



NPT 2020 Review Underway :

Is the NPT Still Relevant?

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“And thus the whirligig of time brings in his revenges” (Shakespeare, *Twelfth Night*)

Summary

The 2020 NPT Review Conference has its first Preparatory Committee meeting in Vienna in May against a backdrop of a failed 2015 Review Conference and in very inauspicious circumstances which include the nuclear weapon ban conference this year and the uncertainties of a Trump presidency in Washington. A surge of support from non-nuclear-weapon states and civil society coming after the humanitarian initiative and the Austrian Pledge led to UN General Assembly Resolution 71/258 of 23 December 2016 for the ban conference in March and June–July 2017. Will the NPT Review Conference be stimulated by the ban conference to achieve a positive outcome, or will each undermine the other so they both fail? The NPT has inherent problems and States Parties cannot agree on the relative importance of its three pillars, especially Article VI on disarmament. The proposed Middle East Weapons of Mass Destruction-Free Zone, the success of the deal to ensure that Iran’s nuclear program will be exclusively peaceful, ongoing North Korean issues, and the status of non-NPT nuclear-armed countries will be additional contentious issues. The future of the NPT is gloomy and mass non-attendance at the Review Conference or mass exit via the Article X route; activating the amendment process; and a resolution moved on Article VI on disarmament are all

possibilities for 2020. On the other hand, a US–Russia new START as well as innovative strategies might still rescue the 2020 Review Conference.

1. The first Preparatory Committee (PrepCom) for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) will meet from 2–12 May 2017, in Vienna, Austria. The PrepCom, open to all States Parties to the treaty, is responsible for addressing substantive and procedural issues related to the treaty and the forthcoming Review Conference, based on the strengthened review process for the NPT established in 1995. The Chair-designate of the first session is Ambassador Henk Cor van der Kwast of the Netherlands.

2. Thus begins the tenth review cycle of the NPT since its signature in 1968 and its entry into force in 1970. Held in accordance with Article VIII:3 of the treaty, 2020 will also be the fifth review conference since the watershed 1995 NPT Review and Extension Conference which adopted Decision 1 “Strengthening the Review Process for the Treaty” as part of the “package.” That decision was supposed to have been part of a trade-off for the indefinite exten-

sion of the NPT by empowering States Parties with a stronger review process. That it was a specious promise by the nuclear weapon states (NWS) and their allies, has been proven by the actual events post 1995, and the fact that two of the review conferences (2005 and 2015) ended as failures without the adoption of final documents. Picking up the debris of the 2015 conference with problems such as the unfulfilled Article VI bargain on nuclear disarmament, the Middle East Weapons of Mass Destruction-Free Zone (MEWMDZFZ), and other issues are formidable enough, but doing so in a dramatically different (and still to be fully unravelled) political order under the newly elected US President Donald Trump and the distraction of a rival show in town – the nuclear ban negotiation conference (discussed below) – is worse.

The Other Multilateral Conference

3. To add to the problems embedded in the NPT itself, is the fact that there is a parallel multilateral process which is stealing the limelight and could eventually overshadow this NPT review cycle. In the UN General Assembly last year, a number of non-NWS from the global South joined with others to ensure the adoption of Resolution 71/258 “Taking forward multilateral nuclear disarmament negotiations.” This resolution decided that a UN conference should be convened in 2017 “to negotiate a legally binding instrument to prohibit nuclear weapons leading towards their total elimination.” The conference met from 27–31 March and will meet again from 15 June–7 July. The resolution was adopted on 23 December 2016 by a large majority, with 113 UN member states voting in favour, 35 voting against and 13 abstaining. One report said support was strongest among the nations of Africa, Latin America, the Caribbean, Southeast Asia, and the Pacific.¹

4. At a UN budget committee meeting earlier, the United States attracted the ire of other na-

¹ For further information refer United Nations Office for Disarmament Affairs (UNODA) website: <https://www.un.org/disarmament/ptnw/background.html>

² Contrary pressures are revealed in the following NATO Directive: “Note by the Secretary, United States Non-Paper: Defense Impacts of Potential United Nations General Assembly Nuclear Weapons Ban Treaty.” Committee on Pro-

tions when it objected to a funding request for the planned four weeks of negotiations on the treaty, to be held at UN headquarters in New York. However, under intense pressure from supporters of nuclear disarmament, it eventually withdrew its objection and the committee authorized the request. The organizational meeting for the conference was held in New York on 16 February and elected as conference president, Ambassador Elayne Whyte Gómez of Costa Rica, an experienced diplomat from a country with impeccable disarmament credentials and with no standing army. Prior to the UN General Assembly vote, at the First Committee of the UN General Assembly, which deals with disarmament and international security matters, 123 nations voted in favour of Resolution L.41, with 38 against and 16 abstaining. A total of 57 nations were co-sponsors, with Austria, Brazil, Ireland, Mexico, Nigeria, and South Africa taking the lead in drafting the resolution.

5. The UN vote came just hours after the European Parliament adopted its resolution on this subject – 415 in favour and 124 against, with 74 abstentions – inviting European Union (EU) member states to “participate constructively” in next year’s negotiations.² Recent opinion polls show overwhelming support for the elimination of nuclear weapons. A strong coalition of NGOs has also been mobilized.³

6. Ireland, credited with the origins of the NPT in the UN, was significantly at the helm of the nuclear weapon ban resolution and explained the link between the NPT and the nuclear weapon ban conference thus:

The masonry metaphors, of foundation, cornerstones and pillars, while effective, should not cause a false interpretation of the NPT as

² Contrary pressures are revealed in the following NATO Directive: “Note by the Secretary, United States Non-Paper: Defense Impacts of Potential United Nations General Assembly Nuclear Weapons Ban Treaty.” Committee on Proliferation (CP), AC/333-N (2016) 0029 (INV) North Atlantic Council.

³ Ray Acheson, *Banning nuclear weapons: principles and elements for a legally binding instrument* (New York: Women’s International League for Peace and Freedom, 2017); <http://www.reachingcriticalwill.org/resources/publications-and-research/publications/11390-banning-nuclear-weapons-principles-and-elements-for-a-legally-binding-instrument>

something set in stone or frozen in time. Like all treaties, it is a living document and it never claimed to be the last word, envisaging in Article VI further effective measures and a complementary treaty. There is a dynamic tension at the heart of the treaty, a grand bargain which does not preserve forever any right to nuclear weapons but rather acknowledges the reality of their existence while the process of disarmament is taken forward. "Taking forward" are the operative words here, for there has been little perceptible progress on the multilateral nuclear disarmament pillar under the NPT and today marks the beginning of the first multilateral nuclear weapons negotiations since the CTBT over twenty years ago.⁴

7. The Irish statement added that the world neither could nor should ignore the wider security situation, including a weakening of the no use taboo, ongoing nuclear tests, massive modernization, and loose talk of usable nuclear weapons. "Knowing what we know now" about the "catastrophic consequences" of "the most powerful and most indiscriminate weapons of mass destruction ever invented," the statement said, "we must do everything to ensure that they are never used again."⁵

8. This surge of support from a majority of the world's non-NWS for a nuclear weapon ban, identified as one of the three pillars of the NPT and the essence of Article VI, coming as it does after the humanitarian initiative wave, is most significant. One NATO country, the Netherlands, has shown itself to be partial to the idea of a ban. Nuclear weapon possessing countries like China, Pakistan, and India abstained on the UN General Assembly vote but in the end declined to participate in the nuclear ban conference.

9. The question arises as to whether there will be two separate but parallel multilateral processes for nuclear disarmament (since the NPT review process will focus on Article VI) taking place or whether there will be a confluence. The nuclear ban conference, according to the dates agreed, is only for 2017 but it is of course

possible that it might be extended beyond 2017, whereas the NPT review cycle of course goes on till 2020.

10. One of the few instances of parallel processes like this in multilateral disarmament was when the Convention on Certain Conventional Weapons had a process on the control of landmines falling short of an outright ban, whereas the NGO community led by Jody Williams of the International Campaign to Ban Landmines negotiated a Mine Ban Convention or the Ottawa Treaty outside the UN framework.⁶ A similar development took place on banning cluster munitions.⁷

11. The likely impacts of these parallel processes on each other are that the NWS and their allies will favour the NPT review process, while many non-NWS will favour the nuclear ban conference. Progress in one will be held hostage to progress in the other; and both will fail for lack of consensus with ensuing mutual recriminations. The future of the NPT is gloomy and mass non-attendance at the Review Conference or mass exit via the Article X route; activating the amendment process; and a resolution moved on Article VI on disarmament are all possibilities for 2020.

Dealing with the Detritus of 2015

12. I have dealt with the different approaches to the NPT in my previous writing.⁸ NPT observers may be divided into two groups. The first group is comprised mainly of nationals of

⁴ Statement by Ireland, Diplomatic conference to negotiate a new legal instrument for the prohibition of nuclear weapons leading to their total elimination-Organizational Meeting, 16 February 2017, United Nations, New York; <https://www.un.org/disarmament/ptnw/statements/pdf/Ireland-Statement-16-February-2017.pdf>

⁵ Ibid.

⁶ For further information refer United Nations Office for Disarmament Affairs (UNODA) website: <https://www.un.org/disarmament/geneva/aplc/>

⁷ Meeting in Dublin in May 2008, 107 countries negotiated the text over ten days and signed it on 30 May. Signatories included 7 of the 14 countries to have used and 17 of the 34 countries that have produced cluster bombs. Opponents included several key countries that produce or have stockpiled significant quantities of cluster munitions, including China, Russia, the United States, India, Israel, Pakistan, and Brazil. Although acknowledging the humanitarian concerns about the use of cluster munitions, the US insisted that any discussion of cluster munitions should be restricted to the mandated multilateral forum attached to the Convention on Certain Conventional Weapons.

⁸ This and the next paragraph summarize Jayantha Dhanapala, "The NPT: A Bear Pit or Threshold to a Nuclear-Weapons-Free World?" Steven E. Miller, *Nuclear Collisions: Discord, Reform & the Nuclear Nonproliferation Regime* (Cambridge MA.: American Academy of Arts and Sciences, 2012); <http://www.amacad.org/pdfs/nonproliferation.pdf>

NWS and their allies. They downplay nuclear disarmament, are untroubled by the indefinite retention of nuclear arms by the five NWS, but call for stringent prohibition of any proliferation of these weapons to other states. Consequently their commentaries are preoccupied with dangers to the NPT arising from breakouts from the regime by countries such as Iran, Syria, and North Korea. A second group, concentrated mainly among non-NWS nationals, especially from countries within the Non-aligned Movement (NAM), place equal emphasis on both arms control and disarmament. Believing the NPT to be a transitional stage towards a nuclear-weapon-free world, they point to the lack of progress by NWS in implementing Article VI as equally, if not more, important in comparison to the core non-proliferation Articles I and II.

13. Thus there is agreement on the three pillars that support the NPT – non-proliferation, disarmament, and peaceful uses of nuclear energy. But the two groups disagree sharply over the relative importance of each pillar. At successive NPT review conferences, adroit diplomacy may succeed in papering over the disagreement in order to produce a consensus final document. But, as the next review conference process begins, the discord reappears in one form or another.

14. Considering the causes for the failure of the 2015 Review Conference, the following issues will have to be addressed in the coming NPT review cycle while asserting the strengthened review process:

- Article VI issues;
- the proposed Middle East Weapons of Mass Destruction Free Zone;
- the success of the Joint Comprehensive Plan of Action (JCPOA) with regard to Iran;
- the nuclear and missile activity of the Democratic People's Republic of Korea (DPRK); and
- the external threats to the integrity of the NPT by NWS trying to smuggle India into the Nuclear Suppliers Group, conferring benefits normally reserved for non-NWS within the NPT to outliers.

And if India comes first, can Israel be far behind given the Donald Trump-Benjamin Netanyahu axis?

15. Tariq Rauf has carefully analyzed the failure of the 2015 Review Conference.⁹ He attributes the waste of the opportunity to strengthen the NPT “as the cornerstone of the global nuclear non-proliferation and nuclear disarmament regime” to three factors: “the inflexibility of many delegations, improper implementation of the strengthened review process and an absence of leadership.” The treaty will survive but only at the cost of badly damaged credibility amidst rising dangers and threats, including renewed saliency of nuclear weapons in European security, stalled progress in reducing and eliminating nuclear weapons, increasing discord among and between NWS and non-NWS, growing questioning of the NPT by Arab countries, and a general loss of credibility in the treaty's nuclear disarmament pillar.

Enter the Trump Phenomenon

16. Never before has a US president caused so much disruption to normal policy and threatened strategic stability with his reckless statements and actions. A toxic mix of populism, nationalist bigotry, protectionism in trade, and intolerant racist exclusivism is challenging the post-World War II liberal democratic international order which the US helped to create and underpin. Beyond the appointments at the helm of the departments of State and Defense, the Central Intelligence Agency (CIA), and other relevant bodies, we have no details of the team which will handle the NPT review cycle over the next three years. Will they have the experience and background expertise? While a US nuclear posture review might well be expected, there is no policy statement so far on the Trump administration's nuclear policies except for the extravagant boast that the US should have the greatest arsenal and that the more nuclear weapon states in the world the better – a wild extension of Kenneth Waltz's argument that some proliferation can help

⁹ Tariq Rauf, *The 2015 NPT Review Conference: Setting the Record Straight* (Stockholm: Stockholm International Peace Research Institute, 2015); <https://www.sipri.org/node/384>

keep international peace. We have therefore no reliable guidance on Trump policies.¹⁰

17. The Chicago-based *Bulletin of the Atomic Scientists* made its reaction abundantly clear by moving the Doomsday Clock to 2½ minutes to Midnight¹¹ – such is their dire perception of the risk of nuclear war under Trump.

18. The Washington-based Arms Control Association commented editorially that President Trump should engage with Russia to reduce nuclear tensions by reaffirming the 1985 statement by US President Ronald Reagan and Soviet leader Mikhail Gorbachev that “a nuclear war cannot be won and must never be fought.” In addition, Trump and Soviet President Vladimir Putin should also reaffirm their commitment to the moratoria on nuclear tests and the prompt entry into force of the Comprehensive Test Ban Treaty (CTBT). Both countries “can safely cut their bloated nuclear stockpiles further without negotiating a new treaty,” agree to extend New START by five years to 2026, and “pursue further, significant parallel reductions of warhead and delivery system inventories by one-third or more.”¹²

19. Already US policy on the Middle East shows very pro-Israeli tendencies (for example flexibility on the sacrosanct two-state solution; move of the US Embassy from Tel Aviv to Jerusalem, etc.) and the MEWMDFZ proposal is not likely to make any headway under Trump. The DPRK is under notice that it has been identified as a serious threat to the US. In this climate no constructive approach to the NPT seems likely, and even US allies in NATO will be hard put to support the swashbuckling Trump policies within the NPT context. The sharp divergence in NPT policies between the EU and the US cannot be bridged easily. The JCPOA with Iran,

which should be celebrated as a triumph of non-proliferation achieved through patient but belated diplomacy, is denounced by Trump as a bad deal.

The Future of the NPT

20. Tariq Rauf has set out the following recommendations for the conduct of the 2020 Review Conference:¹³

- The effective implementation of a well-designed, results-oriented, strengthened review process is central to the fulfilment of the principle of “permanence with accountability.”
- The 2020 Review Conference should address two basic questions: “For what are states parties accountable?”; and “How is that accountability to be exercised”?
- The strengthened review process must be ‘product-oriented’ and structured to facilitate the attainment of the objectives of permanence with accountability, which entails accountability by all NPT States Parties for compliance with and the fulfilment of undertakings under the treaty, the 2010 and 2000 final documents and the 1995 decisions and resolution.
- The 2020 conference should prepare and adopt by consensus a Final Document that reviews implementation over the period 2015–20, and also makes recommendations on the implementation of the treaty and Review Conference decisions and outcomes over the period 2020–25.
- Every effort must be made to adopt by consensus the review part of the Final Document, failing which the different points of view of States Parties should be reflected. The forward-looking part, however, must be

¹⁰ Kenneth Waltz, *The Spread of Nuclear Weapons: More May Be Better*. Adelphi Papers, Number 171 (London: International Institute for Strategic Studies, 1981).

¹¹ John Mecklin, ed., “It is two and a half minutes before midnight – 2017 Doomsday Clock Statement,” *Bulletin of the Atomic Scientists*; <http://thebulletin.org/sites/default/files/Final%202017%20Clock%20Statement.pdf>

¹² Daryl G. Kimball, “A President in Need of a Russia Policy,” *Arms Control Today* (March 2017); <https://www.armscontrol.org/act/2017-03/focus/president-need-russia-policy>

¹³ Jatantha Dhanapala and Tariq Rauf, eds., *Reflections on the Treaty on the Non-Proliferation of Nuclear Weapons – Review Conferences and the Future of the NPT* (Stockholm: Stockholm International Peace Research Institute, 2010); https://www.sipri.org/sites/default/files/Reflections%20on%20the%20NPT_Dhanapala%20and%20Rauf.pdf

adopted by consensus in order to ensure the buy-in of all States Parties.

- The chair of each main committee should also serve as the chair of the respective subsidiary body, with the vice chairs of the committees assisting in the chairing of the main committees.
- Given the special status of the 1995 Resolution on the Middle East, a Friend of the President/Chair or Special Coordinator should be appointed to facilitate review of the implementation of the 1995 resolution and the relevant 2000 and 2010 recommendations and actions, and also prepare the recommendations/actions in this regard for the 2020–25 period for adoption by the 2020 Review Conference. The Friend of the President/Chair or Special Coordinator would report to the president of the 2020 conference through the chair of Main Committee II.
- It might be desirable for the president to dispense with a formal president's consultations group and instead engage in frequent and wide-ranging consultations on an ongoing basis with political, regional, sub-regional and issue-specific groupings. Negotiations on hard issues and differences should be carried out in the open in the presence of all States Parties.

21. While implementing the above recommendations will help keep the NPT on life support till the next review conference, there is little hope that the NPT will become the robust regime it must be to achieve all three pillars of its foundation uniformly.

22. The question then arises on whether the NPT has not outlived its usefulness. With many regions under the self discipline of nuclear-weapon-free-zones, only the NATO region, sheltering under the nuclear umbrellas of the US, UK and France; Northeast Asia with Japan and South Korea under the US nuclear protection; South Asia with India and Pakistan already in possession of nuclear weapons; and the Middle East with Israel armed with nuclear

weapons, remain potential areas for further nuclear weapon proliferation. If the nuclear ban movement gathers momentum together with the humanitarian initiative and the Austrian Pledge, the relevance of the NPT will be greatly reduced.

23. This can be manifested through several steps such as:

- A mass non-attendance of non-NWS States Parties or, more dramatically, a mass exit of non-NWS exercising their sovereign rights under Article X to withdraw from the NPT. It will be a dramatic illustration of the fact that the non-NWS prefer the legal renunciation of nuclear weapons under a universal ban of these weapons rather than through a skewed and imbalanced NPT.
- The triggering of the amendment route as a political pressure tactic. I have discussed this extensively in my *Pugwash Issue Brief* in 2010.¹⁴ The frustration experienced by non-NWS may be vented through this route.
- The presentation of a resolution demanding action on Article VI be put to a vote at the 2020 NPT Review Conference, and making the connection between the conference on a nuclear weapon ban and the NPT Review Conference.

Conclusion

24. The vast majority of the non-NWS demonstrated their rejection of nuclear weapons as a national security choice long before the NPT was concluded. Conclusive evidence of this is the fact that the Treaty of Tlatelolco, which recently celebrated its 50th anniversary, preceded the NPT. In other words, non-NWS did not need the dubious and largely unimplemented incentives of the peaceful uses of nuclear energy in Article IV and the nuclear dis-

¹⁴ Jayantha Dhanapala, "Planning for the 2010 NPT Review Conference: A Practitioners Overview," *Pugwash Issue Brief* 6:1 (March 2010); https://pugwashconferences.files.wordpress.com/2014/05/201003_npt_dhanapala-issue-brief.pdf

armament provisions in Article VI to agree not to seek nuclear weapons for themselves.

25. The nuclear weapon ban conference, not yet another fruitless NPT review conference, is the logical sequence of the many initiatives taken by the non-NWS led by the global South in general and by the NAM in particular. In his acceptance speech at the Nobel Peace Prize ceremony, Ambassador García Robles referred to the foundation document of Pugwash – the 1955 London Manifesto – and to its founder President Lord Bertrand Russell. An eloquent and persistent voice against the global threat posed by the very existence of nuclear weapons, García Robles reminded his Oslo audience that in 1978, at its first special session on disarmament, the UN General Assembly unanimously declared that “the very survival of mankind” was threatened by “the existence of nuclear weapons and the continuing arms race.”

26. Similar reasons motivated Albert Einstein and Bertrand Russell to declare in their historic 1955 Manifesto that they were speaking “not as members of this or that nation, continent, or creed, but as human beings, members of the species Man, whose continued existence is in doubt.” Their conclusion, that we must “learn to think in a new way,” is, unfortunately, as timely and relevant today.

27. With nine countries possessing more than 15,000 nuclear weapons, over 4000 of which are deployed, the non-NWS have long learned to think as human beings living under an existential threat. Any use of nuclear weapons – intentionally or accidentally, by state or non-state actors – could have catastrophic consequences for all forms of life on Planet Earth. Despite pressure from world public opinion, the NWS have largely confined their negotiations to limited nuclear arms control, with partial cuts to their arsenals and caps on deployments of strategic nuclear weapons.

28. It is the non-NWS who have led the way with bolder steps, from the many nuclear-weapon-free zones to the partial and eventually the Comprehensive Test-Ban Treaty (CTBT). The same states have been at the forefront of the humanitarian initiative where three international conferences affirmed the catastrophic humanitarian consequences of the use of nuclear weapons and emphasized that the only guarantee of non-use is their elimination.

29. The nuclear weapon ban movement and the NPT review process are like two separate horse carriages running side by side. Both need two groups of riders – the NWS and the non-NWS. There is no doubt that the nuclear ban conference is supported by the overwhelming majority of non-NWS and represents the conscience of humankind. If by the end of 2017 the Trump administration has been able to begin the negotiations of a new START with the Russian Federation, the tension between the two negotiating processes will diminish. Equally important is the role to be played by the other nuclear weapon possessor countries – China, India, Pakistan, Israel, and North Korea – as well as the nuclear umbrella protected countries – Australia, Japan, South Korea, and NATO countries. In any event, some major innovative strategies will be necessary to revive the NPT review process if the 2020 review conference is to be a success.

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