

THE APRIL 1998 NPT PREPCOM

by Tariq Rauf

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The first session of the Preparatory Committee (PrepCom) for the 2000 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), held at United Nations Headquarters in New York from April 7-18, 1997, was remarkably free of serious conflicts over either procedural or substantive issues. Much of the seeming agreement, however, may have been attributable more to a lack of adequate preparation by a large number of the 149 participating states than to the existence of a harmony of views across the broad spectrum of NPT-related issues. In this context, the 1998 and 1999 sessions of the PrepCom may not be as free of acrimony and traditional differences, for example, over the implementation of NPT Article VI (on nuclear disarmament). Such issues will likely surface again and could perhaps lead to serious difficulties in the work of the PrepCom. Time pressures could also intervene, as the 1998 session of the PrepCom will have to recognize that only 20 days of preparatory work remain (including the time allotted to the 1999 PrepCom) before the start of the review conference in 2000. Key deliberations will have to be concluded during this short period on a wide variety of procedural as well as substantive issues, putting more

stress on both of the next two PrepComs.

Given these challenges, this report has four main goals. First, it summarizes briefly Decisions 1 and 2 of the 1995 NPT Review and Extension Conference (NPTREC), which provided the groundwork for the strengthened review process. It also mentions some of the differing national interpretations of their meaning. Second, it reviews the conduct and results of the 1997 PrepCom. Third, it summarizes the issues facing the 1998 PrepCom. Fourth, and finally, it offers some conclusions on the likely conduct of the meetings in Geneva this April.

DECISIONS 1 AND 2 OF THE 1995 NPTREC

To place the discussion on the strengthened review process for the NPT in some context, it should be noted that the original concept of a strengthened review process was first elaborated in a Canadian "non-paper" in early 1995.¹ The Canadian concept paper outlined the characteristics of an "enhanced review process" as comprising, *inter alia*: 1) retention of the current structure of review conferences (i.e., three main committees to discuss the implementation of the treaty and ways of strengthening it); 2) investing the preparatory process

with a more substantive character (i.e., discussion of both procedural and substantive issues); 3) elaborating, at review conferences, indicative targets for compliance with given articles of the treaty; and 4) establishing a framework for ways of strengthening the treaty and its implementation.

These ideas found their way into the South African draft on the enhanced review mechanism, and through the process of the President's Consultations at the NPTREC were eventually elaborated in the decisions on the extension package. The term "strengthened" review process, in Decision 1,² was crafted by Ambassador Adolfo Taylhardat (Venezuela), who prevailed in arguing that "enhancing implied only 'cosmetic' changes and that what was required was a process that should lead to a full implementation of the NPT, having in mind, specifically, Article VI."³ During the President's Consultations, the drafters struck a political compromise between those who feared that in indefinitely extending the NPT the non-nuclear weapon states (NNWS) would lose their leverage as regards the nuclear weapon states' (NWS) nuclear disarmament obligations, and those who preferred a simple extension of the treaty without any collateral measures to complement the future implementation of the NPT. In other words, the compromise aimed not only to make all states parties accountable for full compliance with the provisions of the treaty, but more specifically to hold the NWS to fulfilling their Article VI commitments on nuclear disarmament.

For the most part, the PrepComs for previous review conferences had focused primarily on procedural issues (logistical and legal matters), although some issues of substance were also discussed. In particular, the third and fourth sessions of the PrepCom for the 1995 NPTREC involved lengthy and intensive discussion on substantive issues. Decision 1 served to formalize the inclusion of substantive matters, along with procedural issues, in the work of the PrepCom and clearly specified that:

The purpose of the Preparatory Committee meetings would be to consider principles, objectives and ways in order to promote the full implementation of the treaty, as well as its universality, and to make recommendations thereon to the Review Conference. These include those identified in the Decision on Principles and Objectives for Nuclear Non-Proliferation and Disarmament adopted

on 11 May 1995. These meetings should also make the procedural preparations for the next Review Conference.⁴

The "intent" of the drafters can be said to have been to transform the review into a more credible and meaningful process of accountability for the treaty's implementation by all states parties, and to ensure that future reviews encompass the full scope of the disarmament and nonproliferation agenda. In practice, however, with the passage of time memories have faded, officials have been reassigned, differing interpretations have emerged, and some have challenged the negotiating history or the "intent" of the drafters. All these developments might yet result in limiting the scope of Decision 1.

In many respects, interpreting and implementing Decision 2⁵ remains even more challenging than Decision 1. The drafters of this decision, while negotiating in the President's Consultations at the NPTREC, apparently intended to establish what has been referred to subsequently as a "yardstick" against which to measure future implementation of the treaty.⁶ Furthermore, this decision has been characterized as comprising a rolling text that is designed to be dynamic and responsive to changing international conditions. John Holum (Director of the U.S. Arms Control and Disarmament Agency) described Decision 2 as "a rolling report card on the world's efforts to live up to the bargains struck in the NPT and since affirmed."⁷

Decisions 1 and 2 are politically binding and reflect the compromise that was struck at the 1995 NPTREC in order to achieve the indefinite extension of the treaty, and hence must be taken seriously. These decisions have established new parameters of discourse on nonproliferation and nuclear disarmament, however, the nature and context of this debate still needs to be worked out during the deliberations of the remaining sessions of the PrepCom and at the 2000 Review Conference. The challenge will remain of finding credible ways for a structured and balanced, forward-looking, review of the treaty. This balance inevitably will need to favor a greater focus on the nuclear disarmament provisions of the NPT, as it was never the intent either of the drafters of the treaty or of the extension package, or of the states parties at the NPTREC, to perpetuate the status of the NWS.

Decision 2 sets out, under seven headings comprising 20 operative paragraphs, a set of indicative targets for the full implementation of the treaty. These indicative

targets relate both to treaty compliance issues as well as to other related nuclear nonproliferation and disarmament priorities that emanate from the NPT. Falling into the former category are nonproliferation (Articles I and II), nuclear disarmament (Article VI), nuclear-weapon-free zones (Article VII), safeguards (Article III), and peaceful uses of nuclear energy (Article IV). In the latter category belong universality and security assurances.

At the 1995 NPTREC, Main Committee I discussed nuclear disarmament and security assurances; Main Committee II considered safeguards, export controls, and nuclear-weapon-free zones; and Main Committee III examined peaceful uses of nuclear energy. As discussed below, the 1997 PrepCom elected to structure its review of the treaty based on the allocation of items by the Main Committees at the 1995 NPTREC, in the context of the seven principal headings of Decision 2. The implications of this division of work is that there are currently four items under Cluster 1, but only one item each under Clusters 2 and 3, but each of the three clusters will command equal time. In effect, this means that the discussion on nuclear disarmament, under Cluster 1, has to be completed in the same time as Clusters 2 and 3, with only one item each.⁸

One of the key issues to be resolved at the 1997 PrepCom was whether the “principles and objectives” for nuclear nonproliferation and disarmament, outlined in Decision 2, represent fixed or indicative targets that could be updated periodically. As certain objectives are achieved (e.g., a comprehensive test ban treaty), other objectives would take their place (e.g., multilateral nuclear arms reductions or general and complete disarmament). The intent of the drafters was to regard Decision 2 as a “living document” that could be added to, or subtracted from, as merited by progress in nuclear nonproliferation and disarmament and other related developments. Ambassador Mark Moher (Canada) provided a definitive response in his statement to the 1997 PrepCom:

In fact the function of the 1995 “Principles and Objectives” themselves is evident; they are designed to promote the full implementation of the Treaty; *as such they are a means to an end, not an end in themselves*; and, dare we add, they comprise the first step in an ongoing review process which should envisage each Review Conference producing further ‘Principles and Objectives’ for successive phases in the

life of an indefinite NPT [emphasis in the original].⁹

According to Ambassador K. J. Jele (South Africa) speaking at the 1997 PrepCom:

It is clear therefore that the PrepComs are to consider not only the current “Principles and Objectives,” but also *new principles, objectives and ways* whereby the Treaty’s full implementation and universality can be promoted [emphasis in the original].¹⁰

A different view, however, had been expressed earlier by the United States:

In the U.S. view, if changes need to be made to the “Principles and Objectives,” the appropriate time and place would be the 2000 NPT Conference itself. There is no need at present to add new items to the “Principles and Objectives,” as some are fulfilled.¹¹

Speaking at the PrepCom the United States asserted:

[W]e are assisted by the guidance provided in paragraph 4 of the decision on Strengthening the Review Process of the Treaty.... It is critically important that the process remain true to its fundamental purpose and that inclinations to deviate from what was agreed in 1995 through creative interpretation, however well meaning, should be resisted to the extent that they could harm the integrity of the NPT regime.¹²

At the 1997 PrepCom, the latter interpretation seemingly prevailed and several states, from all three political groups, stated that the “principles and objectives” could be revised and updated by the review conference and not by the PrepCom. However, NPTREC Decision 1 can be interpreted as providing the PrepComs with a clear mandate to develop recommendations on new or updated “principles and objectives” to be considered by the 2000 Review Conference, and such recommendations could yet be discussed in the two remaining sessions of the PrepCom.

RESULTS OF THE 1997 PREPCOM

At its 1997 session, the PrepCom faced two tasks. The 1995 NPTREC mandated that the committee make procedural preparations for the 1998 PrepCom, as well as provide substance to Decision 1 (on the “strengthened review” process). Thus the 1997 PrepCom, in launching

the strengthened review process for the NPT, established an important precedent for the preparation for future treaty reviews, as well as for the interpretation and implementation of the NPTREC's decisions.

The first session of the PrepCom was opened by Mr. Evgeniy Gorkovskiy, Officer-in-Charge and Deputy Director of the Centre for Disarmament Affairs of the Department of Political Affairs of the U. N. Secretariat. At its first meeting, on April 7, 1997, the PrepCom adopted a nine-item agenda. The agenda and its formulation were reflective of the views of the states parties that henceforth, on the basis of the NPTREC decision on a "strengthened review process," the review must be qualitatively different from the earlier review processes.¹³ Accordingly, the committee held nine meetings, over four-and-a-half days, for a substantive discussion.

Regarding participation in the 1997 PrepCom, the committee decided to follow past practice and to permit non-NPT states to attend the open sessions as "observers" with the right to receive PrepCom documentation but to circulate their own documentation, if any, at their own cost to NPT parties. Non-NPT states would sit at the back of the meeting room behind their country nameplates but would not have the right to make statements, interventions, or to participate in the deliberations except as observers. Accordingly, Brazil, Cuba, Israel, and Pakistan attended as observers. Representatives of specialized agencies and regional intergovernmental organizations were also permitted to attend open meetings as observers with the same privileges as accorded to states non-parties. The South Pacific Forum attended the meetings in this category. Non-governmental organizations (NGOs), as well, were accorded privileges to attend the open sessions, while seated in the public gallery, to receive official documentation but to circulate their own documentation at their own cost, outside the official meeting room. One afternoon session was set aside for NGOs to make presentations to delegates. Representatives of 113 NGOs attended the meetings of the PrepCom.

The committee, at the behest of its chairman, Ambassador Pasi Patokallio (Finland), decided to use as a basis for a structured discussion the three sets of issues (or clusters) contained in annex V of the Final Report of the Preparatory Committee to the 1995 NPTREC. This comprised: Cluster 1 (i.e., Main Committee I issues)—non-proliferation, nuclear disarmament, nuclear-weapon-free zones, and security assurances; Cluster 2 (i.e., Main

Committee II issues)—safeguards and export controls; and Cluster 3 (i.e., Main Committee III issues)—peaceful uses of nuclear energy. (Traditionally, nuclear-weapon-free zones have been discussed in Main Committee II.)

Thus, while the PrepCom began a new process of devoting at least half of its working time to a discussion of substantive matters, it nevertheless decided to continue with the old practice of structuring discussion along the traditional lines of the three main committees—a practice initiated at the urging of the United States at the 1985 Review Conference and followed ever since. To complicate its work, in a manner of speaking, the PrepCom then also slotted into this set of three "clusters" the seven themes of the "principles and objectives for nuclear nonproliferation and disarmament," agreed as Decision 2 at the NPTREC—which led to the strange move at the PrepCom of including nuclear-weapon-free zones in Cluster 1, rather than in Cluster 2. Opinion, however, remains divided as to whether this particular structure for the review of the treaty will last. Some states parties may find themselves locked in the same unproductive debates of yesteryear, and may therefore seek a different structure for discussions.

In general, PrepCom sessions in the past have not formally adopted rules of procedure, but have drawn upon the rules of procedure for previous review conferences for guidance if decisions could not be reached on the basis of consensus. The 1997 PrepCom decided to make every effort to adopt its decisions by consensus. In the event that consensus could not be reached, the committee would then take decisions in accordance with the rules of procedure of the 1995 NPTREC, which would be applied *mutatis mutandis*. The committee at its second and/or third session might further decide to recommend the 1995 rules of procedure for the conduct of the 2000 NPT Conference—except for the adjustments made in 1995 to deal with the extension decision (Rule 28.3)—while retaining the changes to Rule 12 (financing).¹⁴

On the question of the report and recommendations of the first session to the second session, there was intense controversy and discussion. In the end, after some heated exchanges in the chairman's consultations, it was agreed (on the basis of a Canadian suggestion of producing a "distilled compilation" of proposals, not necessarily based on consensus, but to promote accountability and continuity) that the committee would produce a "rolling" progress report that could be updated

at each subsequent session of the PrepCom. Accordingly, based on Canadian and South African suggestions made in the chairman's consultations, Ambassador Patokallio proposed a report comprising three sections: I—Introduction, giving logistical details; II—a factual or technical report prepared by the Secretariat on the organization of the work of the committee, and of the 2000 Review Conference; and III—recommendations to the next session of the PrepCom. This report would have one annex containing summary records, another annex (Chairman's Working Paper) consisting of points of general agreement, subject to review, an inventory or rolling list of proposed recommendations for consideration at subsequent sessions of the PrepCom, and official documents submitted by participating delegations.

Originally, the chairman had proposed language for Part III of the report, on recommendations to the next session of the PrepCom that included:

- 1) reference to the annex comprising the chairman's paper (on recommendations to the next session) as a basis for further work on draft recommendations to the review conference; and
- 2) the committee's recommendation that at its second session the PrepCom should continue the consideration of all aspects of the treaty in a structured and balanced manner (i.e., in clusters and subdivided according to the principles and objectives) and that within this framework the second session should allocate time for the consideration of:
 - (a) security assurances for NPT parties (proposed by South Africa);
 - (b) the 1995 NPTREC resolution on the Middle East (proposed by Egypt); and
 - (c) a fissile material "cut-off" treaty (proposed by Canada and Germany).

This particular categorization of items for special consideration at the second session of the PrepCom was perceived by Mexico as having the consequence of downgrading the relative priority of nuclear disarmament, and also of giving a higher priority to the chairman's paper over that of proposals made by national delegations and regional groups. The rationale being that security assurances were already included under Cluster 1 (Main Committee I) issues, as was nuclear disarmament, but allocating specific time for these three particular items could have the result of diluting the importance of nuclear disarmament, as would the specific discussion of a fissile material cut-off treaty. Beyond this disagreement over

emphasis, the Mexican objection also emanated from a concern or hesitation, shared by some other delegations, that it was premature for the PrepCom to determine the items for discussion at future sessions of the committee or at the review conference itself.

As a result of the absence of consensus on the language proposed by the chairman, due to Mexico's objections, after several attempts at finding common ground, a compromise solution was reached under which the chairman's paper was downgraded to the status of a "Chairman's Working Paper." The committee recommended that at its second session the official documents and other proposals submitted by delegations during the first session of the PrepCom as contained in Annex II (paragraph 4 and the Appendix) will be taken into account during further work on draft recommendations to the review conference as well as the Chairman's Working Paper. This latter document will be interpreted in light of the official documents and other proposals made by delegations as contained in Annex II (paragraph 4 and the Appendix). The "Chairman's Statement" which followed noted:

It is understood that within the existing agenda and in accordance with the methods of work adopted at the first session, the Committee also recommended that time should be allocated at the second session for the discussion on and the consideration of any proposals on the following subject areas, without prejudice to the importance of other issues: security assurances for NPT states; the Middle East resolution; and a fissile material cut-off treaty.

The "Statement" concluded with the chair's assertion: "It is noted that there was no objection to my making this statement." Mexico, however, reiterated its opposition to the singling out for discussion of the three items noted above, and emphasized the importance of discussing the issue of nuclear disarmament. Egypt and South Africa reasserted their preference, and in their view the importance, of allocating time at the second session for discussion of the Middle East resolution and security assurances, respectively.

Thus, to sum up, the Report of the 1997 PrepCom comprised: (I) Introduction—providing summary details on the opening, listing of participating states, meetings held, and officials and representatives of international organizations present; (II) Substantive and procedural issues—technical report giving details on the organiza-

tion of work of the PrepCom and of the 2000 Review Conference; and (III) Recommendations to the next session of the PrepCom, including a “Chairman’s Statement” recommending that the second session allocate time for discussion and consideration of several proposals. The proposals would include security assurances for NPT states, the NPTREC resolution on the Middle East, and a convention banning the production of fissile material for nuclear weapons. The Report also included Annex I (summary records), and Annex II—“Chairman’s Working Paper” in two parts—the first listing seven thematic points¹⁵ on which there was general agreement at the first session, subject to review and updating at subsequent sessions of the PrepCom and pending final agreement on all draft recommendations; and a listing of specific proposals put forward by delegations as a basis for recommendations to be made by the PrepCom to the 2000 Review Conference.

Perhaps the key reason for the first session’s success in reaching decisions on certain crucial procedural issues was the chairman’s strategy of front-loading decisionmaking, limiting the time for general debate to the first two days, and commencing the informal consultations at an early stage. Other important factors contributing to the success of the first session included careful prior preparations by the chairman himself, and the creative ideas and concepts proposed by certain delegations that had devoted prior thought and preparation. On the other hand, it is fair to state that a great majority of delegations were not adequately prepared or briefed. Part of the problem here can be attributed to a rotation in personnel and, in several cases, delegations were staffed by diplomats who were not present at, or had not participated in, the NPTREC. Furthermore, many delegations had either not thought through the implications of the NPTREC decisions or were waiting to see how the process would evolve.

The committee provisionally agreed, subject to further consultations by the chairman, that the second session would take place from April 27 to May 8, 1998, in Geneva and that the third session would be held from April 12 to 23, 1999, in New York. Provisional agreement was also reached, subject to further consultations by the chairman, that the review conference would be held from April 24 to May 19, 2000, in New York. Accordingly, Ambassador Patokallio engaged in consultations with states parties and by the end of 1997 was able to secure confirmation of these dates, which still need to

be formally endorsed at the 1998 PrepCom.

At the 15th meeting of the first session on April, 18, 1997, the committee decided that Ambassador Tadeusz Strulak of Poland, the representative of the Group of Eastern States, would be the chairman of its second session. Since then, Ambassador Strulak has been posted as ambassador of Poland to Lebanon, and in his place Ambassador Eugeniusz Wyzner is slated to chair the second session. Neither Ambassador Strulak nor Ambassador Wyzner participated in the first session. Thus, the chairman will have his work cut out for him.

It was also decided that when not serving as chairman, the chair of the first (and second) session would serve as vice-chairmen of the committee. It was further decided that a representative of the Group of Non-Aligned and Other States Parties to the NPT should be proposed to serve as vice-chairman of the second session, and as the chair of the 1999 PrepCom. Based on past practice, the president of the review conference is a representative of the Group of Non-Aligned and Other States, as this group has the largest number of states parties to the NPT. Thus far, the non-aligned group has not put forward the nomination for its candidate for the chairmanship of the third session of the PrepCom, who may then go on to preside over the 2000 Review Conference.

Given this background on the description of the work and report of the first session, we may now discuss the substantive issues and procedural wrangles facing the 1998 session of the PrepCom.

ISSUES BEFORE THE 1998 NPT PREPCOM

The second session will face a number of challenges at its outset. To ensure the realization of a strengthened review process, it is important for both the incoming chairman and for states parties to prepare their strategies carefully with a view to facilitating an efficient use of time, promoting flexibility and constructive dialogue, resolving outstanding matters, and ensuring measurable progress in the work of the committee.

The question of the Federal Republic of Yugoslavia (Serbia and Montenegro) automatically succeeding (former Yugoslavia) as a state party to the NPT is one issue that needs to be resolved. This claim is disputed by the four other former Yugoslav states (Bosnia and Herzegovina, Croatia, Macedonia, and Slovenia), which all formally acceded to the treaty after the dissolution of Yugoslavia, while the Federal Republic of Yugoslavia

(Serbia and Montenegro), or FRY, has not followed suit. This unresolved matter wasted precious time at the 1997 PrepCom, and earlier at the NPTREC. This matter could be resolved by prior agreement (i.e., Belgrade agreeing that the FRY seat will remain unoccupied) or that the NPT depositaries states persuade the FRY to deposit an instrument of succession/ratification in order not to delay the commencement of work in April. The attendance of North Korea, which asked to be seated as an "observer" (rather than as a state party) at the 1997 PrepCom (and was refused), is another issue that may require attention. It would seem to be advisable that the situation regarding North Korea be managed in a manner as to preclude delay in the proceedings of the PrepCom. Given the current uncertainty regarding Iraq and the work of the U.N. Special Commission (UNSCOM), it too might decide to create some difficulty or delay at the second session.

A number of other key items still need to be decided or finalized before the start of the review conference in 2000. The 1998 PrepCom therefore has to consider and decide some of the following issues:

- 1) confirmation of the proposed dates and venues of the third (and last) session of the PrepCom and of the 2000 Review Conference;
- 2) nomination and confirmation of the chair of the third session of the PrepCom and nomination of the president of the 2000 Review Conference;
- 3) finalization of the structure of the PrepCom report on substantive and procedural issues and recommendations to the review conference;
- 4) provisional agenda of the review conference;
- 5) financing of the PrepCom and of the review conference;
- 6) rules of procedure; and
- 7) preparation and consideration of background documentation.

In addition, the committee at its second session has to allocate time for the consideration of the three substantive items noted in the chairman's statement, both parts of the Chairman's Working Paper, as well as the official documents submitted by delegations at the first session. The documentation alone comprises over 100 pages, and at least 27 official documents submitted by states. This documentation and inventory of proposals are "subject to review and updating" and no agreement can be reached or finalized on recommendations to the review conference "pending final agreement on all draft recommen-

dations at the last session." Furthermore, Mexico has already sounded the warning at the end of the first session that it was not pleased with the outcome of the report and the Chairman's Working Paper, and resolution of its reservations might well take up additional time.

Thus, given the seemingly enormous and overwhelming program of work facing the committee, the chair and states parties will need to exercise an unusual degree of discipline, harmony, and efficiency in their work.

Other Operational Factors

Chairman's Consultations

Traditionally, review conference presidents have relied on consultation with a select, but geographically and politically representative group of countries, informally referred to as "Friends of the Chair." Such groups, which are necessarily kept small in membership, are organized to assist in identifying and building consensus. At the 1995 NPTREC, President Jayantha Dhanapala (Sri Lanka) pulled together the "President's Consultations," involving 25 of the principal players.¹⁶ This group was instrumental in crafting the language for the package of extension decisions.

Ambassador Patokallio also convened an informal chairman's consultations to which he invited some 22 states representing both a geographic and a political mix.¹⁷ At the 1997 PrepCom, the principal bargaining on the structured and balanced review of the treaty, and on the structure of the report and recommendations of the PrepCom, all took place within the chairman's consultations. While, on the one hand, the advantage of such a process is that it is easier to reach agreement among a small regionally and politically representative group; on the other hand, the vast majority of states are shut out of the process. This technique, however, is not new as at previous review conferences, the president of the conference has relied on some "Friends of the Chair" grouping to provide assistance in negotiating key elements or issues. Such a process could be improved in 1998 if all of the group chairs consult regularly with their respective membership and keep it well informed.

Roles of Traditional Groups

Even though the Cold War has ended and the old ideological divisions have been transformed for the most part, the traditional regional groupings persist on international security issues, despite their not being reflective of the current status of the international community. The 1997

PrepCom blessed the traditional group structure when it endorsed the division of chairmanships of its three sessions along traditional group lines. It can be said that all three regional groupings are facing internal stresses and strains. The Western group no longer represents a homogenous viewpoint, and within it a sub-group—the European Union—is emerging as a force with its own interests. Some NNWS within the Western group, contrary to the preferences of their NWS allies and other friends, favor not only the continuation but achieving greater progress in nuclear disarmament. The Eastern group rarely meets, and it suffers from serious internal contradictions apparent to all. One specific contradiction is the continuing membership in this group of certain former Eastern bloc or former Warsaw Treaty Organization members, which now are in the first group of states to join an expanded North Atlantic Treaty Organization (NATO)—the lynchpin of the Western group.

The Non-Aligned Movement (NAM) continue in serious disarray to their own detriment and apparently some 80 percent of group members do not actively participate in NAM deliberations on its group positions. The NAM has lost coherence and while common interests might coalesce on general principles, on balance NAM cohesion cannot be counted upon. This disarray in NAM was again apparent at the first session. There the group was essentially absent in participating in the Cluster 1 debate on nuclear disarmament, and, due to internal differences, the NAM paper was distributed too late to figure in this discussion. The end result being the frittering away of an opportunity in 1997 at the outset of the strengthened review process to make further progress on Cluster 1 issues.

In 1998, the NAM will be chaired by South Africa, which is keen to demonstrate its leadership in promoting pragmatic and non-ideological positions. Over the past three years, South Africa has increasingly charted a more independent line on international security matters and has broken from consensus at all NAM summits since 1995 on traditional NAM proposals for a time-bound framework for the elimination of nuclear weapons. This tendency was also in evidence at the 1997 PrepCom. On the other hand, there are indications that in its desire to find common cause with mainstream Western thinking on arms control, South Africa risks losing support and backing from within its own group.

Another complicating and cross-cutting factor is that the five NWS tend to band together. At both the last

PrepCom, as well as at the 1995 NPTREC, the NWS collaborated in issuing joint statements. In each case these statements, outlining U.S.-Russian progress in nuclear arms reductions and unilateral cuts in British and French non-strategic forces, tended to be self-congratulatory but seemingly aimed at fulfilling their legal obligations under NPT Article VI and Decision 2.

Interest-Based Groups

At the 1995 NPTREC, new *interest*-based coalitions—the Mason and the Cosmopolitan Core Groups—were crucial in building visible and demonstrable majority support for an indefinite extension of the treaty. The new challenge is to demonstrate to those states which occupy either end of the spectrum on nuclear disarmament and nonproliferation matters, that the vast majority of NPT parties favor the middle ground and want to register further progress in the full implementation of all aspects of the treaty.

It is not surprising that many states, from all three traditional groups, are becoming increasingly frustrated by those countries which continue to maintain polarized or ideological positions and are unable to change tack in response to the evolving international environment. Countries such as, Canada, Chile, Colombia, New Zealand, Singapore, and South Africa among others are in a position to “drive” the nuclear arms control and NPT review agendas, breaking away in large measure from their traditional groups, and it is here in the middle ground where there exists the greatest possibility for the future role and influence of interest-based coalitions.

Incoming U.N. Undersecretary General for Disarmament Ambassador Dhanapala has proposed the creation of an informal “bridge-builders” group, composed of a small number of certain key moderate countries (from all three traditional regional groupings) to assist the PrepCom chairs and to cultivate common ground regarding the full implementation of the treaty through a qualitatively new and strengthened review process.

Substantive Discussions at the 1998 NPT PrepCom

The issues that are likely to dominate discussions at the 1998 PrepCom flow clearly from Decision 2, the issues raised at the 1997 meeting, and from nuclear-related agenda items at the U.N. First Committee in the fall of 1997. Besides questions related to nuclear disarmament, universality, and the Middle East, which are bound to be raised by the particular states parties that

complained about their lack of discussion in 1997, the following other items are likely to receive attention: compliance issues; the Comprehensive Test Ban Treaty (CTBT); negotiations towards a fissile material cut-off treaty (FMCT); non-strategic nuclear weapons; nuclear-weapon-free zones; strengthened International Atomic Energy Agency (IAEA) safeguards; and the application of export controls by supplier states.

While space does not permit a full discussion of these issues, a few points are worth raising. On universality, the fact that 186 states have become members of the NPT has narrowed the focus to five states: Brazil, Cuba, India, Israel, and Pakistan. Given that Brazil is a member of the Treaty of Tlatelolco and has signed the NPT (although it has not ratified it) and that Cuba has signed the Treaty of Tlatelolco and has only a moribund nuclear power industry (although it has not ratified Tlatelolco or allowed it to enter into force), the main concern is with India, Israel, and Pakistan. Methods to draw these states into the treaty may be raised in Geneva, such as a harmonized approach for devising ways to encourage their adherence to the NPT in conjunction with the application of full-scope safeguards on all (not just new) supply arrangements for nuclear and dual-use items. Further, the traditional approach of selective pressure and differentiated policies toward the three holdout states might well be re-examined with a view to developing a common nonproliferation strategy.

In regards to nuclear disarmament, paragraphs 3 and 4 of Decision 2 reaffirm state commitments under Article VI of the NPT. Paragraph 4 outlines a program of action in regard to the full realization and effective implementation of Article VI, that includes: a) a CTBT to be concluded no later than 1996; b) the immediate commencement and early conclusion of negotiations on a multilateral convention banning the production of fissile material for nuclear explosives; and c) global nuclear weapon reductions, with the goals of eventual elimination of nuclear weapons, and general and complete disarmament. In Geneva, in addition to questions related to the implementation of the CTBT (short of its unlikely entry into force) and sticking points preventing the start of negotiations on an FMCT, discussions could be proposed on (among other items) limitations on non-strategic nuclear weapons, verified destruction of warheads, and the disposition of excess weapons fissile materials. Regarding the FMCT, of course, the 1998 NPT PrepCom is mandated to allocate time for discussing this issue.

Some of the topics likely to be considered are: definition, scope, declaration of stockpiles, declaration of surplus quantities, point of safeguards application, the role of the IAEA, relationship to nuclear disarmament, an international plutonium storage facility, and practical alternatives to a multilateral treaty (such as a NWS joint statement on halting further production). Some states will clearly be looking to the NWS to take the lead in agreeing on a politically binding joint statement on halting further production of weapon-grade fissile material and placing all existing stocks, deemed excess to current national security requirements and from dismantled warheads, permanently under IAEA safeguards. Such a statement, even if issued by only three or four of the five NWS, would still have a dramatic impact and place pressure on the others to join. A complementary measure could be a recommendation by the PrepCom to the IAEA to facilitate the negotiation of a multilateral fissile material protection, control and accounting agreement covering all fissile material in all states at all times, not just that in international transit.¹⁸ The benefits would include enhanced security, transparency, and accountability contributing to a strengthened NPT.

For the United States and Russia, the question of security assurances is likely to arise due to apparent recent changes in their nuclear doctrines. In November 1997, a secret U.S. Presidential Decision Directive (PDD) 60 reportedly dealt explicitly with the controversial issue of nuclear retaliation against a chemical or biological weapons attack.¹⁹ Meanwhile, Russia has threatened to deploy new non-strategic nuclear weapons as response to NATO enlargement, and reportedly is considering placing greater reliance on nuclear weapons to compensate for deficiencies in its conventional forces.²⁰ These reported changes in U.S. and Russian nuclear doctrine could be viewed by some as contradicting the negative security assurances given by the NWS in 1995 in connection with the indefinite extension of the NPT, and could well become a controversial issue at the 1998 PrepCom in its deliberations on security assurances.

At the 1998 PrepCom, it is again likely that the stand-off on nuclear disarmament at the Conference on Disarmament (CD) will spill-over into the NPT PrepCom process, with the NAM and many other NNWS pushing to focus on Article VI (disarmament), while the NWS seek to discuss other issues. While the non-aligned did not do their homework to discuss these issues at the 1997 PrepCom, given that their delegations will likely be

headed by their CD ambassadors, it would be surprising if the 1998 PrepCom did not engage in contentious discussion on this issue. This discussion could take away valuable time from reaching agreement on a number of other substantive and procedural matters.

One response by the United States and Russia might be to provide general briefings on measures being considered to find safe, secure, and practical means of minimizing the risk of any threat of diversion of materials from existing stockpiles: that either weapons or fissionable materials could be obtained by unauthorized parties or that they could be re-introduced into these states' respective nuclear forces (thereby halting or reversing the arms reduction process). They may also be expected to cite data on excess weapons-related fissile materials to be placed under voluntary IAEA safeguards.

Decision 2 devotes five paragraphs to safeguards, the most on any one issue, thus highlighting the importance that states parties placed on compliance. Since the 1997 PrepCom, a "Model Additional Protocol"²¹ on strengthened safeguards (as a result of the IAEA's "93+2" program) was adopted by the Board of Governors and later endorsed by the IAEA General Conference in the fall. Discussions could take place on ways of promoting the early implementation of "strengthened safeguards" and of creating increased transparency in export controls. One aim of such discussions could be to enhance the IAEA's capabilities to monitor national nuclear activities and to reduce perceived politicization in the application of export controls against NNWS parties.

CONCLUSION

The package of decisions agreed at the 1995 NPTREC not only created the conditions for the indefinite extension of the NPT but also raised expectations regarding permanence with accountability. Thus all states parties have committed themselves to work constructively toward fulfilling these expectations in order to promote the full implementation of the NPT through a strengthened review process.

The 1997 PrepCom, in accordance with NPTREC Decision 1, clearly established that the purpose of the committee meetings is to undertake both preparatory and substantive work for the review of the operation of the treaty in keeping with Article VIII, paragraph 3, taking into account the decisions and the resolution adopted by the 1995 NPTREC. The foundation of a qualitatively

new and different review process for the treaty has, thus, been put into place. Furthermore, in accordance with paragraph 4, of NPTREC Decision 1, the purpose of the PrepCom has been confirmed as considering principles, objectives, and ways in order to promote the full implementation of the treaty, as well as its universality, and to make recommendations thereon to the review conference. In practice, the PrepCom has become a type of a "mini-review conference," with at least 50 percent of its working time devoted to a discussion of substantive matters, in addition to its mandate to make procedural preparations for the next review conference.

The limited successes achieved at the first session of the PrepCom were in large part due to the preparedness of the chairman and the procedural and substantive contributions made by certain well-prepared states parties. In the remaining 20 days of preparatory work left before the 2000 Review Conference, a number of key procedural and substantive issues need to be resolved. If the strengthened review process is to succeed, at its second and third sessions, the committee will need to operate with uncharacteristic efficiency, states parties will need to demonstrate exceptional flexibility and cooperation, and above all participants will need to make careful and considered preparations for building on and expanding the areas of general agreement on recommendations to the 2000 Review Conference. Success at the PrepCom is crucial, because if the PrepCom fails to put forward well-considered and pragmatic proposals, the 2000 Review Conference will be hard-pressed to achieve its goals.

¹ Non-Proliferation, Arms Control and Disarmament Division, Department of Foreign Affairs (Canada), *A Non-Paper on Strengthening Review Conferences* (Ottawa: March 1995), unpublished.

² 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Final Document: Part I: Organization and Work of the Conference*, New York, 1995, Document No. NPT/CONF.1995/32 (Part I), "Decision 1: Strengthening the Review Process for the Treaty," Annex, p. 8.

³ Personal communication dated January 6, 1997. See also, Ambassador Taylhardat's comments in "Delegate Perspectives on the 1995 NPT Review and Extension Conference," *The Nonproliferation Review* 2 (Spring-Summer 1995), p. 9.

⁴ 1995 Review and Extension Conference of the Parties to the Treaty on the

Non-Proliferation of Nuclear Weapons, *Final Document: Part I: Organization and Work of the Conference*, New York, 1995, Document No. NPT/CONF.1995/32 (Part I), "Decision 1: Strengthening the Review Process for the Treaty," paragraph 4.

⁵ 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Final Document: Part I: Organization and Work of the Conference*, New York, 1995, Document No. NPT/CONF.1995/32 (Part I), "Decision 2: Principles and Objectives for Nuclear Non-Proliferation and Disarmament," Annex, pp. 9-12.

⁶ Tariq Rauf and Rebecca Johnson, "After the NPT's Indefinite Extension: The Future of the Global Nonproliferation Norm," *The Nonproliferation Review* 3 (Fall 1995), pp. 34.

⁷ The Hon. John D. Holum (Director, U.S. Arms Control and Disarmament Agency), "Remarks to the International Conference on Nuclear Nonproliferation, Sponsored by the Carnegie Endowment," Washington, D.C., February 12, 1996.

⁸ Perhaps, a better way of structuring a full and balanced review of the treaty might have been an article by article assessment, which could have allowed more time for the consideration of certain articles deserving of special treatment, such as safeguards, peaceful cooperation, nuclear-weapon-free zones, and nuclear disarmament, with additional time being set aside for the consideration of universality, security assurances, and the Middle East resolution.

⁹ Ambassador Mark Moher (Representative and Ambassador of Canada to the United Nations for Disarmament), "Statement to the Preparatory Committee of the 2000 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons," New York, April 8, 1997, p. 2.

¹⁰ Ambassador K. J. Jele (Permanent Representative of South Africa), "Statement to the First Preparatory Committee Meeting for the Year 2000 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons," New York, April 8, 1997, p. 1.

¹¹ The Hon. Lawrence Scheinman, presentation at the Workshop on Preparing for the April 1997 NPT PrepCom, organized by the Monterey Institute of International Studies, Geneva, Switzerland, February 27, 1997.

¹² The Hon. Lawrence Scheinman (Representative of the United States), "Statement" to the Preparatory Committee of the 2000 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, New York, April 8, 1997, p. 3.

¹³ Canada, for example, reiterated its refrain from the NPTREC of "permanence with accountability," and accountability by *all* states parties. In light of Decision 1 of the NPT (on a "strengthened review process") the 1997 session of the PrepCom was initiating a qualitatively different process than any previous NPT review. States parties were no longer focused only on a "review of implementation" but also on addressing "specifically what might be done to strengthen the implementation of the Treaty and to achieve its universality."

¹⁴ At the first session of the Preparatory Committee for the 1995 NPTREC, the Depositaries circulated "Draft Rules of Procedure" (NPT/CONF.1995/PC.I/CRP.1, 7 May 1993), to facilitate the consideration and adoption by NPT states. The 1995 NPTREC adopted the "Rules of Procedure" at its 17th meeting on 11 May 1995 (NPT/CONF.1995/28, 9 May 1995), which contained adjustments to Rules 12, 13, 27, 28, 30, and 44 of the Rules of Procedure for the 1990 NPT Review Conference, in order to provide a legal basis for an extension decision. After the conclusion of the 1995 NPTREC, the Rules can revert back to their traditional format, except for retaining the revised formulations for Rule 12. Rule 12 on "Costs" was adjusted in accordance with a detailed schedule of costs for the Conference as well as the PrepCom, with the proviso that the financial arrangements did not constitute a precedent. However, there is no compelling reason to revise the cost-sharing schedule of 1995, other than to re-apportion the proportional costs among NPT states in light of the expansion in treaty membership from 178 to 186 parties (to date), while preserving the traditional formula whereby the NWS between them pay 55 percent of the total costs for the NPT Conference (and the PrepCom). Rule 44 was updated to reflect the fact that there were no longer any states that had signed but not yet ratified the NPT, and this situation continues as states now can only join the NPT after depositing their instrument of ratification with one of the three depositaries.

¹⁵ These seven thematic points correspond to the principles and objectives outlined in Decision 2, for nuclear nonproliferation and disarmament, and comprise *inter alia*, universality, nonproliferation, nuclear disarmament (CTBT, fissile material cut-off, and eventual elimination of nuclear weapons), nuclear-weapon-free zones, security assurances, safeguards, and peaceful uses of nuclear energy. It is interesting to note, in this context, that these thematic points only deal with relevant developments that have taken place since the end of the 1995 NPTREC regarding principles and objectives.

¹⁶ Algeria, Australia, Canada, China, Colombia, Egypt, France, Germany, Hungary, Indonesia, Iran, Japan, Malaysia, Mexico, Netherlands, Nigeria, Poland, Romania, Russian Federation, South Africa, Sri Lanka, Sweden, the United Kingdom, the United States, and Venezuela.

¹⁷ Algeria, Canada, Chile, China, Colombia, Egypt, France, Germany, Indonesia, Iran, Japan, Malaysia, Mexico, Myanmar, Netherlands, Poland, Russian Federation, South Africa, Sweden, Ukraine, United Kingdom, and United States. Australia walked into the consultations uninvited and was privately cautioned by the chairman to only observe but not participate in the discussion taking place within the framework of the chairman's consultations.

¹⁸ I am grateful to Ambassador (ret'd.) George Bunn, currently at the Center for International Security and Arms Control at Stanford University, for sharing this proposal.

¹⁹ See, for example, Jeff Erlich, "New U.S. Nuclear Policy Maintains Ambiguity: Directive Clears Way for Arsenal Cuts, Broaches Bio-Chem Attack Retaliation," *Defense News*, January 6-11, 1998, p. 4; and R. Jeffrey Smith, "Clinton Directive Changes Strategy on Nuclear Arms," *The Washington Post*, December 7, 1997, p. 1.

²⁰ Walter Pincus, "Russia Considering Increased Nuclear Dependence," *The Washington Post*, December 7, 1997, p. 11.

²¹ IAEA, *Model Protocol Additional to the Agreement(s) between State(s) and the International Atomic Energy Agency for the Application of Safeguards*, INFCIRC/540 (September 1997).