

## **ISSUE BRIEF**

# THE NPT REVIEW PROCESS: Time to Try Something New

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# **The NPT Review Process: Time to Try Something New**

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The current review process of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) is unsatisfactory. It produces high drama and intense diplomatic activity, but rarely contributes to the strengthening of the NPT regime. All NPT parties are frustrated with it. It is time to consider a better way.

### *At What Cost Consensus?*

From the very first Review Conference (Revcon) in 1975, and at every Revcon since, delegates have sought to produce a consensus final document that comprehensively assessed the past record of implementation and recommended means of strengthening the treaty and the broader nonproliferation regime for the future.

From the outset, Revcons were contentious affairs. While the parties strongly supported the treaty's three central goals—promoting nuclear disarmament, preventing nuclear proliferation, and facilitating the peaceful uses of nuclear energy—they differed on priorities and the means of advancing those goals. At most Revcons, consensus was possible on many, even most, of the issues, but sharp differences often surfaced on other issues.

As a result, a comprehensive, consensus final document did not prove achievable at roughly half of the nine Revcons held to date. In the public mind, and even in the minds of the governments involved, a Revcon resulting in a consensus final document was a success; one without such a result was a failure.

But such a “success” was often not really a success, and such a “failure” was often not really a failure.

Consensus final documents in the past have sometimes contained important initiatives that strengthened the nonproliferation regime. But too often consensus was achieved, not by forging genuine substantive compromises, but by finding clever diplomatic formulations that papered over unresolved differences. Moreover, “consensus” could be misleading; delegations frequently had objections to provisions included in a consensus text but decided not to bear the onus of blocking consensus, knowing full well that such provisions could later be ignored—as they frequently were—with impunity. The cost of consensus has often been a watered-down document with little prospect of having a real-world impact after the four-week conference concluded.

On the other hand, the absence of a final consensus document has not meant that tangible progress was not made. Recommendations put forward and widely supported at Revcons where no final document was reached have later become key elements of the global

nonproliferation regime. It is not the Revcons themselves that operationalize and implement such recommendations, but specialized international bodies such as the International Atomic Energy Agency Board of Governors, the Nuclear Suppliers Group, the 1540 Committee, and the Conference on Disarmament as well as national policy making and executive authorities. The likelihood of these specialized entities putting Revcon recommendations into practice has little to do with whether they were contained in a consensus document.

Not only is the value of producing a consensus final document overrated, but the costs of trying to achieve such an outcome are great. With nothing agreed unless everything is agreed, the energy of the Revcon inevitably gets absorbed in trying to negotiate acceptable language on a small number of the most divisive issues. This has meant countless hours of closed-door, often-futile wordsmithing at the expense of what the Revcon should be doing—assessing the implementation of the NPT, discussing the impact of current international and technological developments on the nonproliferation regime, and debating proposals for reinforcing and improving it.

It is not just the requirement for consensus that is the problem. It is also the practice of trying to produce a comprehensive document covering every conceivable issue. Obviously, that compounds the difficulty of achieving a consensus. But it also results in very lengthy documents—on the order of twenty or more single-spaced pages with upwards of 200 paragraphs. Invariably, consensus formulations from previous Revcon documents are incorporated, usually verbatim and without an appreciation of the particular contexts in which those formulations were adopted.

So, when a Revcon “succeeds,” it produces a mind-numbing document that is utterly unintelligible to the public or even to government officials outside the “nonproliferation community.” It takes a real insider to figure out what is new and important. The media are at the mercy of the spin they receive from government briefers. It is no wonder news reporters have fallen into the habit of simply writing that a conference succeeded when it produced a document and failed when it didn’t.

#### *A Different Kind of Report*

NPT parties should try something new in 2020. They should decide not to make their goal the achievement of a comprehensive, consensus final document.

The 2020 Revcon should still produce a report, but it should be a different kind of report. As in previous Revcons, the first portion of the report should assess the record of NPT implementation to date. Much of it will be factual and/or uncontroversial and will be expressed as the common view of the parties. Where differences exist on the implementation record, they should be acknowledged and clearly stated.

The report should also accurately summarize discussions in the preparatory committee meetings and the Revcon itself on current international and technological developments that affect the health of the global nonproliferation regime.

A key portion of the report should be forward-looking, covering recommendations for strengthening the NPT and the nonproliferation regime in general. Revcon deliberations, including arguments both for and against these recommendations, would be summarized in the report. Individual recommendations and proposals enjoying consensus support among the parties would be given pride of place in the report, but those not achieving consensus would also be addressed.

Specific recommendations and proposals, whether or not they enjoy consensus, would be appended to the report, together with lists of parties that supported them. There would be no resolutions and no voting. But the lists of parties favoring particular recommendations would indicate how much support they received.

The report would provide a highly informative record of Revcon deliberations, but it would not try, as earlier final documents did, to cover every issue under the sun, whether or not it had been a factor at the current Revcon. The report and its appendices would be available to parties as they sought, in the wake of the Revcon, to follow up on their recommendations in various international bodies and with national governments. The report would provide a broad menu of concrete approaches on which to draw.

Unlike in the case of a comprehensive, consensus final document, the recommendations in the report would not need to be watered-down to gain a consensus or simply omitted because they did not achieve a consensus. Regardless of how much support they attracted, they could find their way into the report, and they could be expressed as their sponsors preferred. Of course, the recommendations and proposals contained in the report would not in all cases be undiluted, original offerings. The originators of the ideas may well decide to modify them in order to achieve wider support. But they would not be driven to water down or otherwise modify their recommendations by the requirement for consensus.

#### *More Time, More Substance, More Transparency*

A major benefit of making such a report the key written product of the Revcon—and avoiding the near-total preoccupation of delegates with negotiating a comprehensive, consensus document—is that it would free up most of the Revcon's time for doing what Revcons are supposed to do. Time could be allocated not just to reviewing the past record of implementation but also to discussing current international developments (e.g., the implementation of the Joint Comprehensive Plan of Action with Iran, the implications of North Korea's nuclear and missile programs) and current technological developments (e.g., 3D printing, laser isotope enrichment, new verification technologies) that bear on nonproliferation. Time could also be allocated to structured discussions of specific recommendations for strengthening the regime.

In previous Revcons, a number of delegations have objected to the critical work of the conference being carried out in closed-door meetings with only a small number of governments represented, the results of which are not widely known or clearly understood before delegations are asked to join what may be a very murky consensus. By eliminating

the requirement for consensus, the approach recommended here avoids the need for exclusive, secretive, eleventh-hour negotiations and enables the process to be more inclusive and transparent.

### *The False Leverage of Consensus*

Some governments will be reluctant to abandon the “nothing is agreed until everything is agreed” approach because they think it gives them leverage to achieve the Revcon results they desire. For example, a number of non-nuclear weapon states believe that the requirement for consensus helps them hold the nuclear weapon states’ “feet to the fire” on nuclear disarmament. They assume that the nuclear weapon states would make concessions and undertake commitments on nuclear disarmament that they would not otherwise make in order to have a consensus final document.

But such an assumption is not realistic and is not borne out by the record, either on nuclear disarmament issues or on other matters that have been contentious at Revcons. Sure, the nuclear weapon states or other groups of NPT parties would like to see a successful Revcon. But they have not compromised—and in the future will not compromise—what they regard as their national security or other core interests for the sake of a consensus conference outcome. It might be different if the failure to achieve a consensus final document were seen as highly damaging to their interests. But Revcons have “failed” half the time, and the sky has not fallen.

Often Revcons have produced results—on nuclear disarmament or other issues—that met the insistent and sometimes long-standing demands of a large number of parties. But such outcomes were not the product of intense pressures brought to bear by the requirement for consensus. Rather, they were produced because the parties called upon to make concessions (usually the nuclear weapon states) had come to the conclusion, independent of Revcon dynamics, that their national interests were compatible with the demands put forward by other parties. It wasn’t necessary to hold their feet to the fire.

If an effort to hold someone’s feet to the fire fails and the result is no final document, then the delegation seeking to exert leverage has achieved very little. Its proposal has not been given a boost by incorporation in a formal written outcome, and the delegation may even be blamed for holding the Revcon hostage. The approach suggested here allows that delegation or group of delegations to include their proposal in the Revcon’s report even if it cannot gain a consensus. And, by listing supporters, it allows them to publicly demonstrate wide approval—an outcome much more supportive of their initiative than a futile attempt to get everyone on board.

Another reason some governments may be reluctant to abandon the all-or-nothing approach is that they may prefer no conference document to one that includes proposals they strongly oppose, even if it were made clear that those proposals did not enjoy a consensus. So, for example, some nuclear weapon states might not wish to see a proposal to outlaw nuclear weapons included in the final report, especially if it were included with a large list of supporters.

But it is not clear why recording such non-consensus proposals in the conference report should be viewed as problematic. After all, such proposals—and support for them—exist. Simply noting them in the report would hardly increase the likelihood of their success; nor would denying them inclusion in any report through failure to achieve an all-or-nothing final consensus make them go away.

Moreover, the dubious benefits of preventing certain proposals from appearing in a final Revcon report are outweighed by the demonstrable costs of continuing an all-or-nothing approach that has made Revcons unproductive and unsuited to strengthening the NPT regime.

### *The Parties' Choice*

Inertia will undoubtedly be an impediment to adopting the approach suggested here. All previous Review Conferences have tried to produce comprehensive, final documents; the path of least resistance for 2020 is simply to try again. After all, diplomats tend to be creatures of habit, and delegates who have attended previous Revcons are accustomed to operating in the customary way. Moreover, reforms to strengthen the review process have already been undertaken, especially at the 1995 Revcon, and it may be argued that those are sufficient, perhaps with some minor modifications.

But no one can persuasively argue that the current approach is serving the interests of the parties or the NPT regime. And tinkering around the edges—establishing different working bodies, adjusting the duration of meetings, selecting chairs differently, and so on—will not address the basic problem: that a comprehensive, consensus final document is the objective of the conference.

The text of the NPT provides for review conferences but does not mandate how they will be conducted. The parties can decide at any point to try something new. It is time that they did.

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