

Interview

Ambassador Henrik Salander on the 2002 NPT Preparatory Committee

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BACKGROUND

The first session of the Preparatory Committee (PrepCom) for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was held at United Nations headquarters from April 8-19, 2002, under the chairmanship of the representative of the Western and Other States Group, Ambassador Henrik Salander (Permanent Representative of Sweden to the Conference on Disarmament (CD)). Ambassador Salander headed the Swedish delegation to the 2000 NPT Review Conference, in which Sweden, as a member of the New Agenda Coalition,² played a key role in achieving the adoption of a Final Document by consensus. He thus brought considerable experience, credibility and negotiating skills to his chairmanship.

The 2002 PrepCom session was the first of at least three sessions leading up to the 2005 NPT Review Conference. The 2002 PrepCom meeting provided the first opportunity to implement and test the effectiveness of an agreement made at the 2000 NPT Review Conference to enhance the strengthened review process for the treaty, originally agreed at the 1995 Review and Extension Conference. The Final Document of the 2000 Review Conference *inter alia* included an unequivocal undertaking to the total elimination of nuclear weapons as one of an agreed set of practical steps for further progress in nuclear disarmament and nuclear nonproliferation, along with

measures to further enhance the strengthened review process. Comprising more than 150 paragraphs and covering all aspects of the NPT, as well as certain regional issues (including the Middle East and South Asia), and the strengthened NPT review process, the 2000 Final Document represented the latest collective word of the 187 NPT states regarding legally or politically binding guidelines for the future implementation of the NPT and the conduct of the strengthened NPT review process. Coming in the aftermath of the body blows delivered to the NPT regime by the South Asian nuclear tests of 1998, and the 1999 decision of the U.S. Senate not to give its advice and consent to ratification of the Comprehensive Test Ban Treaty (CTBT), the 2000 Final Document was regarded as a renewed commitment to and a vote of confidence for the continuing vitality of the world's pre-eminent nuclear non-proliferation and disarmament norm.

Clarification of the purposes of the Preparatory Committee³ occupied much of the time of the PrepCom participants. The 2000 Review Conference had reaffirmed, clarified, and enhanced the mandate of the PrepCom as set out in the decision from the 1995 NPT Review and Extension Conference. The 2000 Review Conference specified that the first two sessions of the PrepCom (starting in 2002), as well as its following sessions, should consider: specific matters of substance relating to the implementation of the NPT and of the 1995 Review and Extension Conference decisions, as well as the Resolu-

tion on the Middle East adopted there; the outcomes of subsequent Review Conferences; and developments affecting the operation and purposes of the treaty.⁴

According to the 2000 Review Conference Final Document, the 2002 PrepCom deliberations were to be factually summarized and the results transmitted in a report to the next PrepCom session for further discussion. The same process is to be followed at the second PrepCom session. At its third, or as appropriate fourth session, the PrepCom, taking into account the deliberations and results of its previous sessions, is to make every effort to produce a consensus report containing recommendations to the 2005 Review Conference.

Furthermore, the 2000 Final Document⁵ required consideration of reports by all States Parties on the implementation of Article VI (nuclear disarmament) and related measures contained in the “Principles and Objectives” adopted at the 1995 Review and Extension Conference. These regular reports within the framework of the strengthened NPT review process logically would be considered by the PrepCom and by the 2005 Review Conference. The 2000 Final Document⁶ also called upon the PrepCom and the 2005 Review Conference to consider reports on the steps undertaken by States Parties to promote the achievement of a Middle East zone free of nuclear weapons as well as of other weapons of mass destruction and the realization of the 1995 Middle East Resolution. These reporting requirements, rather unexpectedly, became a major matter of contention at the 2002 PrepCom, at one stage even threatening to scuttle the entire meeting.

Outcome of the 2002 PrepCom

The first session of the PrepCom for the 2005 NPT Review Conference was attended by 140 of the current 187 States Parties. Cuba, a non-State Party, seven inter-governmental organizations, and 62 non-governmental organizations (NGOs) attended the open meetings of the PrepCom. Ms. Hannelore Hoppe (Chief, Weapons of Mass Destruction Branch, Department for Disarmament Affairs, United Nations) served as Secretary of the PrepCom. Among the procedural decisions taken, it was decided that the second session of the PrepCom would be held in Geneva from April 28 to May 9, 2003; the third session would be held in New York from April 26 to May 7, 2004; and the provisional dates for the Review Conference in New York would be May 2 to 27, 2005. Am-

bassador László Molnar (Permanent Representative of Hungary to the United Nations), representing the Group of East European States, was unanimously selected as the chairman of the 2003 PrepCom. The chairman of the third session and the president of the 2005 Review Conference would be nominated by the Non-Aligned Movement (NAM) States.

Following two days of general debate comprising opening statements, the PrepCom held a total of 11 meetings for substantive discussion.⁷ The substantive discussion was structured according to an indicative timetable, which provided equal time for the consideration of three clusters of issues and three specific blocks of issues.

The pattern for the following three clusters of issues was developed at previous review conferences, where the substantive issues are divided into three main committees addressing:⁸ (a) Implementation of the provisions of the treaty relating to nonproliferation of nuclear weapons, disarmament, and international peace and security; (b) implementation of the provisions of the treaty relating to nonproliferation of nuclear weapons, safeguards, and nuclear-weapon-free zones; and (c) implementation of the provisions of the treaty relating to the inalienable right of all parties to the treaty to develop research, production and use of nuclear energy for peaceful purposes, without discrimination and in conformity with Articles I and II. At the PrepCom, these issues were discussed by the plenary, as were three more specific blocks of issues: (a) implementation of nuclear disarmament;⁹ (b) regional issues, in particular with respect to the Middle East and implementation of the 1995 Resolution on the Middle East;¹⁰ and (c) safety and security of peaceful nuclear programs.

The indicative timetable originally proposed by the chairman set aside a block of time for the consideration of disarmament and regional issues that included discussion of the reports that were mandated in the 2000 NPT Final Document. Both the United States and France strongly objected to the allocation of a specific bloc of time for discussing reports¹¹ and refused to accept any reference to “reports” in the indicative timetable, claiming that the 2000 Final Document did not explicitly state that the PrepCom should consider reports. Underlying this concern was the desire to avoid a rancorous debate over U.S. actions since 1998, including U.S. Senate rejection of the CTBT and the Bush administration’s declared opposition to that treaty, as well as the U.S. withdrawal from the Anti-Ballistic Missile (ABM) Treaty. This deadlock on the

issue of reports continued throughout the first week of the PrepCom and was only resolved when the chairman agreed to delete any specific reference to reports on the understanding that States Parties were free to present their reports. In connection with the indicative timetable, the chairman made the following statement: “Nothing in the indicative timetable of which we have just taken note alters the status of the Final Document of the 2000 NPT Review Conference.”¹²

Given the terrorist attacks in the United States in September 2001, States Parties were reluctant to criticize strongly the United States, and by extension the other nuclear weapon states, for their failure to implement elements of the “13-practical steps” toward nuclear disarmament agreed at the 2000 Review Conference.¹³ Several States Parties addressed the issue of reporting and presented their reports on nuclear disarmament and on the implementation of the 1995 Resolution on the Middle East. Canada proposed inter-sessional work prior to the next PrepCom meeting on reporting, and a meeting on this subject is likely to be held soon in Geneva.

The issue of tactical nuclear weapons was taken up by a number of states, who called for negotiated legally binding limits on this class of nuclear weapon, which are currently not subject to any formal or negotiated restraints. The matter of restoration of compliance with the treaty by DPRK and Iraq was raised by many States Parties. In an “Informational Session”—an innovation introduced by the chairman—the International Atomic Energy Agency (IAEA), in addition to its usual statement on safeguards, made two additional statements at the request of the chairman, on the evolution of its strengthened safeguards system and on the security and safety of nuclear material. The informational sessions could serve a useful purpose at future sessions of the PrepCom, as these could provide a relatively non-controversial venue for reviewing certain substantive matters.

The chairman prepared a factual summary¹⁴ of the committee’s consideration of the issues, which was contained in Annex II to the Report of the 2002 PrepCom. (The summary is reprinted as an appendix to this article.) Ambassador Salander produced the Chairman’s Factual Summary under his own responsibility, and its content was not open for negotiation or change. This document comprises 37 paragraphs of text capturing the chairman’s factual distillation of the views expressed by States Parties on a number of substantive matters, including nuclear

nonproliferation, nuclear disarmament, safeguards, export controls, nuclear-weapon-free zones, regional issues (DPRK, Iraq, South Asia and the Middle East), strengthened physical protection of nuclear material, and reporting.

Following the presentation of the factual report, several States Parties voiced their concern that the report did not accurately or comprehensively capture either their respective positions or the range of views expressed during the PrepCom. However, no State Party objected to the factual summary being annexed to the PrepCom report. How the second session of PrepCom will deal with the 2002 factual summary remains an open question.

The following interview was completed at a workshop on assessing the 2002 PrepCom session organized by the Monterey Institute Center for Nonproliferation Studies, in Annecy, France, on July 14-15, 2002. Comments in brackets below were added by the editor and did not appear in Ambassador Salander’s replies.

PREPARATIONS AND EXPECTATIONS

NPR: During the period between your nomination as 2002 NPT Preparatory Committee Chairman designate and the start of the 2002 NPT PrepCom, what preparations and consultations did you undertake? What messages, for example, did you convey and what advice or recommendations were given to you during your extensive consultations?

Salander: Since my nomination in November 2001, I undertook quite a number of consultations. I had around 75 meetings of different kinds from January to April 2002, most of them in Geneva and New York but also in several capitals. Earlier, during November-December 2001, I had conducted informal discussions in Geneva and New York, but delegations and capitals did not really focus on the upcoming PrepCom until after the start of 2002.

The discussions principally centered on the changes in the review process decided in 2000, and how to implement them most effectively. The topics recurring most often in these discussions were the process of shaping the PrepCom outcome and the nature of that outcome, the program of work (i.e., the allocation of time for different issues during the two-week long PrepCom), and how to address the reporting requirements decided by consensus in 2000.

My messages during these consultations were originally of a general and fairly self-evident nature. I enumerated all the problems States Parties had to solve under my guidance, such as: the product or outcome of the PrepCom; the balance between different demands regarding the work program; the role of NGO's; etc. Later in the process, when I had started to form my own opinions about how to conduct the work of the PrepCom, I gave more focused and concrete messages. These pertained to my plans about how I would prepare the factual summary on my own responsibility, how I would allocate time among different topics during the PrepCom, etc. I received advice that was generally converging, and I think the consultations in general went quite well. The problems that came later were of such a nature that they had to be solved directly between States Parties, but under my guidance of course. These problems could not have been resolved solely through my bilateral consultations, but required political compromises between the parties directly concerned.

NPR: What were your initial expectations about the outcome of the PrepCom? Were these expectations met, and if so, why and how were they met? If they were not met, what accounts for the discrepancy?

Salander: My overall expectations, in an optimistic scenario, were to be able to craft a Chairman's Factual Summary and to get it accepted in some way or another by the PrepCom. Since that is what transpired, I must say that my expectations were met in a general way. On the other hand, one never knows beforehand what will happen in such processes, and I was mentally prepared for a much rougher ride—even though it was difficult enough as it was. I am pleased that the PrepCom ended with a result and not a breakdown, which many thought was a real risk. What I did not expect was the prolonged controversy over the definition, in the program of work, of the time segments allowing discussion of States Parties' reports (see more below). Thus, on the whole, my initial expectations were generally met.

NPR: What, if any, surprises were there with respect to the issues that were or were not raised at the Prep Com?

Salander: With one exception (i.e., the issue of reporting), there were no really big surprises. Compliance came up somewhat less than I had expected, whereas the reporting issue in the timetable took more time than foreseen. Also tactical weapons became an issue that was the

focus of greater discussion than I had anticipated. On the other hand, the Middle East received less attention at the PrepCom than was expected, and it did not affect the process as much as was anticipated. In addition, the issue of negative security assurances generated less discussion than I had expected.

NPR: What international and U.S. domestic political developments prior to the PrepCom affected its atmosphere and outcome?

Salander: Of course September 11th was the first and foremost issue affecting the PrepCom in that States Parties were much less ready to press the United States on sensitive issues such as its withdrawal from the ABM Treaty, reluctance to ratify the CTBT and other aspects of the administration's perceived "unilateralist approach." The sympathy for the United States was genuinely felt and expressed by many States Parties. September 11th obviously had a profound impact on U.S. policy as well. The developments in the Middle East also played a role, as did the debates in the United States and internationally about the future of missile defense. The U.S. Nuclear Posture Review and its implications for U.S. nuclear weapons policy also cast a shadow over the meeting.

PROCEDURAL ISSUES

NPR: What procedural issues remained to be resolved prior to the start of the PrepCom?

Salander: None, really. I thought I had secured agreement on the program of work when I arrived in New York a week in advance of the PrepCom, and there was very nearly a consensus that a chair's summary should be issued on his own responsibility rather than to be negotiated among States Parties. During the last few days before the PrepCom, however, it became apparent that there was not agreement on how the time allocated for disarmament and regional issues should be defined in terms of the discussion of "reports" provided for under those two blocs of time.

NPR: Many delegations were surprised by the intensity of the behind the scenes debate over your proposed indicative timetable. Can you provide some background on how and why the issue emerged? To what extent was it principally a procedural matter or did it reflect a deeper divide over substantive issues including the nature of the strengthened review process? What other steps were you prepared to consider

if it had proved impossible to resolve the issue of the indicative timetable by Monday, April 15?

Salander: The proposed timetable was my own effort to achieve a compromise between proposals that were mutually exclusive. I thought that I had reached a compromise between those wanting special time allocated for discussion of reports and those not wanting any such discussion. Then, a couple of nuclear weapon states [the United States and France] objected to the use of the word “reports” in the indicative timetable. In order to keep the PrepCom working on track, I arranged behind the scenes negotiations on the timetable and how the reporting segment would be defined. The deadline for the resolution of the timetable problem that I set for Monday, April 15, was somewhat arbitrary. But it gave delegations the weekend to sort out their problems. I expected to have alternatives to suspending the meeting proposed to me by delegations by Monday morning, in the event a timetable could not be agreed upon.

NPR: How did you manage the process of consultations with key delegations in the absence of an informally constituted “friends of the chair”? Did you ever feel the need for such a mechanism, as was employed in the past by some Review Conference presidents and Prep Com chairs? Why did you decide not to utilize that kind of a body?

Salander: I consulted widely and on an on-going basis. I had decided early on not to set up a “friends of the chair” group or formal chair’s consultations. Many delegations feel that they are locked out in such an arrangement [as necessarily such groups in the past have included between 22 to 35 states] and they do not accept or like that approach. In fact, I did not really feel such a need, because I had relied heavily upon my own delegation and its wide-ranging contacts to engage in informal behind the scenes discussions on matters of interest. I also delegated the discussions on the resolution of time-table problem to the Canadian and Belgian Ambassadors when I did not have enough time myself. [Normally, the chair of a PrepCom can delegate such work to the vice-chairs, but this is not possible at the first session as the vice-chairs have not been selected.] Had the chair’s summary been opened for negotiation, it would have to have been in an open-ended format [where all interested States Parties can have their say]. Since the factual summary was issued on my own responsibility, I showed only a few paragraphs to a very few key delegations in order to enhance their confidence

in the process and to facilitate the “anchoring” of the summary into the report of the PrepCom.

NPR: You took a very firm line on the nature of the “chair’s factual summary” and its relationship to the report of the PrepCom. What led you to the approach you adopted? Did you ever seriously consider attempting to produce a negotiated factual summary and was their much support for that approach? What resistance did you meet in implementing your approach and how did you overcome it?

Salander: Further to my response to the previous question, I might add that about halfway into my consultations, I came to the conclusion that I should not attempt to “negotiate” the factual summary. Any such negotiation would in fact probably have been against the intention of the decision taken in 2000 on improving the effectiveness of the strengthened review process for the Treaty. Fortunately, I did not meet much resistance to my approach, but I also remained quite firm and confident regarding my conclusion not to engage in negotiation of the factual summary. In the final analysis, everybody seemed to agree that this was the best way forward.

The “anchoring” of the text took place during only a few hours over cups of coffee, at the very end in the margin of meetings. Once one goes beyond that, one is into a negotiation. I believed that I had to do this kind of “anchoring”, that is, building some degree of support for the summary, but I am completely aware that this was a somewhat problematic approach and I am not sure that it could be repeated another time [e.g., at the next session of the PrepCom].

About halfway into my consultations, say six to seven weeks before the PrepCom, I became convinced that I would invite enormous trouble in trying to negotiate a factual summary. The incentive to conclude negotiations would not have been there [as States Parties probably would have found it difficult to compromise under the prevailing international conditions]. We would have left with piles of unfinished papers [as in 1997 and 1998], and we would probably have had much less time for exchanges on matters of substance. Also, the drafting of the improvements in the strengthened review process in 2000 made it rather clear, I believe, that negotiation on a factual summary was to be avoided that early in the process [i.e. at the first two sessions of the PrepCom].

Regarding the “status” of the factual summary, once it became clear that it would be a chairman’s summary, I

noticed rather late in my consultations that this would invite another kind of negotiation if I were to open a discussion about its formal link to the Report of the PrepCom. Proposals were given to me that the PrepCom ought to “take note of” or even “welcome” the factual summary, but I decided to establish the summary as a practical fact; on the floor of the PrepCom, so to say, and to play down the formal links to the report (which is now only a simple reference to the relevant paragraph from the 2000 Final Document). Once I announced that the factual summary would simply be annexed to the Report, the debate on this issue died down. So, I think my strategy succeeded, although it is also possible to argue that the summary lacks formal “status.” On the other hand again, it is not its formal status that will decide if it will be useful next year, and thereafter, or not.

NPR: How do you envisage the “factual summary” from the 2002 session to be factored into the work of the 2003 session?

Salander: Well, that is the big unknown. The factual summary gives a snapshot of the situation regarding the implementation of the treaty and the outcomes of the 1995 and 2000 NPT conferences and it provides guidelines to the issues on the table. It is definitely not the start of a negotiated product. It may be of some use as a description of the difficulties that will have to be overcome prior to the 2005 Review Conference. The Chairman’s Factual Summary registers the pulse of the treaty’s status and its well-being. In this sense, it constitutes a building block for the Final Report of the PrepCom to the 2005 NPT Review Conference.

NPR: Prior to the PrepCom, the United States indicated its desire to have time allotted for “informational sessions.” How did you address this request?

Salander: There was skepticism toward that proposal from a number of countries. I tried to direct the idea toward what later became the two presentations by the IAEA, both of which were very well received by delegations.

NPR: Were you content with the degree of transparency maintained during the PrepCom? Could it have been increased without jeopardizing the outcome of your deliberations?

Salander: One always wants better and more transparency, and rightly so. I cannot really be content, but at the same time, I could not have done much more than I did. The discussions on the timetable involved only few coun-

tries and could not have been handled very differently. As I have said, the “anchoring” of my factual summary extended over only a few hours in the margin of the meetings and over a few cups of coffee. Once one goes beyond that one is into a negotiation, and that was nobody’s intention at that time.

NPR: It has now become tradition for NGOs to reserve one morning or afternoon for NGO presentations. Do you believe it is desirable or feasible to expand NGO access to the Rev Con/PrepCom deliberation process?

Salander: I myself personally, and of course Sweden, support broader NGO access. There is some resistance among States Parties, but in fact somewhat less than I had expected. In a couple of years’ time, it might be more a question of practicality.

NPR: You were blessed with a very able delegation to assist you in your work. Are the established practices of the NPT review process, especially as they pertain to the PrepCom, adequate to the tasks faced by the chair? What, if any, changes would you recommend with respect to established practices that might enhance the work of the committee/conference (e.g., the financing formula, rules of procedure, and the absence of an intersessional secretariat)?

Salander: It is definitely a big drawback for the first chair not to have the two others to work with. Continuity is extremely important, and the three need to work as a team all through the process. Perhaps States Parties should also discuss some arrangement that takes care of travel costs and certain logistics in connection with the consultation process. [This point has also been made by Ambassador Jayantha Dhanapala and Ambassador Abdallah Baali, respectively presidents of the 1995 and 2000 NPT Conferences, but States Parties have remained reluctant to consider additional funding or support mechanisms.] The question of an intersessional secretariat is of course controversial, but it should be possible to set up some simple arrangements.

POLITICAL GROUPINGS

NPR: Do the traditional political groupings (Western Group, Eastern Group, and the Non-Aligned Movement) still fulfill useful functions? How did these groupings contribute to the work of the PrepCom and how or in what way did they facilitate a positive outcome?

Salander: No, they are not very useful any longer, and they did not contribute as groups to the outcome of the PrepCom. The Western Group and the NAM fulfill a certain function, however, in the sense that members can apply some pressure on other members, and allies can put some pressure on other allies. The line of division now goes more along nuclear-weapon and non-nuclear weapon States (NWS/NNWS), but I believe that should not be more institutionalized than it already is.

NPR: Does the Eastern Bloc play a role other than the selecting of a candidate for the chairmanship of the second session of the PrepCom?

Salander: Not much before and during this PrepCom.

NPR: The New Agenda Coalition (NAC) was widely regarded as playing a vital role at the 2000 NPT Review Conference. Did it play a similar or different role at the 2002 PrepCom?

Salander: The situations were very different. At the 2000 NPT Review Conference there was a negotiation between the five NWS and the NAC, whereas there were no such negotiations at the PrepCom. The NAC did play an important role at the PrepCom, in their substantive input and also with their constructive participation, as individual delegations, and in the discussions about the program of work.

NPR: A number of NAC members who traditionally have been major exponents of disarmament during the NPT review process, were conspicuous by their silence during the cluster debate. What factors may account for their reserved behavior? Does the existence of a political grouping such as NAC affect significantly the assertiveness of national delegations?

Salander: You will have to ask individual delegations. But normally the NAC position constitutes a framework and individual members can take the floor and expand on that, which also happened to some extent. But probably most members thought that the position papers from NAC adequately reflected their positions up until the second PrepCom. As Chair, I had hoped for more interactive exchanges.

NPR: Did you meet with the five NWS as a group during the Prep Com and/or with the NAC?

Salander: No, I met with neither as a group. I also discontinued my work as Swedish ambassador within the NAC a couple of months before the PrepCom, in order not to mix the different roles. A couple of times I had joint

meetings on the timetable problem with the NWS and some others, including some NAC members.

ASSESSMENT

NPR: What were the important turning points in the PrepCom, other than the adoption of the indicative timetable, that made possible the smooth outcome?

Salander: There was quite a lively debate on how to formally “anchor” the factual summary on to the Report of the PrepCom. But once I made clear that I would just annex it, those who had wanted it to be “taken note of” or even “welcomed”, accepted my decision. Otherwise, we would have had a separate negotiation only on that. And, shortly before the PrepCom, there was general acceptance of the concept of the chair’s responsibility for the factual summary, which was also important.

NPR: What were the most consequential new issues that received attention at the PrepCom?

Salander: The issues which in my view made the most headway at the PrepCom were tactical nuclear weapons and reporting. Tactical nuclear weapons were mentioned for the first time in a consensus document at the 2000 NPT Review Conference. At the PrepCom, a large number of countries endorsed the 2000 Final Document and moved the issue forward. These countries had different affiliations in terms of security policy—they were European Union members, NATO members, members of NAC and others. It was positive that some nuclear weapon states showed engagement on this issue as well. The Russian statements which demonstrated a willingness to discuss the issue in the NPT context were perhaps the most noteworthy.

Second, reporting on Article VI was first mentioned in a consensus document at the 2000 NPT Review Conference. Reporting was an issue that many states parties wanted to discuss at the PrepCom. Since the aforementioned controversy developed, there was much more focus on the reporting issue than had been expected. In total, eighteen interventions were made on the issue during the cluster and special time debates. The different proposals put forward at this PrepCom will help develop effective and useful reporting. The delegation of Canada’s proposal for intersessional work in the form of open-ended consultations to take place in the period leading up to the next PrepCom and subsequently up to the 2005 Review Conference, was supported by many countries. It is clear that reporting from now on will be high up on the agenda.

NPR: Some participants observed that the PrepCom had a surreal quality in that some of the potentially more contentious issues such as compliance, implementation of disarmament commitments, and evolving nuclear weapons postures did not figure prominently in the cluster debate. How would you comment on the relationship between what transpired at the PrepCom and the urgency of proliferation challenges that exist today?

Salander: I do not entirely agree with the observation. Those issues figured in the deliberations, but there was not a significant exchange on them. The urgency was there, but a bit below the surface, because there was no negotiation. We must remember that this is a new process. I agree that there should be more interaction and more give and take between delegations. And, it will surely come in later PrepCom sessions when negotiations start.

NPR: A number of analysts attributed the successful conclusion of the 2000 Review Conference to the readiness of most States Parties to put aside the most difficult issues. Is that a fair characterization of what transpired at the 2002 PrepCom?

Salander: The two situations are very different. Had the NPT Review Conference taken place this year, it would have looked dramatically different than the PrepCom. There was a certain willingness among key delegations in this first PrepCom to have a successful (relatively speaking) outcome and not to put up ultimatums for the inclusion of certain issues in the final product.

NPR: How should NPT holdouts be engaged in a dialogue?

Salander: How to approach the fact that India, Israel, and Pakistan continue to stand outside the NPT is a very difficult problem. There generally is a lack of good ideas about this crucial issue. For several years now, States Parties have merely urged the three States to accede to the NPT as non-nuclear weapon States, which they of course will not do for the time being. Also, the developments after September 11th have not strengthened the nuclear nonproliferation norms in relation to the three countries. Perhaps a start of a dialogue could address ideas such as having them agree to abide by NPT obligations without formally joining in the foreseeable future and without giving them any status as “nuclear weapon states,” which of course is not possible under the provisions of the NPT. Alternatively, or additionally, a dialogue could address aspects of nuclear safety and fissile material se-

curity. Furthermore, I believe that NGOs can play an important role in opening a dialogue, especially with India.

NPR: Do you believe the outcome of the 2002 NPT PrepCom is indicative of the successful implementation of the strengthened review process as envisaged by the 1995 and 2000 Review Conference?

Salander: Partly yes and partly no. I think that this first PrepCom after the improvements agreed in the strengthened review process at the 2000 NPTRC generated quite a lot of substance, in terms of positions, papers, views, and policies. Procedure took up relatively less time than in previous years. Also, the factual summary must be seen as something along the lines of what States Parties were thinking of when they improved or enhanced the strengthened review process two years ago. But there was also a lack of true dialogue and genuine interaction among delegations. That is something which is difficult to fix through more enhancements of the process—it requires genuine will from governments to enter into such a dialogue. It is difficult for governments to improvise and debate freely, but they ought to be able to comment upon each other’s positions and papers after some reflection. For example, in the next PrepCom session, more thorough comments ought to be given on positions presented in this year’s session.

NPR: What are the limitations and strengths of the strengthened review process and how can it be made more relevant to NPT challenges today?

Salander: The limitations are not the fault of the five-year cycle. They emanate from the political will, or sometimes lack of it, of governments. That said, the formats that were devised in 1995 and again in 2000 have some problems built into them—for example, preparatory meetings shall not be and cannot be mini-review conferences, and the five-yearly conferences therefore take on enormous importance and generate lots of tension and conflict. Whatever deficiencies we think there are in the process at present, I believe we must work through a full review cycle in the new format to see which changes and improvements will be desirable and possible after 2005.

NPR: What lessons have you derived from the 2002 PrepCom that may be relevant for the next one in 2003? Is there any counsel, in particular, that you would provide Ambassador Molnar and States Parties as they prepare for the 2003 PrepCom?

Salander: First, broad and transparent consultations need to take place in advance. In addition to consultations between the chair and the States Parties and among States Parties, national delegations should also dedicate time to their own internal preparations. This is particularly important since key players on a number of delegations will change in the coming year. Second, time management in the meeting itself is very important, as is control of the handling of the two or three most contentious issues.

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² The New Agenda Coalition, established in June 1998, consists of Brazil, Egypt, Ireland, Mexico, New Zealand, South Africa, and Sweden. They proposed a number of specific steps for nuclear disarmament to be taken by the five nuclear weapon states and the three nuclear-weapon-capable states. The New Agenda played a crucial role at the 2000 NPT Review Conference in securing agreement on the practical steps toward nuclear disarmament by the nuclear weapon states.

³ For a fuller description, see Tariq Rauf, "The Nature of the Revised Review Process and the New Reporting and Consultation Procedures," paper presented at the PPNN/MIIS briefing seminar on the 2002 NPT PrepCom, March 8-9, 2002, <<http://www.mcis.soton.ac.uk/Annecy2002March/RAUF-Annecy.pdf>>.

⁴ Final Document, Volume I, Part I, Review of the Operation of the Treaty, Taking into Account the Decisions and Resolution adopted by the 1995 NPT Review and Extension Conference, Improving the Effectiveness of the Strengthened Review Process for the NPT, Paragraph 5 (Improving the Effectiveness of the Strengthened Review Process for the NPT) NPT/CONF.2000/28 (Vol. I,

Part I and II), 25 May 2000.

⁵ Under paragraph 12 of paragraph 15 under Article VI of the 2000 Final Document: "Regular reports, within the framework of the NPT strengthened review process, by all States parties on the implementation of Article VI and paragraph 4 (c) of the 1995 Decision on 'Principles and Objectives for Nuclear Non-Proliferation and Disarmament,' and recalling the Advisory Opinion of the International Court of Justice of 8 July 1996."

⁶ Sub-paragraph 7 of paragraph 16 under Article VII in the 2000 Final Document.

⁷ According to agenda item 6, entitled "Preparatory Work for the Review of the Operation of the Treaty in Accordance with Article VIII, Paragraph 3, of the Treaty, in Particular, Consideration of Principles, Objectives and Ways in Order to Promote the Full Implementation of the Treaty, as well as its Universality, Including Specific Matters of Substance Related to the Implementation of the Treaty and Decisions 1 and 2, as Well as the Resolution on the Middle East Adopted in 1995, and the Outcome of the 2000 Review Conference, Including Developments Affecting the Operation and Purpose of the Treaty." See Preparatory Committee for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Report of the Preparatory Committee at its First Session, NPT/CONF.2005/PC.I/21, paragraph 12, p. 5, <<http://www.un.org/depts/dda/WMD/NPT/2005/pdf/report%20pc1.1%20rev1.pdf>>.

⁸ As contained in Annex VIII of the Final Report of the Preparatory Committee to the 2000 Review Conference, NPT/CONF.2000/1.

⁹ Implementation of Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons and paragraphs 3 and 4 (c) of the 1995 Decision on "Principles and Objectives for Nuclear Non-Proliferation and Disarmament," as well as the agreements, conclusions and commitments listed under the section entitled "Article VI and Eighth to Twelfth Preambular Paragraphs" contained in the Final Document of the 2000 NPT Review Conference.

¹⁰ Implementation of the 1995 Middle East resolution and the commitments, conclusions and follow-up submissions to the United Nations Secretary-General, the President of the 2005 Review Conference and the Chairpersons of the Preparatory Committee meetings, in accordance with the relevant subparagraphs listed under the section entitled "Regional Issues: The Middle East, Particularly Implementation of the 1995 Resolution on the Middle East," contained in the Final Document of the 2000 Review Conference.

¹¹ Rebecca Johnson, "NPT PrepCom Interim Report," April 15, 2002, <<http://www.acronym.org.uk/npt/200201.htm>>.

¹² NPT/CONF.2005/PC.I/21, paragraph 13, p. 5.

¹³ Tariq Rauf, "Towards NPT 2005: An Action Plan for the '13-Steps' Towards Nuclear Disarmament Agreed at NPT 2000," Monterey Institute of International Studies, <<http://cns.miiis.edu/pubs/reports/pdfs/npt2005.pdf>>.

¹⁴ In accordance with the Final Document of the 2000 NPT Review Conference, paragraph 7 of the section on "Improving the Effectiveness of the Strengthened Review Process for the Treaty." See also the appended Chairman's Factual Summary.

APPENDIX

Chairman's Factual Summary

1. States parties reaffirmed that the Treaty on the Non-Proliferation of Nuclear Weapons was the cornerstone of the global non-proliferation regime and the essential foundation for the pursuit of nuclear disarmament. In the current international climate, where security and stability continued to be challenged, both globally and regionally, by the proliferation of weapons of mass destruction and of their means of delivery, preserving and strengthening the Non-Proliferation Treaty was vital to peace and security.

2. States parties stressed their commitment to the effective implementation of the objectives of the Treaty, the decisions and the resolution of the 1995 Review and Extension Conference and the Final Document of the 2000 Review Conference, adopted by consensus.

3. States parties further stressed that continued support to achieve universality of the Treaty was essential. They called on the four States remaining outside the Treaty—Cuba, India, Israel and Pakistan—to accede unconditionally to the Treaty as non-nuclear-weapon States, particularly those three States that operated unsafeguarded nuclear facilities. Concern was expressed about the ongoing development of nuclear weapons and missile programmes in different regions, including those of States not parties to the Treaty.

4. It was stressed that the best way to strengthen the non-proliferation regime was through full compliance by all States parties with the provisions of the Treaty.

5. It was generally felt that the terrorist attacks of 11 September 2001 had given an even greater sense of urgency to the common efforts of all States in the field of disarmament and non-proliferation. The view was held that further strengthening and reinforcing the non-proliferation regime was imperative to prevent the use of nuclear materials and technologies for criminal/terrorist purposes. The enhancement of the non-proliferation regimes covering all weapons of mass destruction, including efforts by the International Atomic Energy Agency (IAEA), was considered to be the most important integral part of combating terrorism.

6. There was emphasis on multilateralism as a core principle in the area of disarmament and non-proliferation with a view to maintaining and strengthening univer-

sal norms and enlarging their scope. Strong support was expressed for the enforcement of existing multilateral treaties. The need to seek treaties and other international agreements that meet today's threats to peace and stability was underlined.

7. The view was expressed that the Treaty should be seen in its larger context of coherent commitments and credible progress towards nuclear disarmament. Without the fulfillment of Article VI over time, the Treaty, in which non-proliferation and disarmament were mutually interdependent and reinforcing, would lose its true value.

8. The importance of increased transparency with regard to the nuclear weapons capabilities and the implementation of agreements pursuant to article VI and as a voluntary confidence-building measure to support further progress on nuclear disarmament was stressed. It was emphasized that accountability and transparency of nuclear disarmament measures by all States parties remained the main criteria with which to evaluate the Treaty's operation.

9. States parties remained committed to implementing article VI of the Treaty and paragraphs 3 and 4 (c) of the 1995 Decision on "Principles and objectives of nuclear non-proliferation and disarmament" and the Final Document of the 2000 Review Conference. Disappointment was expressed in the progress made in implementing the practical steps for the systematic and progressive efforts to implement article VI of the Treaty and paragraphs 3 and 4 (c) of the 1995 Decision on "Principles and objectives for nuclear non-proliferation and disarmament", as agreed at the 2000 Review Conference. It was also noted that the goal of nuclear disarmament could best be achieved through a series of balanced, incremental and reinforcing steps.

10. The nuclear-weapon States informed the States parties of their respective measures taken in accordance with Article VI of the Treaty, for example, reductions of nuclear weapons arsenals, reduced reliance on nuclear weapons, and that new nuclear weapons were not being developed.

11. Concern and uncertainty was expressed about existing nuclear arsenals, new approaches to the future role of nuclear weapons, and the possible development of new generations of nuclear weapons.

12. Strong support was expressed for the Comprehensive Nuclear-Test Ban Treaty, as reflected in the Final Declaration adopted at the Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test Ban Treaty held from 11 to 13 November 2001. The importance and urgency of the early entry into force of the Treaty was underscored. States which had not ratified the Treaty, especially those remaining 13 States whose ratification was necessary, and in particular those two remaining nuclear-weapon States whose ratification was a prerequisite, for its entry-into-force, were urged to do so without delay. States reaffirmed the importance of maintaining a moratorium on nuclear-weapon-test explosions or any other nuclear explosions. States parties noted the progress made by the Preparatory Commission for the Comprehensive Nuclear-Test Ban Treaty Organization in establishing the international monitoring system.

13. Concern was expressed that the decision by the United States of America to withdraw from the Anti-Ballistic Missile Treaty, and the development of missile defense systems, could lead to a new arms race, including in outer space, and negatively affect strategic stability and international security. Hope was expressed that the bilateral negotiations between the United States of America and the Russian Federation to create a new strategic framework would further promote international stability.

14. States parties welcomed the announcement in December 2001 that the United States and the Russian Federation had completed reductions in their nuclear arsenals required under START I. They further welcomed the continuing US-Russia bilateral negotiations on strategic nuclear arms reductions, and many expressed the hope that such efforts would result in a legally binding instrument with provisions ensuring irreversibility, verification and transparency.

15. The importance of further reductions in non-strategic nuclear weapons, based on unilateral initiatives and as an integral part of the nuclear arms reduction and disarmament process, was emphasized. There were calls for the formalization of the Presidential Nuclear Initiatives of 1991 and 1992 on reducing non-strategic nuclear weapons. It was stressed that non-strategic weapons must be further reduced in a verifiable and irreversible manner. Negotiations should begin on further reductions of those weapons as soon as possible.

16. States parties expressed regret at the inability of the Conference on Disarmament to start negotiations on

a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices and to establish a subsidiary body to deal with nuclear disarmament. The Conference was urged to agree on a programme of work. States that have not yet done so were called upon to declare a moratorium on the production of fissile material for nuclear weapons or other nuclear explosive devices.

17. The importance of arrangements by all nuclear-weapon States to place, as soon as practicable, fissile material designated by each of them as no longer required for military purposes, under IAEA or other relevant international verification and arrangements for the disposition of such material for peaceful purposes was stressed.

18. Several States parties endorsed the work being carried out under the Trilateral Initiative—involving the IAEA, the Russian Federation and the United States—in developing techniques and methodologies for placing excess nuclear materials from dismantled weapons permanently under IAEA safeguards. States parties were informed that the United States had already placed some of its fissile material under IAEA safeguards and that both the United States and the Russian Federation were working to develop practical measures for the monitoring and inspection of fissile material, including verification by IAEA. Some States parties also noted the safeguards experience of IAEA in verifying nuclear materials and expressed the view that the Agency could play an important role in verifying nuclear disarmament agreements.

19. The view was held that the attainment of a nuclear-weapon-free world should be accompanied by the pursuit of other effective arms control agreements at a global and also particularly at a regional level.

20. States parties recalled that regular reports should be submitted by all States parties on the implementation of Article VI as outlined in paragraph 15, subparagraph 12, of the 2000 Final Document. It was stressed that such reporting would promote increased confidence in the overall non-proliferation regime through transparency. Views with regard to the scope and format of such reporting differed. Some States parties suggested that such reports should be submitted, particularly by the nuclear-weapon States, at each session of the Preparatory Committee, and should include detailed and comprehensive information, e.g. in a standardized format. Several States parties expressed interest in open-ended informal consultations on

reporting to prepare proposals for consideration for subsequent sessions of the Preparatory Committee. Other States parties advocated that the specifics of reporting, the format and frequency of reports, should be left to the determination of individual States parties.

21. States parties recalled the 2000 Final Document and the request that all States parties, particularly the nuclear-weapon States, the States of the Middle East and other interested States, should report through the United Nations Secretariat to the President of the 2005 NPT Review Conference, as well as to the Chairperson of the Preparatory Committee meetings to be held in advance of that Conference, on the steps that they had taken to promote the achievement of a nuclear-weapon-free zone in the Middle East and the realization of the goals and objectives of the 1995 resolution on the Middle East.

22. Support was expressed for the concept of internationally recognized nuclear-weapon-free zones (NWFZs) established on the basis of arrangements freely arrived at among States in the regions concerned. The contribution of such zones to enhancing global and regional peace and security, including the cause of global nuclear non-proliferation, was emphasized. It was noted that the number of States covered by the nuclear-weapon-free zones has now exceeded 100. The establishment of nuclear-weapon-free zones created by the Treaties of Tlatelolco, Rarotonga, Bangkok and Pelindaba was considered as a positive step towards attaining the objective of global nuclear disarmament. The importance of the entry into force of the existing nuclear-weapon-free zone treaties was stressed. Efforts aimed at establishing new nuclear-weapon-free zones in different regions of the world were welcomed. It was also stressed that assurances against the use or threat of use of nuclear weapons to all States of the zones should be provided by the nuclear-weapon States. Support was expressed for the efforts among the Central Asian countries to establish a nuclear-weapon-free zone in their region. States parties noted that no progress had been achieved in the establishment of nuclear-weapon-free zones in the Middle East, South Asia and other regions.

23. On the issue of universality, States parties reaffirmed the importance of the resolution on the Middle East adopted by the 1995 Review and Extension Conference and recognized that the resolution remained valid until its goals and objectives were achieved. The resolution was an essential element of the outcome of the 1995 Confer-

ence and of the basis on which the Treaty on the Non-Proliferation of Nuclear Weapons had been indefinitely extended without a vote in 1995. States parties reiterated their support for the establishment of a Middle East zone free of nuclear weapons as well as other weapons of mass destruction. States parties noted that all States of the region of the Middle East, with the exception of Israel, were States parties to the Non-Proliferation Treaty. States Parties called upon Israel to accede to the Treaty as soon as possible and to place its nuclear facilities under comprehensive IAEA safeguards. Some States parties affirmed the importance of establishing a mechanism within the Non-Proliferation Treaty review process to promote the implementation of the 1995 resolution on the Middle East.

24. States parties expressed concern at the increased tension in South Asia and the continuing retention of nuclear weapons programmes and options by India and Pakistan. States parties urged both States to accede to the Non-Proliferation Treaty as non-nuclear-weapon States and to place all their nuclear facilities under comprehensive IAEA safeguards. States parties noted that both States have declared moratoriums on further testing and their willingness to enter into legal commitments not to conduct any further nuclear testing by signing and ratifying the Comprehensive Nuclear-Test Ban Treaty. States parties called upon both States to sign the Comprehensive Nuclear-Test Ban Treaty. States parties noted the willingness expressed by both States to participate in negotiations on a treaty banning the production of fissile material for nuclear weapons and other nuclear explosive devices. Pending the conclusion of a legal instrument, States parties urged both States to commit to a moratorium on the production of such fissile material. The importance of the full implementation by both States of Security Council resolution 1172 (1998) was emphasized.

25. The importance of full compliance by all States parties with the provisions of the Non-Proliferation Treaty was stressed. States parties remained concerned that IAEA continued to be unable to verify the correctness and completeness of the initial declaration of nuclear material made by the Democratic People's Republic of Korea. The Democratic People's Republic of Korea was urged to come into full compliance with its Safeguards Agreement with the IAEA. States parties expressed concern over the lack of implementation of the 1994 Agreed Framework.

26. States parties noted that since the cessation of the IAEA inspections in Iraq in December 1998, the Agency

had not been in a position to provide any assurance of Iraq's compliance with its obligations under Security Council Resolution 687 (1991). Many States parties expressed grave concern and called for the full implementation of relevant Security Council resolutions, including resolution 1284 (1999), and for the re-establishment of an effective disarmament, ongoing monitoring and verification regime in Iraq, and hoped that UN inspectors would be able as soon as possible to resume their work in Iraq. Iraq reiterated that it was in full compliance with its Treaty obligations and maintained that IAEA had successfully carried out inspections in 2000, 2001 and 2002 pursuant to Iraq's Safeguards Agreement with the Agency.

27. It was recalled that both the 1995 Review and Extension Conference and the 2000 Review Conference had underscored the importance of security assurances. It was emphasized that negative security assurances, a key basis of the 1995 extension decision, remained essential and should be reaffirmed. Many States parties reaffirmed that non-nuclear-weapon States parties should be effectively assured by nuclear-weapon States against the use or threat of use of nuclear weapons. Reaffirmations were expressed of commitments under Security Council resolution 984 (1995). Many States parties stressed that efforts to conclude a universal, unconditional and legally binding instrument on security assurances to non-nuclear-weapon States should be pursued as a matter of priority. Some States parties were of the view that this could take the form of an additional protocol to the Treaty, without prejudice to the legally-binding security assurances already given by the five nuclear-weapon States in the framework of the treaties regarding nuclear-weapon-free zones. Pending the conclusion of such negotiations, the nuclear-weapon States were called upon to honour their commitments under the respective Security Council resolutions. Concern was expressed that recent developments might undermine commitments taken under the respective Security Council resolutions. A view was held that the issue of security assurances was linked with fulfillment of the Treaty obligations. Several States parties, including one nuclear-weapon State, emphasized the importance of a no-first use policy.

28. Education on disarmament and non-proliferation was considered important to strengthening disarmament and non-proliferation for future generations. In that connection, the ongoing work of the group of governmental experts which was expected to submit its report for con-

sideration by the General Assembly at its fifty-seventh session during autumn 2002 was commended.

29. States parties recognized IAEA safeguards were a fundamental pillar of the nuclear non-proliferation regime and commended the important work of the IAEA in implementing the safeguards system to verify compliance with the non-proliferation obligations of the Treaty.

30. States parties welcomed the efforts of IAEA in strengthening safeguards and the Agency's completion of the conceptual framework for integrated safeguards. The importance of the Model Additional Protocol was underlined. Some drew attention to the fact that States parties must have both a comprehensive safeguards agreement and an additional protocol in place for IAEA to be able to provide an assurance of both non-diversion of declared material and the absence of undeclared activities or material. The goal of universality was stressed. States that had not yet concluded comprehensive safeguards agreements with IAEA were called upon to do so without delay. Many States parties called upon those that had not yet signed or ratified the Additional Protocol to do so as soon as possible.

31. It was reiterated that export controls were a key element of the non-proliferation regime under the Non-Proliferation Treaty. The important work of the existing export control regimes was noted, in particular their function in guiding States parties in setting up their national export control policies. The importance of transparency in export controls was widely recognized. It was reaffirmed that nothing in the Treaty should be interpreted as affecting the inalienable right of all parties to the Treaty to develop research, production and the use of nuclear energy for peaceful purposes.

32. Many States parties noted both the importance of combating nuclear terrorism and the many instruments available for doing this, including the physical protection of nuclear material and export controls. The IAEA's action plan on the prevention of nuclear terrorism was widely noted and supported. The Agency's work in support of States' efforts to prevent illicit trafficking of nuclear and other radioactive material was also commended.

33. States parties called for the strengthening of the physical protection of nuclear material, *inter alia*, through a well-defined amendment of the Convention on the Physical Protection of Nuclear Material. Many States parties called upon States that have not yet done so to accede to the Convention on the Physical Protection of Nuclear

Material. Support was expressed for the IAEA International Physical Protection Advisory Service (IPPAS).

34. The importance of strengthening nuclear safety, radiation protection, the safety of radioactive waste management and the safe transport of radioactive materials was stressed. The efforts of IAEA in the promotion of safety in all its aspects were welcomed. States parties that had not yet acceded to the Convention on Nuclear Safety, as well as the Joint Convention on the Safety of Spent Fuel Management and on the Safety of Radioactive Waste Management, were encouraged to do so.

35. States parties emphasized that transportation of radioactive material, including maritime transportation, should be carried out in a safe and secure manner in strict conformity with international standards established by the relevant international organizations, such as IAEA and the International Maritime Organization. Some States parties called for effective liability arrangements, prior notification and consultation. Some States parties noted the conclusions on safety in the IAEA General Conference resolution GC(45)RES/10. The holding of an IAEA con-

ference on safe transport of radioactive materials in July 2003 was welcomed by many.

36. States parties reiterated their strong support for article IV of the Treaty, which provided a framework for cooperation and confidence for the peaceful uses of nuclear energy. In this context, States parties expressed wide support for the technical cooperation activities of the IAEA. It was underlined that technical cooperation plays an important role in further developing the application of nuclear energy for peaceful purposes, including human health, pest eradication, food and agriculture, and the environment. The importance of aligning technical cooperation programmes with development goals and needs of the country concerned was emphasized. Several States parties stressed the importance of providing the Agency with adequate resources for those activities.

[Source: "Report of the Preparatory Committee on its First Session, Annex II," United Nations document NPT/CONF.2005/PC.1/21, April 18, 2002, <<http://disarmament.un.org/wmd/NPT/2005/pdf/report%20pc1.1%20rev1.pdf>>.]