset of the Conference by indicating Indonesia's plans to ratify the Comprehensive Test Ban Treaty without waiting for similar action by the United States or others..

Overall, the Conference began on an upbeat note and procedural items, which had been used in previous years to block the commencement of substantive work, were agreed upon relatively quickly. Unlike the dismal 2005 Review Conference, which spent over half of its time mired in procedural disputes, 2010 was devoted almost exclusively to meaningful and sustained debates on many of the major contemporary proliferation challenges. This was well illustrated by the smooth decision on establishing a third subsidiary body. Iran's objection to devoting a subsidiary body to discussing provisions for withdrawal from the NPT (Article X) was overcome by day three through a word fix, expanding the mandate of the third subsidiary body. The RevCon president's ability to gain support for the compromise proposal demonstrated that Iran was isolated in its objection and was not prepared to stall the Review Conference proceedings on a procedural issue, as some had feared. This was a victory for common sense and augured well for the forthcoming weeks in New York.

On May 5, three days after the Conference began, states parties approved the creation of subsidiary bodies in addition to the main committees on disarmament (Main Committee I), nonproliferation (Main Committee II) and peaceful uses of nuclear energy (Main Committee III).

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<sup>7</sup> For the statements see <http://www.un.org/en/conf/npt/2010/statements/statements.shtml>

The three subsidiary bodies—one for each main committee—focused on practical nuclear disarmament and security assurances (Subsidiary body 1), regional issues including implementation of the 1995 Middle East Resolution (Subsidiary body 2), and “other provisions of the Treaty,” which included measures in response to potential withdrawal and to address the Treaty’s perceived “institutional deficit” (Subsidiary body 3). The real work of the Conference began in its second week when the committees and subsidiary bodies began, along with informal discussions and informal processes (some of which took place well away from the formal meetings in the North Lawn building of the United Nations).

## **Modus Operandi**

The process by which decisions were reached at the Review Conference very much resembled a Russian *Matryoshka* doll with multiple layers, most of which were only vaguely visible to the majority of diplomats at the Conference. At one level, proceedings took place in the Plenary of the Conference, where all delegations had an equal say in the adoption of formal decisions. Much of the daily work of the Conference for most delegates transpired in the three main committees, which were open to non-governmental observers and the press, and in the three subsidiary bodies, which were closed to the public. Although the main committees and subsidiary bodies were in principle the masters of their own fate, in fact, the chairs of these bodies had considerable leeway to reflect the nature of the discussions and to summarize them—often in private consultation with key states parties, some of whom set very clear “red lines” as to what they were prepared to accept in the draft reports.

In addition, by at least the middle of the conference, a “Focus Group” was convened by President Cabactulan which consisted of a small number of parties, often numbering 16, but on occasion as large as 24, depending on the specific issues under consideration. This group usually included the five NWS, Brazil, Cuba, Egypt, Germany, Iran, Indonesia, Japan, Mexico, Norway, Spain (as current EU president) and South Africa. On occasions, the group also included diplomats from Argentina, key Arab states, Uruguay and others states, as well as representatives of the League of Arab States and the Council of the European Union. The Focus Group served as the main venue for debating and narrowing differences on the most contentious issues before the conference and took responsibility for finding agreement on the Action Plan of the Final Document. A key role in facilitating the operation of this informal grouping was performed by the head of the Norwegian delegation, Steffen Kongstad, who was asked to assume this responsibility by President Cabactulan. Ambassador Kongstad had chaired the NWS-NAC talks at the 2000 NPT RevCon and was regarded by most states as a trusted and effective facilitator. An even smaller group also may have operated from the first week. During the last week of the Conference, the president also appointed Jennifer MacMillan of New Zealand to find consensus language on the issues of safeguards, the Additional Protocol, and export controls and he requested that the three chairs of the subsidiary bodies —Alison Kelly (Middle East and other regional issues), Alexander Marschik (nuclear disarmament) and José Luis Cancela (institutional reform, universality and withdrawal)—continue with their consultations on issues where there remained a major divergence of views.<sup>8</sup> Finally, it is important to note that on some of the most sensitive

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<sup>8</sup> Ambassador Cancela was asked in particular to attempt to find consensus language with respect to the issue of institutional reform.

subjects, and especially those related to the Middle East, a second track of deliberations were pursued bilaterally and multilaterally in Washington, Cairo, and other capitals.

The operation of negotiations at different levels, some much more transparent than others, makes it very difficult for the outside observer—or even the attentive conference delegate who was not part of the Focus Group—to know what really transpired in the end game of the Review Conference. It also suggests the need for caution in inferring the degree of support for or opposition to some of the key elements included in the consensus Final Document, including but not limited to the readiness of a number of NAM members to accept much less than they sought on the disarmament front due to the deal brokered by Egypt on the Middle East.

## **Disarmament**

After a decade of frustration over the lack of progress on disarmament, many NNWS came to the Conference with the main goal of winning greater commitments on nuclear disarmament from the NWS. The nuclear “have-nots” argued that the NWS had not done enough to meet their Article VI obligation to “pursue negotiations in good faith on effective measures” relating to nuclear disarmament, and both the NAM and European NNWS argued strongly for a clear timeframe for achieving complete nuclear disarmament. The NWS, in contrast, maintained that they were not receiving sufficient credit for the disarmament steps they had taken since the end of the Cold War, and sought to place greater emphasis on the need for all states parties to fulfill disarmament obligations related to such measures as negotiation of a FMCT and ratification of the CTBT. Russia also underscored the need to first ratify and begin implementing the latest U.S.-Russian START Treaty before any new advanced measures were discussed. France and Russia, in particular, emphasized the need to be “realistic” in approaching nuclear disarmament and wait for the “appropriate” security environment before moving toward complete elimination of nuclear weapons. A number of NNWS, such as Brazil, Ireland and South Africa, challenged this notion, arguing that NNWS requested no special security conditions when they agreed to abstain from nuclear weapons development.

As early as the end of the second week, the chairs of Main Committee I and Subsidiary Body 1, Ambassador Boniface Chidyausiku and Ambassador Alexander Marschik, respectively, tabled their draft substantive texts. Ambassador Marschik’s draft disarmament action plan was widely applauded as a significant advance, building on the 13 steps of 2000, but it was evident early on that a number of proposed action items were viewed as too ambitious by the NWS.

The idea of a nuclear weapons convention (akin to the chemical and biological weapons conventions) that would outlaw the development, production, possession, and use of nuclear weapons received unusually strong and vocal support from various parties. Encouraged by UN Secretary General Ban Ki-Moon’s five-point action plan on disarmament<sup>9</sup>, many NNWS pushed to have the conference endorse the goal of negotiating a nuclear weapons convention. Egypt on behalf of NAM called for an effort that would look toward the “consolidation of a nuclear free world” by 2025, and an early draft text in Subsidiary Body 1 included language proposing a

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<sup>9</sup> “The United Nations and Security in a Nuclear-Weapon-Free World,” United Nations Office of Disarmament Affairs, <http://www.un.org/disarmament/WMD/Nuclear/sg5point.shtml>.

global conference in 2014 to begin talks on eliminating nuclear arms “within a specified timeframe.” These proposals—and other attempts to gain support for the idea of a legally-binding or explicit timeframe on disarmament – were resisted by the United States, France, and Russia, who often spoke in concert. The United Kingdom joined in only in the last week as the delegation awaited instructions from its newly formed government, while China tended to be more sympathetic to NAM disarmament proposals. In the Conference’s final days, the question was whether the NWS, particularly France and Russia, could accept compromise language stating that “the final phase of the nuclear disarmament process and other related measures should be pursued within a legal framework with specified timelines.”

The amount of time and heated debate devoted to the question of timelines and legal frameworks at the 2010 RevCon indicates that thinking on this issue has moved forward, and fewer states view the idea of a time-bound framework as premature or impractical. During the deliberations, many NNWS (e.g., Nigeria, Mexico, and Chile) made it clear that they did not seek to impose strict deadlines but rather sought a clear commitment to disarmament from NWS. In the 2010 Final Document’s Conclusions and Recommendations for Follow-on Actions, states agreed to language calling on “all nuclear-weapon States to undertake concrete disarmament efforts” and that “all States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons,” noting, “the five-point proposal for nuclear disarmament of the Secretary-General of the United Nations, which proposes, *inter alia*, consideration of negotiations on a nuclear weapons convention or agreement on a framework of separate mutually reinforcing instruments.”

China, for its part, blocked a proposal that would have called on the five nuclear weapon states to halt all production of highly enriched uranium and plutonium pending a fissile material treaty. While China is believed to have stopped producing such material, it has not publicly announced a production moratorium, unlike the other four nuclear-weapon states. The draft action plan from Subsidiary Body 1 effectively called for the other four NWS to uphold their moratoria and for China to “consider” one. However, in the president’s final document, the text on a fissile material production moratorium was absent from the forward-looking Conclusions and Recommendations.

A proposal s from UN Secretary-General Ban Ki-Moon that received consensus support suggested that if the decade-long deadlock at the Geneva-based Conference on Disarmament (CD) continued until this fall, the Secretary-General should convene a ministerial meeting to help make progress on issues now being considered by that forum, including the FMCT and so-called “negative security assurances”—pledges made by NWS not to use or threaten to use nuclear weapons against NNWS. This idea was recognized in action items 7 and 15 of the Final Document. However, a proposal that would have encouraged the UN General Assembly to “examine how such issues should be pursued” if they had not moved forward by the end of the CD’s 2011 session, effectively taking the FMCT negotiations out of the CD, met with opposition not only from the NWS (particularly Russia and France), but also the majority of NAM, and was dropped from the final text.

In its Nuclear Posture Review, the United States indicated for the first time that it would not launch a nuclear attack against NNWS parties to the NPT in good standing with their nuclear

nonproliferation commitments, even if the United States were attacked with chemical or biological weapons—although the NPR reserves the right to adjust the latter commitment in the light of “evolution and proliferation of the biological weapons threat and U.S. capacities to counter that threat.”<sup>10</sup> The new British government during the RevCon said it would study offering similar assurances. While China has long provided unconditional negative security pledges, Russia and France were noncommittal on the subject and most NWS did not support the NNWS demand that the Conference endorse a broad legally-binding and unconditional prohibition against the use or threat of use of nuclear weapons against NNWS. The NNWS had to content themselves with recognition of their “legitimate interest” in receiving such assurances. Still, Secretary Clinton’s announcement about the protocols to the NWFZ treaties was noteworthy in this regard, since these protocols would provide negative security assurances to the parties to those treaties.

Most NWS also rejected efforts by NNWS to declare a moratorium on upgrading and developing new types of nuclear weapons, or developing new missions for nuclear weapons or other qualitative improvement in nuclear arsenals. This subject had gained more attention after the United States announced a 10-year \$180 billion plan to modernize its nuclear arsenal, associated delivery systems and related weapons complex. To be sure, the United States insisted that it did not plan to pursue changes that would improve its military capabilities, but only would allow the continued safe storage and performance of the weapons. The NWS proposed in debates in plenary sessions and in Subsidiary Body 1 discussions on a formulation taken out of the CTBT preamble in which a commitment to constrain the development of new types of weapons was a substitute for a commitment to cease their development. However, the final president’s text included no action item related to this issue and only reaffirmed the role of the CTBT in constraining the development and improvement of nuclear weapons.

The two NWS with the largest arsenals, the United States and Russia, repeatedly beat back attempts to put specific language in conference documents related to non-strategic nuclear weapons (NSNW). (The United States is estimated to have no more than 200 non-strategic nuclear weapons deployed on the territory of five NATO allies in Europe; Russia is believed to have several thousand such weapons all within its territory.) Efforts to include specific language on NSNW came from two directions. One effort, led by Germany with support from Austria, Belgium, Finland, Ireland, Luxembourg, the Netherlands, Norway, and Sweden, sought to have the Conference call for the United States and Russia to negotiate the reduction and elimination of such weapons and to make their holdings of such weapons more transparent. Significantly, in terms of intra-NATO deliberations and the typical divide between countries from “new” and “old” Europe, Poland associated itself with the German-led position during debate on the issue, although it was not listed as one of the ten countries on whose behalf Germany initially spoke. A similar if slightly less ambitious approach was favored by the European Union, whose views were put forward by Spain. The other initiative, led by NAM, called for withdrawing all such nuclear weapons from the territory of non-nuclear-weapon NPT parties. As in the past, the NAM, and especially Iran, particularly objected to the nuclear sharing policy of NATO, suggesting that it constituted a violation of the Treaty. Russia, which has said it will not enter into negotiations covering such weapons before U.S. weapons are withdrawn to the national territory of the United States, was adamant that no language appeared at any time in any

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<sup>10</sup> Nuclear Posture Review Report, US Department of Defense, April 2010, p. 16.

conference document referencing NSNW and made various threats in this regard. Although the United States and some of its NATO allies did not oppose Russian efforts to exclude references to NSNW, they strongly objected to the initiative regarding nuclear sharing and deployments. In what appears to have been a rather public message to Russia, the U.S. spokesperson on disarmament Ambassador Laura Kennedy also said on the conference floor that her country was looking forward to addressing *all types of weapons regardless of their location* in future arms control negotiations. The final document accepted this formulation and sidestepped the issue of NSNW and nuclear sharing by committing NWS to “reduce and ultimately eliminate *all types of nuclear weapons, deployed and non-deployed.*” (italics added) Moreover, Action 5 in the final draft commits NWS to “address the question of all nuclear weapons regardless of their type or their location...,” albeit “in a way that promotes international stability, peace and undiminished and increased security”—the preferred Russian caveat.

The call for transparency on nuclear arsenals was answered in part during the conference itself. As noted previously, Secretary Clinton announced on the first day of the RevCon that the United States would disclose the total number and types of nuclear weapons in its stockpile for the first time. That day, the Pentagon announced that the United States had precisely 5,113 nuclear weapons. A week later, Russia said it would consider making a similar disclosure after the U.S.-Russian New START accord was approved by the two countries’ legislatures; two weeks after that, during the final week of the RevCon, the United Kingdom disclosed that it had 225 nuclear weapons, 160 of which are operational. France said several years ago that it has no more than 300 warheads, but China has never disclosed the size of its arsenal. Due primarily to the Chinese delegation’s opposition, the initial draft text on transparency from Subsidiary Body 1 was significantly reduced. Rather than committing the NWS to submit regular reports on their arsenals and fissile material stocks, the Final Document encourages them to enhance transparency (Action 5.g) and to agree on reporting forms and intervals for “voluntarily providing standard information” (Action 21). These actions still constitute notable progress, as the latter action item also invites the UN Secretary-General to establish a “repository” to hold the information provided by NWS, the first such institutionalization of NWS reporting.

Also noteworthy in the Disarmament section of the Final Document is Action 22, which for the first time in RevCon history recognizes the importance of education as a vital but underutilized tool to promote disarmament and nonproliferation. More specifically, the Action item encourages all states to implement the recommendations of the UN Study on Disarmament and Non-Proliferation Education<sup>11</sup> in order to advance the goals of the Treaty. This Action item, along with a similar call in the Nuclear Security Summit Communiqué<sup>12</sup> to invest in education and training is long overdue recognition of the need to address the “human factor” if we are eventually to alter mindsets and find common ground on the tough issues of the day.

Although significantly weakened on several points compared to the drafts tabled and discussed in Subsidiary Body 1, the disarmament action plan of the Final Document builds upon the 2000

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<sup>11</sup> United Nations Study on Disarmament and Non-Proliferation Education, Report of the Secretary-General, UN General Assembly Document A/57/124, 30 August 2002, <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N02/456/87/PDF/N0245687.pdf?OpenElement>

<sup>12</sup> “Communiqué of the Washington Nuclear Security Summit,” The White House, Office of the Press Secretary, April 13, 2010, <http://www.whitehouse.gov/the-press-office/communiqu-washington-nuclear-security-summit>

RevCon Final Document and contains progressive concepts and measures. For the first time, it has a reference to a nuclear weapons convention (if only to note it as a UNSG proposal) and recognizes the humanitarian dimension to the problem of nuclear weapons. Similar to the “13 Practical Steps” from the 2000 RevCon<sup>13</sup>, though admittedly in a weaker fashion, Action 5 of the plan establishes certain benchmarks for disarmament, including the reduction of the role of nuclear weapons in security doctrines, reduction of operational status, and enhanced transparency. Finally, the document calls on NWS to report on these undertakings at the last session of the Preparatory Committee before the next Review Conference in 2015.

### **Middle East Nuclear-Weapon-Free Zone**

A key issue for the conference—indeed a necessary condition for adoption of a Final Document—was progress in implementing the 1995 Resolution on the Middle East, an issue that had received little serious attention in the intervening fifteen years. Much of the most difficult work on this issue during the RevCon fell to Subsidiary Body 2 chair Alison Kelly of Ireland, who sought to assist the United States, Russia, Egypt, the League of Arab States and other relevant delegations in finding a way forward on steps to implement the 1995 Resolution. Crucial components of an agreement involved the date, scope, authority, and mandate of a proposed conference involving parties in the region, and the designation of an envoy/coordinator/facilitator or standing committee to assist the implementation process. Egypt and some other members of the Arab League were keen that negotiations be “launched”—a purposefully ambiguous term and one which had been used by Egypt in previous working papers—at the proposed regional conference. The United States, presumed to be also speaking on behalf of its non-NPT ally Israel, felt that a negotiating mandate would be premature in the current security context and that a conference should be granted a discussion mandate only, not ruling out the possibility that the conference could lead to negotiations. The U.S. position had to be carefully coordinated with Israel, which is widely believed to have somewhere between 60 and 180 nuclear weapons, and reflected Washington’s concerns about Iran’s nuclear weapons intentions.

A draft worked out by Kelly, following wide consultation and taking into account all the various proposals contained in working papers submitted on the issue, called for an “initial conference” in 2012 convened by the UN Secretary-General involving all states in the Middle East and a Special Coordinator, appointed by the UN Secretary-General, with a mandate to facilitate implementation of the 1995 Resolution, conduct consultations and undertake preparations for the Conference and follow-on steps, with reports to be provided to NPT states parties at the 2012, 2013, and 2014 preparatory committee (PrepCom) meetings for the 2015 Review Conference. The draft sought to steer a middle course between the Arab states’ desire for a negotiating conference and the U.S. view that this would be premature, by describing the purpose of the proposed conference as “leading to the establishment of a Middle East zone free of nuclear

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<sup>13</sup> “2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,” Final Document, Volume I Part I Review of the operation of the Treaty, taking into account the decisions and the resolution adopted by the 1995 Review and Extension Conference, Improving the effectiveness of the strengthened review process for the Treaty, p14, <http://www.un.org/disarmament/WMD/Nuclear/2000-NPT/pdf/FD-Part1and2.pdf>

weapons and all other weapons of mass destruction, on the basis of arrangements freely arrived at by the States of the region.” The proposed 2012 conference would take the 1995 Resolution as its terms of reference. In addition, the draft proposed “complementary steps” such as an EU-hosted event and background documentation regarding verification from the IAEA and Organization for the Prohibition of Chemical Weapons. It also emphasized the importance of “parallel progress, in substance and timing” relating to achieving the total and complete elimination of all nuclear, chemical, and biological weapons from the region in line with the 1995 Resolution and the important role of civil society in contributing to the resolution’s implementation.

The NPT Review Conference’s endorsement of a modified version of this text in the Action Plan on the Middle East Resolution was perhaps its most substantive accomplishment. The Final Document states that the UN Secretary-General and the United States, the United Kingdom, and the Russian Federation (as the three co-sponsors of the 1995 Middle East Resolution) in consultation with regional states, will convene a conference in 2012, to be attended by all States of the Middle East, “on the establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction, on the basis of arrangements freely arrived at by the states of the region, and with the full support and engagement of the nuclear-weapon states.” The UN Secretary-General along with the three co-sponsors, in consultation with the states of the region, will appoint a Facilitator, who will have a mandate to support implementation of the 1995 Resolution by conducting consultations and undertaking preparations for the convening of the 2012 conference. The Facilitator will also assist in implementing follow-on steps agreed at the 2012 conference and report to the NPT 2015 Review Conference and its PrepCom meetings. A host government for the 2012 conference will also be designated.

But it was the retention of language in which the “Conference recalls the reaffirmation of the 2000 Review Conference” of “the importance of Israel’s accession to the treaty and the placement of all of its nuclear facilities under IAEA safeguards,” which threatened to derail the negotiation and prevent U.S. approval of the final draft plan. Senior Israeli officials (outside the conference) vehemently protested that Israel was named explicitly in the document while the two other states that have remained outside the NPT, India and Pakistan, were not mentioned by name in any of the action elements, including the items dealing with universality. In fact, the removal of the paragraph in that section that addressed the call for India and Pakistan to join the NPT was insisted upon by the United States in what may have been an ill-considered move that likely increased Israel’s perception of neglect by its strongest ally. For its part, the United States was upset by what it saw as an imbalance in the Final Document in which Israel was named but no specific reference was made to Iran and its failure to comply with its safeguards obligations.

The language regarding Israel, the final draft of which was provided by the chair of Subsidiary Body 2, was relatively mild and essentially repeated the text previously agreed to in the 2000 Final Document. Nevertheless, it walked a very fine line between the needs of the United States, Egypt, and the League of Arab States, which took an even harder line than Egypt in the relatively small Focus Group, where much of the negotiations during the final days of the Conference took place. Although many participants anticipated that the United States would be unwilling to accept the compromise language proposed by the chair, and it was unclear until mid-morning of the last day of the Conference what the final position of the United States would be, when

Washington ultimately agreed to the mild reference to Israel, a deal was made that Egypt and its Arab allies could not refuse. It then was left to Iran to either make or break the conference.

When Iran, at the last moment, agreed to join consensus, and the Final Document was adopted, the United States then had to put in place its damage limitation strategy directed at audiences at home and in Israel. Almost as soon as President Cabactulan's gavel sounded to bring the conference to a close senior U.S. officials, including President Obama, began to express reservations regarding the agreement. Most notably, National Security Adviser General James L. Jones made the following points:

The United States deplores the decision to single out Israel in the Middle East section of the NPT document. The failure of the resolution to mention Iran, a nation in longstanding violation of the NPT and UN Security Council resolutions, which poses the greatest threat of nuclear proliferation in the region and to the integrity of the NPT, is also deplorable. As a cosponsor charged with enabling this conference, the United States will assure that a conference will take place if and when all countries feel confident that they can attend. Because of the gratuitous way that Israel has been singled out, the prospects for a conference in 2012 that involves all key states in the region is now in doubt and will remain so until all are assured that it can operate in an unbiased and constructive way.<sup>14</sup>

It is noteworthy that Arab states, including Egypt, have not responded vocally to these post-RevCon reservations. As such, it appears that the post-conference statements by the United States were either part of the understanding that was reached or at least were anticipated by the Arab states. It now remains for the Facilitator—once he or she is appointed—to begin work in earnest to prepare for the convening of the 2012 conference on the establishment of a Middle East WMD-free zone and the implementation of follow-on steps as agreed at the RevCon.

## **Nonproliferation**

While many had predicted that a major focus of the RevCon and Main Committee II would be the contentious issue of Iran's compliance with its IAEA safeguards agreement—a subject that could have led to deadlock at the Conference — the conference in fact addressed the issue of safeguards more broadly. Considerable time was spent debating the status of the Additional Protocol, export controls, conditions for supply of nuclear-related materials and technology, and the U.S.-India nuclear deal.

The Conference endorsed strong language on North Korea's announced withdrawal from the NPT and two nuclear tests, calling these activities a "threat to international peace and security," and insisting that the DPRK "cannot have the status of a nuclear-weapons state." The language on Iran, however, was far more circumspect. Iranian behavior was addressed only indirectly in text that stressed the importance of compliance with the treaty regime and called on states to comply with relevant Security Council resolutions and IAEA Board of Governors decisions.

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<sup>14</sup> "Statement by the National Security Advisor, General James L. Jones, on the Non-Proliferation Treaty Review Conference," The White House, Office of the Press Secretary, May 28, 2010, <http://www.whitehouse.gov/the-press-office/statement-national-security-advisor-general-james-l-jones-non-proliferation-treaty->

The lack of focus on the Iranian nuclear situation in the RevCon may be explained in part by the attention it was receiving in other fora at the same time. In the middle of the conference, for example, Brazil and Turkey announced that they had reached a deal with Iran in which Iran would deposit 1,200 kg of low-enriched uranium in Turkey, in return for receiving 120 kg of fuel needed for its Tehran Research Reactor. This arrangement was similar to one that the P-5 and Germany had offered to, and was subsequently rejected by, Iran in October 2009, but in the interim Iran had produced much more uranium. One day after the deal's announcement, Secretary Clinton declared that the P-5 had agreed on a draft text for a new set of Security Council sanctions on Iran. The twin announcements introduced a wild card into the Conference's deliberations, but for different reasons both Tehran and Washington were inclined to fight their battle primarily outside of the RevCon.

As expected, the NWS and Western NNWS argued that the IAEA's Additional Protocol should be recognized as the verification standard under the NPT, and should serve as a condition of supply of nuclear material and technologies. The NAM, in a move that was also anticipated, opposed any approach that sought to make the AP mandatory. In light of this opposition, it was surprising that the draft report tabled by Main Committee II Chair Volodymyr Yelchenko contained very strong language on the AP that linked it directly to the compliance with Article III of the NPT. Specifically, it affirmed that a comprehensive safeguards agreement together with an AP "represent the verification standard that best fulfills the objectives of Article III of the Treaty." Taking into consideration past disagreements over the AP at IAEA conferences and positions by a number of key NAM parties that linked any further nonproliferation measures to substantive progress on disarmament, it was unrealistic to expect such language to be adopted by the Conference. Indeed, Egypt, Brazil, and South Africa led the charge at the Conference to recognize the AP only as a voluntary, albeit valuable, measure. Warning against the linkage of the AP to Article III of the NPT, one delegation insisted that, having arrived to the RevCon in compliance with the Treaty, it "would not leave in noncompliance."

Unable to reach agreement on new language regarding the AP, the review portion of the Final Document used the text from the IAEA General Conference Resolution 53/14, noting that in the case of a state party with both traditional safeguards and the additional protocol "measures contained in both instruments represent the enhanced verification standard." Although one Japanese delegate maintained that it was "sad and depressing that the NAM hated the AP," in fact a large number of NAM states have adopted the AP, although they are not supportive of making it a universal requirement. Moreover, several NAM members such as Singapore, the UAE, and Chile openly endorsed the AP as the verification standard.

One of the most hotly debated items during the deliberations of Main Committee II was the section of the draft action plan that encouraged nuclear exporters to take into account if a potential recipient had the Additional Protocol in place when deciding whether or not to allow a sale to be completed. This provision was opposed by many NAM members who view the NSG as a cartel, and regard imposition of new conditions of supply as an infringement of their Article IV rights. In addition, many of these states regard the export control regime as having double standards in light of the exemption granted to India by the NSG in 2008. As one delegate at the RevCon put it, the NSG violated its own guidelines and principles.

During deliberations in Main Committee II (and Subsidiary Body 3 with respect to the issue of universality) many states pointed out that the U.S.-India deal and the related NSG exemption contradicted the 1995 Review Conference “Decision on Principles and Objectives for Nuclear Non-Proliferation and Disarmament” that required acceptance of full scope safeguards as a precondition for all new nuclear supply arrangements. Accordingly, the NAM sought to introduce language in the 2010 revised draft report that not only new but also *existing* supply arrangements should be in accordance with this provision. This effort, pursued most aggressively by Arab NAM members, appeared aimed at precluding the possibility that deals similar to the one struck between the United States and India would be struck with Israel or Pakistan. Although most NSG members were unwilling to directly defend the exemption decision (which also had been blessed by several key NAM members and observers), the United States made it clear that it would not revisit the deal with New Delhi. In arguing against the inclusion of the term “existing,” the lead U.S. representative on Main Committee II issues indicated that while the United States was prepared to reaffirm its commitment to the 1995 Principles and Objectives, it was in fact a political and not legal obligation, and that regardless of what the RevCon chose to say on the matter, the United States would not revise its stance on the U.S.-India deal. This position, supported by France, was viewed by many as suggesting that states can pick and choose to implement whatever elements of NPT RevCon decisions they care to while disavowing others that no longer strike their fancy—an approach that makes it very difficult to hold states to their NPT obligations. In vague compromise language, the final conference document urges supplier states to ensure that their exports do not “directly or indirectly assist the development of nuclear weapons” and are “in full conformity” with the 1995 decision on “Principles and Objectives on Nuclear Non-Proliferation and Disarmament.”

In light of the Nuclear Security Summit and the earlier, more controversial, adoption of UN Security Council of Resolution 1887<sup>15</sup> surprisingly little attention was given to issues of nuclear security or nuclear terrorism at the Review Conference. In fact, the chair’s draft report from Main Committee II merely noted the Nuclear Security Summit and did not mention UNSCR 1887. Similarly, very little debate was devoted to the issue of highly enriched uranium (HEU) minimization in the civilian nuclear sector as a means to combat nuclear terrorism. Indeed, far more attention was given to the subject of HEU minimization at the 2005 RevCon than in 2010. Although the conference Final Document ultimately included reasonable, if relatively weak, language on this issue in the form of Action 6, which encouraged “States concerned, on a voluntary basis, to further minimize highly enriched uranium in civilian stocks and use, where technically and economically feasible”, what should have been an easy and straightforward process following support for similar language at the Nuclear Security Summit turned out to be very difficult. In part, this difficulty was due to confusion over whether the subject more appropriately fit in Main Committee II (where it was initially discussed and where stronger language at first appeared) or in Main Committee III (where the topic had been considered at the last Rev Con). Midway during the conference the issue was moved from Main Committee II to III, but in the process lost one of its main national advocates. This organizational problem was exacerbated by the apparent disinclination by the United States to follow the deliberations on this subject closely or to weigh in strongly with its allies. As a consequence of the apparent preoccupation on other issues, the action item on HEU minimization was nearly weakened by

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<sup>15</sup> Resolution 1887 (2009) Adopted by the Security Council at its 6191st meeting, on 24 September 2009, S/RES/1887(2009), <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/N09/523/74/PDF/N0952374.pdf?OpenElement>.

two close allies of the United States without any intervention or even awareness by the U.S. delegation.

### **Withdrawal from the Treaty**

Provisions on withdrawal from the NPT (Article X) were addressed in the Subsidiary Body 3 under the chairmanship of Jose Luis Cancela of Uruguay. Many states, including the United States and the EU countries, initially wanted this subsidiary body to be devoted specifically to Article X, but due to objections primarily from Iran, the body's mandate was expanded to include "other issues." During the debate over withdrawal, the United States and other Western states spoke in favor of measures that would make potential withdrawal more costly, including the referral of any withdrawal announcement to the Security Council and the requirement that material and equipment received through cooperation under the Treaty be returned if they were obtained under false pretenses. Other states, such as Syria, Iran, Egypt and Libya, argued that new language on withdrawal would constitute a reinterpretation of the Treaty. While many states did not share this view, compromise language proved difficult to devise. As a consequence, the chair's draft text contained provisions stating that in case of withdrawal, a state would still be responsible for any violations that it committed prior to leaving the Treaty, and its legal situation prior to withdrawal, in regards to such measures as IAEA safeguards, would not be affected. Such language could presumably be read to mean that IAEA safeguards on specific facilities must be retained even if the country exits the NPT. The draft text did not endorse the return or dismantling of facilities constructed when the country was in the NPT, but acknowledged that nuclear supplying states can consider such clauses in export contracts. As no consensus language on withdrawal could be found, the Final Document only contains reference to the subject in the review section and notes that "numerous states" supported a variety of measures to increase the costs of withdrawal.

### **Fuel Assurances and Multinational Fuel Arrangements**

Although by no means harmonious, the deliberations in Main Committee III over peaceful uses of nuclear energy chaired by Ambassador Takeshi Nakane of Japan tended to be less heated than the other two main committees. Probably the most controversial issue related to peaceful use involved the subject of fuel assurances and the related topic of multinational fuel arrangements (MNAs).

Although these approaches are often depicted as new, they actually have received attention since the late 1970s, but re-emerged with a vengeance in the past five years due in particular to the priority given to them by former IAEA Director General Mohamed ElBaradei. A major impetus for the renewed interest was the perceived challenge of creating a generic method for managing the proliferation risks associated with the projected surge in nuclear energy usage and, more specifically, the dangers associated with the spread of sensitive uranium enrichment and spent fuel reprocessing technology. Additionally, the renewed focus on multinational arrangements has reflected efforts to dissuade Iran from developing indigenous fuel cycle capabilities. These concerns prompted the promotion of numerous proposals by states and non-governmental bodies

aimed at enhancing the availability of nuclear fuel for peaceful purposes while at the same time reducing the need to rely on domestic enrichment and reprocessing. Although the underlying logic of MNAs was generally acknowledged, in practice there was very little support for specific proposals from those states for which the new fuel arrangements were designed. As a consequence, despite the persistent efforts of Dr. ElBaradei during his tenure as IAEA Director-General and a number of major nuclear suppliers to build support within the IAEA Board of Governors for one or more MNA proposals, it proved impossible to gain the support of a number of NAM states, who perceived the initiatives as challenging their “inalienable rights” under Article IV of the NPT to all forms of peaceful use. Indeed, only a last ditch effort by ElBaradei at his last Board meeting made possible the adoption by a majority vote of the least controversial MNA proposal involving the Russian facility at Angarsk.

When the issue of fuel assurances and MNAs arose in the context of Main Committee III, the same divide found at the IAEA was evident in New York. While not rejecting multinational approaches *per se*, the NAM made clear that it was not prepared to endorse any specific proposal. Instead, NAM emphasized the need to discuss the issue “further in a non-discriminatory and transparent manner” and “under the auspices of IAEA or regional fora...without affecting rights under the Treaty and without prejudice to national fuel cycle policies.” A convergence of views also developed to the effect that any decisions to forgo national facilities should be voluntary rather than imposed by the international community. Although the Conference chose not to adopt strong language on the subject of MNAs, the issue is likely to be addressed again at forthcoming IAEA board meetings and at the NSG, which tends to be more positively disposed to strict criteria on the export of enrichment and reprocessing technology.

## **Institutional Changes**

For many years, Canada has led an effort to reform and restructure the review process, which currently entails three broad preparatory meetings of two weeks each in the five-year intervals between review conferences. Canada has also pushed to establish a small standing NPT secretariat to support more effective implementation of the Treaty. In particular, Canada has sought to reduce the duration of the three PrepCom meetings and replace them with one-week long annual meetings, and, following the model of the Biological Weapons Convention, tailor each PrepCom meeting to a specific theme. These suggestions have met resistance from some NWS concerned about creating additional UN bureaucracy and from some NAM members (and others) who have expressed concern about possibly undermining the intent of prior RevCon decisions regarding the strengthened review process.

Debate over so-called “institutional reform” was initially expected to take place in Main Committee II but was moved to Subsidiary Body 3, and at times was very intense. Although states parties ultimately agreed to discuss broader measures before the next review conference, the RevCon Final Document includes no action items on institutional reform and only discusses the matter in the review section. In that section it recommends the creation of one full-time position at the UN Office for Disarmament Affairs to support Treaty implementation, but specifies that only voluntary contributions should be used to fund it. It also recommends that past

and current conference and main committee chairs meet with incumbents in those posts to share lessons learnt from past meetings, but allocates no resources to that goal. Despite its modest nature this language opens the door for further steps to strengthen the review process and is consistent with other proposals to convene periodic meetings to enhance the institutional memory of the NPT.

## **The Final Document**

On May 25, three days before the Review Conference was due to end, President Libran Cabactulan released the first of two draft final documents based on the draft substantive elements forwarded to him by the chairs of the main committees and their subsidiary bodies. The initial draft, and the subsequent one provided on May 27, followed the format used in the main committees and was divided into a review and a forward-looking section. The action plan provides a list of numbered action points and specific benchmarks against which progress can be judged during the next five-year review cycle.

The initial draft received criticism from the NWS that the disarmament measures were too ambitious, while many NNWS argued, on the contrary, that the disarmament action plan was considerably weaker than were the drafts that emerged from the main committees. In addition, many NAM states were not ready to accept various components related to both nonproliferation and peaceful use, including language endorsing the Additional Protocol as an integral part of IAEA safeguards system and tying it directly to compliance with Article III of the Treaty. Arab states also complained that the initial proposals for a conference by 2012 to discuss a Middle East zone free of nuclear weapons and all other weapons of mass destruction did not put sufficient pressure on Israel.

Drawing on elements of texts generated by the committees, subsidiary bodies, appointed facilitators, the Focus Group, and on his own judgment about what the Conference as a whole could accept, President Cabactulan released a new text at the end of the penultimate day of the Conference and told delegates that it was “the best we can do.” He indicated that there was no more time for changes and states had to accept it on a take-it-or-leave-it basis. The new text was a balanced, if albeit watered down, package of action items related to the three NPT pillars. Most importantly, it included specific new steps for implementing the 1995 Middle East Resolution, and—crucially in terms of the final consensus—recalled the language from the 2000 Review Conference that reaffirmed the importance of Israel’s accession to the NPT.

Ambassador Cabactulan sought to avoid a fight in the final plenary over the document by separating the Final Document’s more contentious review of the past five years, and the forward-looking component, which had been vetted and agreed to in the Focus Group. The review section was presented as the president’s reflection of what had transpired in the review of the implementation of the Treaty. It also made use of the tactic first employed in the 1985 NPT Review Conference Final Document, in which the text did not imply consensus positions but rather when provisions attracted the support of, for example, “many,” “some,” or “numerous” states.

As described earlier in more detail, much of the drama in the last two days of the Conference focused on the flexibility of the United States and Iran over language dealing with the Middle East, and on the ability of Egypt to bring on board those NAM members who sought much stronger language on disarmament, if in fact the United States was prepared to accept an explicit reference to Israel. In the end, the United States showed such flexibility, Egypt carried the NAM, and Iran—probably wary of the potential impact of its stance on the pending Security Council sanction resolution—grudgingly chose not to block Cabactulan’s final text.

## **Conclusion**

The successful outcome of the 2010 Review Conference demonstrated that the states parties to the NPT collectively desired a positive result, and had the political will and flexibility necessary to achieve that outcome. For four intense weeks, they worked in plenary, committees, subsidiary bodies, drafting groups, and a behind-the-scenes Focus Group to forge agreement. Major political differences were put aside, compromises were reached, and deals were made with an eye to re-setting the strengthened review process and helping to restore confidence in the continued viability of the NPT after nearly a decade of neglect and damage.

Of course, all the inherent difficulties of the NPT bargain, such as the “haves” versus “have-nots,” the inadequate progress on nuclear disarmament, and serious instances of noncompliance (let alone the announced withdrawal and nuclear tests of North Korea) could not be put right in a four-week period in New York. And it was the understanding of this limitation and the maturity of the decision to get the Treaty back on track that was the hallmark of the 2010 NPT Review Conference. Not every disarmament and nonproliferation fight in need of fighting had to be contested at an NPT Review Conference, and there are other venues, such as the IAEA Board of Governors and General Conference, the Conference on Disarmament, and the UN General Assembly and Security Council, where such battles are appropriately waged. But unless the NPT has full buy-in from all its members, then other processes to deal with nuclear disarmament and proliferation are also diminished. As the instrument under international law that links nuclear disarmament, nuclear energy and nonproliferation, the NPT is central to all other attempts to bring about realization of a nuclear-free world.

There were numerous heroic pieces of international diplomacy and negotiating skills (as well as a fair share of bluster and bullying) on display at the Review Conference, all of which deserve further study. Ambassador Libran Cabactulan, assisted ably by a highly professional UN secretariat and a talented team from his own country, showed prescience in his conduct of the conference and in the personnel selections he made in advance of and during the meeting. Egypt was very well served by its strong cadre of diplomats led by Ambassador Maged Abdelazis, and needed all of that fire power as it simultaneously chaired the NAM and the NAC, while leading the charge for the Arab states on the 1995 Middle East Resolution. The Egyptian delegation was particularly adept at managing the large and diverse body of NAM members, and bringing them on board once the Middle East language was agreed. Iran demonstrated that it could be flexible and constructive when that served its perceived national interests, and did not consistently fulfill the negative expectations of those who predicted intransigence and delaying tactics. Indeed a number of participants in the Focus Group not prone to making kind remarks about Iran noted

the Iranian delegation's constructive behavior in some of the behind-the-scenes negotiations, including discussions on how to implement the 1995 Middle East Resolution. The chairs of the main committees—Ambassadors Chidyausiku, Yelchenko, and Nakane—all carried out their tasks as professionally as could be wished and the chairs of the subsidiary bodies—Alexander Marschik, Alison Kelly and Jose Luis Cancela—did superb jobs of finding agreement and language that could be accepted into an action plan with clear benchmarks for the next five years and beyond.

In terms of process, the 2010 NPT Review Conference was as unique as each of its successful predecessors. Although the Focus Group employed by President Cabactulan in some respects resembled the “Friends of the Chair” model adopted by Ambassador Jayantha Dhanapala in 1995 it was a smaller body whose deliberations were facilitated by an individual whose authority derived from the high regard with which he was held by the president and the other members of the group.

The main product of the RevCon was a Final Document with 64 action items that covered the three NPT pillars and an implementation plan for the 1995 Middle East Resolution. The president's tactic of separating the forward looking action items and the retrospective portion of the Final Document was innovative, while the use of less than consensual language embodied in the president's reflections of what had transpired during the review segment drew its inspiration from the 1985 Review Conference Final Document. Separating commentary on the past—on which agreement is especially hard to find—from proposed future actions worked well and may be a useful precedent to follow in the future.

NPT members, the UN secretariat, the IAEA, and representatives from civil society all face a challenging next five-year review cycle; numerous ongoing and future proliferation threats are bound to tax even the most smoothly functioning review process machinery. At the top of the list of challenges will be the need to cope with North Korea's nuclear weapons brinkmanship and to ensure that Iran's nuclear program is not used to develop nuclear weapons. Moreover, an important lesson learned from the 2000 Review Conference is that action plans do not necessarily lead to action and require dedicated follow-on efforts. The 2012 conference for the implementation of the 1995 Middle East resolution will not happen on its own accord and will require, among other actions, both the appointment of a facilitator and the designation of a host country. The process demands that the UN Secretary General, the co-sponsors of the 1995 Middle East Resolution (Russia, the United Kingdom and the United States), and the Middle East countries consult in preparation for the conference. This will require diligent and creative work—plus a good dose of luck—if all states in the Middle East ultimately participate in the envisaged conference.

Likewise for nuclear disarmament and nonproliferation, the action items provide useful benchmarks for gauging implementation of the RevCon recommendations, but will not by themselves ensure their achievement. The states parties will need to display the same political will and flexibility that helped them to negotiate a consensus RevCon document if such steps as ratification of the New START by the United States and Russia, ratification of the CTBT by the United States and China (among others), expeditious conclusion and entry into force of IAEA

additional protocols, and resolution of all cases of non-compliance with safeguards obligations are to be achieved.

The 2010 Review Conference outcome demonstrates that the NPT is very much alive, if not yet in full health, and that the basic bargain that made possible its negotiation continues to be highly valued by all states parties. It further demonstrates that although major divides continue to separate the NWS and the NNWS, that common ground can be found. A greater investment in finding more such commonality will be required if we are to reinforce the three pillars of the NPT, and to make the Treaty relevant to the large number of disarmament, proliferation, and peaceful use challenges that exist today and are apt to grow as we look to the next NPT Review Conference in 2015.