

2010 NPT Review Conference Approaches the Finish Line

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Remarks by Daryl G. Kimball, May 24, 2010

Forty years ago, the nuclear Nonproliferation Treaty (NPT) set into place one of the most important international security bargains of all time: states without nuclear weapons pledged not to acquire them, while nuclear-armed states committed to eventually give them up. At the same time, the NPT allowed for the peaceful use of nuclear technology by non-nuclear weapon states under strict and verifiable control. The NPT is a good deal that must be honored and strengthened.

The NPT must be strengthened because, once again—and not for the first time—the nuclear nonproliferation system is facing a crisis of confidence. The May 2010 NPT Review Conference provides an important opportunity for the pact's 189 members to adopt a balanced action plan to improve nuclear safeguards, guard against treaty withdrawal, accelerate progress on disarmament, and address regional proliferation challenges.

Based on my conversations over the past few weeks with key delegations in at the Conference at the UN in New York and our analysis of the conference documents, it is clear that President Obama's nonproliferation and disarmament approach has created a far more positive atmosphere among all States Parties. For example:

- Unlike the 2005 NPT Review Conference, the United States and the other P-5 nuclear weapon states have acknowledged the commitments made at the 1995 NPT Review and Extension Conference and the 2000 Review Conference, which has opened the way from agreement in a number of areas;
- In contrast to 2005, Iran is more clearly outside the nonproliferation mainstream and does not have the degree of support it had from many non-aligned states; and
- While there is a great deal of frustration from many states in the non-nuclear weapons majority about the slow pace of progress on disarmament, there is a greater degree of flexibility begin demonstrated by all sides in the interest of reaching agreement on a forward-looking action plan that reinforces the NPT system.

As a result, as the Conference enters the final week, "success" appears to be within reach but can by no means be taken for granted.

Tonight, the NPT RevCon Main Committees, which deal with implementation of past commitments, and Subsidiary Bodies, which are charged with examining forward-looking issues, are to complete and report on their work to the Conference. At that point, the RevCon will enter the final stage in which the Conference President Libran Cabactulan of the Philippines will try to resolve the remaining issues and produce a final conference document that can be supported by all states, or at least the overwhelming majority of states.

To succeed, Ambassador Cabactulan will likely need key leaders, particularly President Obama, to provide the personal leadership necessary to bring key states together around a balanced and meaningful plan of action. If the Conference does not arrive at an agreement, it would represent a lost opportunity, but not the end of efforts to strengthen the NPT system.

The following is a summary of some of the more significant outcomes that might emerge from this process.

1. Disarmament Issues: The 2010 RevCon will likely recommend further actions in several key areas on nuclear disarmament. Under the leadership of Austrian Ambassadors Alexander Marchik, the latest (May 21) draft Subsidiary Body Report balances a wide-range of proposals and concerns. The current draft outlines a 24-point Action Plan that includes language:

- calling for prompt CTBT entry into force and progress toward a fissile material production cut-off treaty;
- recognizing the value of New START and calling for further undertakings to reduce and eliminate all types of nuclear weapons;
- recognizing the need to further diminish the role and significance of nuclear weapons in security concepts, doctrines and policies, and to address nuclear weapons on the territories of non-nuclear countries and to discuss declaratory policies;
- calling for steps to reduce the operational status of nuclear weapons systems and reduce the risk of accidental or unauthorized use and to enhance transparency.

China reportedly doesn't like the current language in Action 18 which calls on all nuclear weapon states to "uphold or consider declaring a moratorium" pending conclusion of a fissile materials treaty. Russia seems determined to remove any explicit reference to non-strategic nuclear weapons, but would accept general language relating to the need to reduce and eliminate all types of nuclear weapons, as in the current draft.

The disarmament Action Plan also includes a clear reference to and support for a comprehensive approach on a path to achieve a world without nuclear weapons. This is important from the perspective of the non-nuclear weapon state majority because it would provide the non-nuclear countries with reassurance that the New START process and the reaffirmed steps from 2000 will be pursued with context and direction.

There is pragmatic language in this regard in the May 21 Subsidiary Body 1 draft report, notably section II, para 3, which notes that "all States possessing nuclear weapons, need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons."

Action 6 calls upon the nuclear-weapon States "... to report back to States parties on the consultations, within the upcoming review cycle. Based inter alia on the outcome of these consultations, the Secretary General of the United Nations is invited to convene an open-ended high-level meeting to take stock and agree on a roadmap for the complete elimination of nuclear weapons, including by means of a universal, legal instrument."

Whether the P-5 agree to keep such language in the final document could very well determine whether or not a large bloc of countries are willing to support the final outcome.

2. Regional Issues: For weeks, the P-5 led by the United States and the Arab States, led by Egypt, have been working in good faith to achieve agreement on practical next steps toward a **WMD-free zone in the Middle East**. The May 21 draft report out of Subsidiary Body 2:

- recognizes the critical importance of the 1995 Resolution on the Middle East
- notes the P-5 statement's commitment to its full implementation, and regrets there has been so little progress.

The draft endorses:

- an "initial conference" in 2012 convened by the UN Secretary-General and involving all

states in the Middle East, “leading to 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

- a Special Coordinator with a mandate to facilitate implementation of the 1995 Resolution, conduct consultations and undertake preparations for the Conference and, importantly, “follow-on steps,” with reports to be provided to NPT states parties at the 2012, 2013 and 2014 PrepComs.

Whether this language will be supported by key parties this week remains to be seen, but it appears to be a very good attempt to address the views of key parties. I would underscore that Israel is on record in support of the pursuit of a WMD-free zone in the region and, according to my sources, would support a conference in the near term to discuss, but not negotiate on the issue, with future meetings to be scheduled via agreement amongst all parties, as outlined in the current NPT RevCon draft language.

For the sake of the conference and the credibility of the NPT itself, Egypt needs to be able, and willing, to deliver a tangible result. For the United States and others, winning the support for Egypt and the NAM states on this issue is important to making it clear that Iran is outside the NPT mainstream. All sides must go the extra mile on this issue, which appears resolvable.

On **North Korea**, the draft condemn North Korea’s 2006 and 2009 nuclear tests and give “firm support” to the Six Party Talks, to resolve nuclear problems “through diplomatic means.” North Korea is urged to fulfill its commitments, including completely and verifiably abandoning all its nuclear weapons “and existing nuclear programmes,” and to “return, at an early date,” to the NPT and IAEA safeguards.

The draft also urges **India and Pakistan** to accede to the NPT as non-nuclear weapons states and urges both states to “strengthen their non-proliferation export control measures over technologies, material and equipment that can be used for the production of nuclear weapons and their delivery systems.”

Though a number of delegates have complained that the **Indian exemption from NSG nuclear cooperation guidelines** has weakened the NSG and undermined the NPT, criticism at the RevCon has been generally muted. A number of states have proposed language that “existing or new supply arrangements for the transfer of source or special fissionable material or equipment or material especially designed or prepared for the processing, use or production of special fissionable material should require, as a necessary precondition, acceptance of IAEA full scope safeguards and international legally binding commitments not to acquire nuclear weapons or other nuclear explosive devices.”

That language will likely be contested by the major supplier states because it is a direct criticism of the exemption from nuclear trade guidelines that was granted to India, which does not have a Comprehensive Safeguards Agreement.

The chief concern among many states is that there should not be further exemption for Pakistan and Israel. To counter the impression that a further erosion of the nonproliferation system is on the way, it is important that the United States publicly protest the proposed **Chinese sale of two light-water reactors to Pakistan** as a violation of NSG guidelines at the June NSG meeting in Wellington.

3. Peaceful Nuclear Uses, Safeguards, and Treaty Withdrawal: there appears to be an emerging consensus on several other controversial but important issues.

Iran’s safeguards transgressions and the ongoing investigation of Syrian nuclear activities by the IAEA have highlighted once again the importance of strengthening safeguards. While the vast majority of NPT States Parties have Comprehensive Safeguards Agreements with the IAEA, many have not adopted the Additional Protocol to their safeguards agreements, which would give the IAEA important additional authority to investigate undeclared nuclear activities.

While many Western countries support the Additional Protocol as the verification standard, developing states generally oppose making it a legally-binding obligation. The 2010 RevCon will not close such divergent views, but it will likely recognize the additional protocol as the new standard for safeguards and encourage all States parties to conclude additional protocols and to bring them into force as soon as possible.

North Korea's declared but unrecognized withdrawal from the NPT in 2003 highlights that countries can acquire technologies that bring them to the very brink of nuclear weapons capability without violating the treaty and can leave the treaty without automatic penalties. In the years ahead, others such as Iran may be tempted to follow. NPT members have a common interest in ensuring that noncompliance comes with consequences.

The 2010 NPT RevCon will likely "underscore" that "under international law a withdrawing party is still liable for breaches of the Treaty that occurred prior to withdrawal" and that "nuclear material, equipment and technology acquired by States for peaceful purposes prior to withdrawal must remain subject to peaceful use under the IAEA safeguards even after withdrawal."

Conclusions: States should aim for consensus. It is achievable. Remaining issues appear to be resolvable in the final week. However, neither the United States nor other states should or can afford to introduce new issues or rigid counterproposals into the mix.

Maneuvers that demonstrate that a supermajority supports an outcome document risk creating long term resentments, and should only be considered as a last resort if there is only a small handful of states unhappy with relatively minor or purely national issues. Such an effort would backfire if attempted to overcome disagreements over a fundamental concern shared by dozens of NPT parties.

President Obama needs to be involved and I expect he will be personally engaged in the final days of NPT RevCon diplomacy. The President's personal interventions with key leaders on key issues could help make a difference.

The stakes are high for U.S. national security and for the health of the non-proliferation regime. President Obama's substantial leadership this past 15 months on reducing the threat of nuclear weapons proliferation and use has already made this NPT RevCon more positive and fruitful.

Delegations need clear instructions to get the job done and not allow extraneous political agendas or minor interpretations to get in the way of a broader consensus. All sides must go the extra mile to strengthen and update the NPT system at this critical juncture.

We will see what happens in less than five days. Thank you.

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