



Andrey Baklitskiy

## OUTCOME OF THE 2015 NPT REVIEW CONFERENCE: WHAT AWAITS THE NONPROLIFERATION REGIME

The final plenary session of the 2015 NPT Review Conference was formally concluded at 22.00 on May 22. In practice, however, the conference ended three hours earlier, when U.S. Under Secretary of State Rose Gottemoeller rejected the proposed draft of the Final Document. The stumbling block was the section on establishing a WMD-free zone in the Middle East. Even though everything had already been decided, the delegates could not just leave early — they had to watch the proceedings play out until their formal conclusion. These proceedings included statements in support of the U.S. position by the British and Canadian delegations. The clock was then stopped; the Iranian delegation convened a meeting of the Nonaligned Movement; the proceedings then resumed; the Egyptian representative delivered a speech, in which he thanked the Russian delegation for its strong leadership; and finally, the majority of delegations praised the chairman of the Review Conference, Algerian Ambassador Taous Feroukhi, for her hard work. Only then were the delegations and the experts who attended the conference finally able to start trailing from the General Assembly chamber towards the only exit that was still open at such a late hour. The 2015 NPT Review Conference was over; preparations began for the 2020 RevCon. In the dark and desolate corridors of the UN headquarters, the outlook for that event seemed especially gloomy.



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### ON THE ROAD TO NEW YORK

The 2015 RevCon's failure to adopt a Final Document should not have come as any great surprise; there were grave doubts about the outcome of that conference right from the start.

The conference on establishing a WMD-free zone in the Middle East, which the 2010 RevCon scheduled for 2012, had yet to be convened. The Middle Eastern states were unable to agree on substantial and organizational issues. Two of the three co-sponsors of the conference, the United States and Britain, were consistently siding with Israel on all important issues. During the second session of the Preparatory Committee in 2013, the Egyptian delegation walked out in protest over the lack of progress on the WMD-free zone, so everyone knew that the issue was a ticking time bomb.

Another apparent reason for the RevCon's failure was disagreement on disarmament issues. Different approaches to disarmament commitments were the main reason why the third session of the Preparatory Committee had proved unable to deliver a consen-

sus report.<sup>1</sup> Representatives of the P5 insisted on a step-by-step approach to nuclear disarmament that would take into account the nuclear weapon states' security concerns. Many of the non-nuclear weapon states, however, insisted on recognizing the catastrophic consequences of any potential use of nuclear weapons, and called for a speedy multilateral disarmament. On October 20, 2014, New Zealand's Dell Higgie made a statement on the humanitarian consequences of nuclear weapons at the First Committee of the General Assembly;<sup>2</sup> that statement was supported by 155 countries, which is 80 per cent of the UN membership.

Another cause for pessimism was a new bout of tension between the two largest nuclear powers, Russia and the United States (with Britain and France largely taking Washington's side). Apart from the Ukrainian issue, which was the main irritant between Moscow and Washington, the sides also differed substantially on the issue of compliance with arms control and nuclear arms reduction agreements. Differences between Russia and the United States made it highly unlikely that the two countries would agree to further nuclear cuts below the ceilings agreed upon in the New START treaty, angering the proponents of a nuclear zero.

All that being said, however, the eventual failure of the 2015 Review Conference did in fact come as a surprise to many of the people involved. The negotiations were very difficult, but the outcome did not seem predetermined. There was a good chance of the RevCon adopting a Final Document after all — and the reason for its eventual failure to do so was fairly unexpected.

## **WHAT WENT WRONG**

On the whole, the 2015 RevCon kicked off to a more positive start than many observers had expected. Palestine's decision to join the NPT in February 2015 had made the treaty the world's largest arms control agreement in terms of membership.<sup>3</sup> Palestine was able to join after Russia accepted its ratification instruments (it was the only one of the NPT depository states that agreed to do so). This was met with approval among the Arab states and members of the Non-Aligned Movement. Another distinctive feature of the 2015 NPT was Israel's presence. Tel Aviv is not a member of the NPT, and it is suspected of possessing a significant nuclear arsenal. Nevertheless, for the first time in 20 years, the Israeli delegation was present as an observer. Tel Aviv's presence probably owed more to its eagerness to improve relations with several of its Arab neighbors and the United States than to any changes in Israeli nuclear policy. Nevertheless, it was taken as a good sign that opened up opportunities for dialogue. Good progress achieved at the talks between Iran and P5+1, with the Lausanne agreements signed less than a month before the start of the RevCon, also added to the positive atmosphere in New York.

The P5 states had also done their homework. At the start of the conference Russia, Britain, China, and France announced their ratifications of the protocol to the Central Asian nuclear weapons-free zone, which was signed by all five of the nuclear-weapon states in 2014.<sup>4</sup> The U.S. government announced that it had submitted the protocol to Senate for ratification.

The first signs of impending trouble came on the third day of the conference, when U.S. Secretary of State John Kerry accused Russia of violating the Intermediate and Shorter Range Nuclear Forces (INF) Treaty. He also accused Moscow of being in breach of the terms of the Budapest Memorandum on security assurances given to Ukraine in connection with the country's accession to the NPT. Russian representative Mikhail Ulyanov

**Ambassador Fu Cong**  
**Deputy Permanent Representative, Permanent Mission of the People's Republic of China to the United Nations Office at Geneva**

**– In your view, what are the main contradictions in the interpretation of Article VI of the NPT?**

– Article VI of the NPT clearly specifies the direction of the nuclear disarmament process, namely pursuing negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date, to nuclear disarmament, and to a treaty on general and complete disarmament under strict and effective international control. We do not see any “legal gap” in the Treaty. In the current international environment, the NPT, as well as the decisions adopted by its successive Review Conferences, including the 2010 Action Plan, constitute practical and feasible roadmaps to promote international nuclear disarmament in a step-by-step manner. Any re-interpretation of the role of the NPT in nuclear disarmament is conducive neither to maintaining the authority and effectiveness of the Treaty, nor to promoting progress in nuclear disarmament.

**– Since the signing of the NPT all nuclear reductions were pursued either bilaterally or unilaterally, but not directly in the framework of the Treaty. In your view, what is the role of the NPT in nuclear disarmament?**

– It is regrettable that the 2015 NPT Review Conference concluded without an outcome. However, the NPT still serves as the cornerstone of the international nuclear non-proliferation regime, as well as an important mechanism to promote international nuclear disarmament. Since the end of the Cold War, Russia and the US have concluded a series of bilateral treaties to reduce their respective nuclear arsenals. Such measures were not adopted directly in the framework of the NPT. However, they are consistent with the purpose of the Treaty and were endorsed by its Review Conferences as practical and feasible measures for nuclear disarmament. These treaties must be scrupulously observed, and we also hope to see further substantial reductions of nuclear arsenals by the US and Russia. It must be pointed out that China always keeps its nuclear arsenal at the minimum level required for its national security, which serves as an important contribution to the international nuclear disarmament. Once conditions are ripe, China will also

commit itself to joining the multilateral nuclear disarmament negotiation process.

**– At the 2015 NPT Review Conference Austria, on behalf of more than 150 states, gave a statement on the humanitarian consequences of nuclear weapons. How do you see the future of the Humanitarian Initiative?**

– China fully understands the concerns of some countries over the possible humanitarian consequences of the use of nuclear weapons. We likewise stand for the complete prohibition and thorough destruction of nuclear weapons and support international efforts to draw up a practical and phased long-term plan at an appropriate moment, including the conclusion of a convention on the complete prohibition of nuclear weapons, leading to complete and thorough nuclear disarmament. At the same time, however, we must also acknowledge that nuclear weapons are related to national security and global strategic stability. Failure to recognize this fact will not contribute to progress in the nuclear disarmament process, and will over time also make such humanitarian initiatives unsustainable.



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**THE NUCLEAR NON-PROLIFERATION TREATY IN BRIEF**

<b>Signed</b> .....	1968
<b>Entered into force</b> .....	1970
<b>Extended indefinitely</b> .....	1995
<b>Membership</b> .....	191 states
<b>Withdrawals</b> .....	DPRK
<b>Not signed</b> .....	Israel, India, Pakistan, South Sudan
<b>Review Conferences</b> .....	Once every 5 years
<b>Between Review Conferences</b> .....	Preparatory Committee sessions held on years 2, 3 and 4 of the 5-year cycle
<b>Decision-making</b> .....	By consensus

rejected the American accusations and voiced Russia's own charges against the United States on the issue of the INF Treaty and on joint nuclear missions with the non-nuclear NATO members. The acting head of the Russian delegation also recalled numerous failures of U.S. expertise on the matter, citing Iraq as a case in point. The speech by M.I. Ulyanov appeared on the official UN website only the following day; it was re-written at the last moment after the statements made by the U.S. side.

The Ukrainian issue, however, failed to make it to the top of the conference agenda. Apart from the U.S. Secretary of State and Ukraine's own foreign minister, only a few Western delegations, including Canada and Poland, directly accused Russia of violating the Budapest Memorandum. After the head of the British delegation announced a joint statement by the P5 on April 30, it became clear that the great powers had decided not to allow a confrontation within their own ranks to spiral out of control.<sup>5</sup> The issues of disarmament and the Middle Eastern WMD-free zone took the center stage from then on.

Against all expectation, the matter of convening a conference on the WMD-free zone in the Middle East was discussed in a fairly constructive manner. The entire subject of the Middle East was debated at Subsidiary Body 2 sessions, which were held in camera. Everyone knew, however, that Israeli representatives were taking part in informal consultations. During the first week of the conference the Israeli delegation was led by Jeremy Issaharov, first Deputy Director-General of the Israeli Foreign Ministry. The basic draft on the table was proposed by the Arab States Group, and it included some fairly tough clauses (ending the mandate of the Finnish coordinator, Amb. Jaakko Laajava, instructing the UN Secretary-General to convene the conference within 180 days after the adoption of the RevCon Final Document, and establishing two working groups).<sup>6</sup> The draft was later amended by the Russian delegation. Under the Russian proposal, the conference on establishing a WMD-free zone was to be convened three months later than originally proposed, by March 1, 2016, and all decisions were to be taken by consensus.<sup>7</sup> The Russian working draft was then used by the chairman of Subsidiary Body 2. On the whole, Russia had invested a lot of effort and resources into the Middle Eastern part of the RevCon debate. When the discussions at Subsidiary Body 2 started to grind to a halt, the Russian delegation essentially assumed the functions of the body's chair.

Such an approach yielded some positive results. Several days before the end of the conference there were discussions in the lobbies about how to rescue the Middle Eastern deal, which seemed all but guaranteed, if and when disarmament issues sank the Final Document. There were very serious discussions as to whether the RevCon could adopt a separate document on the issue of the Middle Eastern WMD-free zone. Experts insisted that in theory, it was possible; there have been precedents of RevCons taking separate decisions that were not part of the Final Document, but those decisions tended to be on technical rather than substantive issues.

Meanwhile, disarmament was increasingly becoming a cause for concern. There were vehement arguments between the nuclear and non-nuclear weapon states at Main Committee I, whose remit includes disarmament and negative security guarantees. Austria, backed by 159 other states, proposed that the broad humanitarian agenda be included in the Final Document. The Egyptian delegation reminded everyone that the plan of action adopted by the 2010 RevCon contained a reference to the proposed convention on the prohibition of nuclear weapons, and invited other delegations to resume discussions of that idea.

**Ambassador Alexander Kmentt**  
**Director for Disarmament, Arms Control and Non-Proliferation**  
**Federal Ministry for Europe, Integration and Foreign Affairs of the Republic of Austria**

**– In your view, what are the main contradictions in the interpretation of Article VI of the NPT?**

– The main contradictions stem from a fundamental divergence between NWS and most NNWS as to what constitutes credible progress of nuclear disarmament and what the obligations under Article VI entail. NWS interpret nuclear disarmament and Article VI as a gradual process conditioned upon maintaining strategic stability, and therefore, in their view, the preservation of nuclear deterrence. Until such conditions come to be, possibly in the distant future, it seems like NWS will be prepared to take only very limited steps, such as reductions, but not measures that would fundamentally change their reliance on nuclear weapons or alter the status quo. This is why concrete measures agreed to in 1995, 2000 and 2010, such as de-alerting, doctrinal changes, etc. are implemented very reluctantly if at all.

Most NNWS believe that Article VI was further developed in past Review Conferences, not just as through a series of non-binding political declarations of intent, but by clarifying what Article VI obligations actually mean. Consequently, compliance with Article VI and nuclear disarmament are not subject to any conditions, they are treaty obligations that requires a clear and discernible move away from reliance on nuclear weapons. This is nowhere in sight, and reductions of numbers of nuclear weapons, which are welcomed, cannot be seen as substitute to such credible and direct steps. To the contrary, long-term investments and modernisation programs in NWS not only demonstrate unwillingness to move away from reliance on nuclear weapons, they are also in clear opposition to the spirit and letter of the NPT. This leads, thus, to a situation where the five permanent members of the Security Council are seen by more and more states as being de facto in noncompliance with their NPT obligations of Article VI.

**– Since the signing of the NPT all nuclear reductions were pursued either bilaterally or unilaterally, but not directly in the framework of the Treaty. In your view, what is the role of the NPT in nuclear disarmament?**

– The NPT should serve as legal framework in which nuclear disarmament is to be achieved. All efforts that are consistent with the objective of achieving a world without nuclear weapons are complementary to Article VI of the NPT and in fact contribute to its goals, as is highlighted by Action 1 of the 2010 Action Plan. Bi- or unilateral disarmament measures by NWS can therefore be seen as partial implementation of the respective Article VI obligations, but are no substitute to treaty-based multilateral disarmament. Hence, the need to identify and pursue the effective legal measures necessary for the achievement and maintenance of a world without nuclear weapons as required by Article VI. In the view of Austria and over 100 other states, this should require measures to fill the legal gap for the prohibition and elimination of nuclear weapons.

**– At the 2015 NPT Review Conference Austria, on behalf of more than 150 states, gave a statement on the humanitarian consequences of nuclear weapons. How do you see the future of the Humanitarian Initiative?**

– The 2015 NPT Review Conference was always seen as by Austria an important opportunity to achieve concrete progress in nuclear disarmament based on the sense of urgency developed by the arguments of the Humanitarian Initiative: namely that the consequences of nuclear weapons explosions would be far greater than previously assumed, that the risks of such explosions, whether by accident or design, are also considerably greater than previously known, and that there is no capacity anywhere to respond to such humanitarian emergencies. However, the RevCon was not the end point of the initiative. While the unwillingness of NWS to engage on these substantive arguments during this RevCon was a disappointment, the discourse about nuclear weapons has, in our assessment, changed in the context of the humanitarian debate and can no longer be conducted only from a military security perspective. 108 States support the Humanitarian Pledge<sup>i</sup> and more States are likely to endorse this line of argument in the future. We will continue to promote these key conclusions in all available fora. We are, of course, still in the process of analysing the NPT RevCon and will discuss with likeminded states concrete steps that should be taken.



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The P5 states made their own counterproposals. They rejected out of hand the documents containing assessments of the results of the previous review cycle and outlining further steps on disarmament, which were proposed by the chairman of the Main Committee I, Peruvian Amb. Enrique Roman-Morey<sup>8</sup>, and chairman of Subsidiary Body 1, the Swiss diplomat Benno Laggner.<sup>9</sup> Representatives of the P5 described the document drafted by Subsidiary Body 1 as unacceptable. They said the proposed text should be discarded in its entirety, and that all further discussions should focus on the document proposed by Main Committee I. Speaking at the meeting of that committee, the head of the French delegation, Amb. Jean-Hugues Simon-Michel, said that the Final Document should not welcome UN General Assembly resolutions that were adopted without a consensus. He added that Paris would not accept decisions by informal conferences in which France did not take part. In his reply, an Iranian representative said that by the same token, other countries were free to ignore decisions by the UN Security Council as well as outcomes of the meetings of the P5 or the Government Experts Group under the Fissile Material Cut-off Treaty.

The discussion eventually yielded an updated document of Main Committee I, and then a combined document that included the texts produced by Main Committee I and Subsidiary Body 1. Both documents contained fewer references to the Humanitarian Initiative; they also reduced the commitments to be undertaken by the nuclear-weapon states. As a result, the text came under criticism from both the non-nuclear weapon states (who branded it as too weak) and from the P5.

Nevertheless, the situation gradually began to improve as far as disarmament was concerned. Talks on Article VI continued, and uncompromising official statements were followed by informal talks. All the parties were gradually moving towards a compromise that would be acceptable to nuclear and well as non-nuclear weapon states. The P5 did not oppose the inclusion of references to humanitarian consequences of nuclear weapons and to the Humanitarian Initiative; for their part, the non-nuclear weapon states were ready to acquiesce in the absence of any rigid deadlines for disarmament.

By the end of the month-long marathon, all the parties had a distinct feeling that a compromise was within reach. The delegations were to receive the chair's draft of the Final Document late in the afternoon on May 21. But because of lengthy consultations, the diplomats who gathered at the UN headquarters had to wait until midnight — only to be told that the draft would not be ready until the following morning. On the morning of May 22, when the final draft was released<sup>10</sup>, the general feeling at the conference was that the document would be approved.

None of the participants were especially happy about the document itself. The paragraphs on Article VI mentioned catastrophic humanitarian consequences of any potential use of nuclear weapons. The nuclear-weapon states were to report about the state of their arsenals and their disarmament activities in 2017 and 2019. The reports were to be made available to all NPT members. Finally, the NPT Review Conference gave the UN General Assembly a recommendation to establish an open-ended working group on the implementation of Article VI of the NPT; the group was to make decisions by consensus.

As expected, members of the Humanitarian Initiative were unhappy with the lack of any new commitments on nuclear disarmament. The nuclear-weapon states, for their part, would have to accept the humanitarian discourse, agree to greater transparency on their nuclear arsenals, and report to the conference about their progress. Nevertheless, it

**Ambassador Jean-Hugues Simon-Michel  
Permanent Representative, Permanent Mission of France  
to the United Nations Office at Geneva**

**– In your view, what are the main contradictions in the interpretation of Article VI of the NPT?**

– Article VI of the NPT is crystal clear. It calls for the cessation of an arms race, which has been achieved long time ago. It also refers to a nuclear disarmament process, which is a long-term one, and which is clearly framed in the context of general and complete disarmament. This perspective, as well as the preamble of the NPT, clearly shows that the Treaty takes into account the strategic context and the reality of the world as it is. This is precisely what the most radical countries on nuclear disarmament refuse to take into account, and this is where the interpretations of Article VI of the NPT might differ. These countries have an ideological approach of nuclear disarmament, whereas others have a more pragmatic and effective approach, based on concrete incremental steps. The supporters of a radical approach call for a nuclear weapons convention, which is not consistent with the spirit and the letter of the Treaty. The NPT refers only to a treaty on general and complete disarmament under strict and effective control.

**– Since the signing of the NPT all nuclear reductions were pursued either bilaterally or unilaterally, but not directly in the framework of the Treaty. In your view, what is the role of the NPT in nuclear disarmament?**

– The NPT is the cornerstone of the global nuclear non-proliferation regime, the essential foundation for the pursuit of nuclear disarmament in accordance with Article VI of the NPT and an important element in the further development of nuclear energy applications for peaceful purposes. The NPT review process provides an irreplaceable framework for discussion, and allows for powerful political incentives to move forward on all three pillars of the NPT. It can only work if all stakeholders make concrete efforts to build a consensus on a basis which is acceptable to all, nuclear-weapon States and non-nuclear-weapon States. The review process is a political mechanism, not merely an institutional framework. Obviously, all the useful and concrete measures on nuclear disarmament, be they unilateral, bilateral or multilateral, have to be taken into account by the NPT review process.

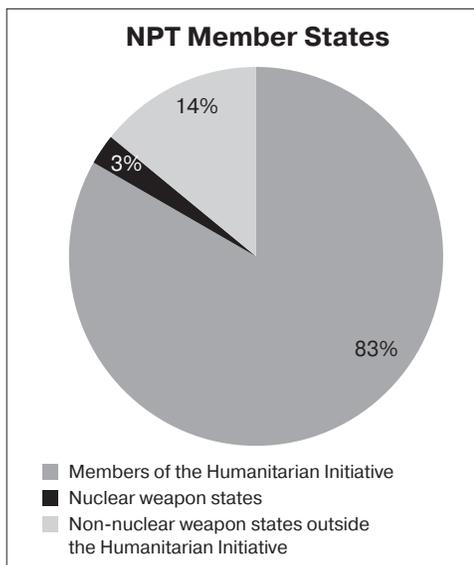
**– At the 2015 NPT Review Conference Austria, on behalf of more than 150 states, gave a statement on the humanitarian conse-**

**quences of nuclear weapons. How do you see the future of the Humanitarian Initiative?**

– France is fully aware of the severe consequences of nuclear weapons. In his statement on the French nuclear deterrent on 19 February this year, the French President, Mr. François Hollande, referred to the “devastating effects” of nuclear weapons. In the French doctrine, nuclear weapons are not battlefield weapons, but a means of deterring a potential adversary from attacking vital national interests. They may only conceivably be used in extreme circumstances of self-defense. When it comes to nuclear disarmament, France has always been of the view that concrete actions are more effective than wishful thinking or principled positions. We have not simply spoken of disarmament; we have done it as necessary. This realistic approach differs from the one which is supported by the humanitarian initiative, which aims at stigmatizing nuclear weapons and banning nuclear deterrence. Past experience and history have proved that disarmament initiatives which do not take into account the security context do not bear concrete fruits. This is not the NPT approach. The NPT is the only possible process for moving forward when it comes to nuclear disarmament, non-proliferation and peaceful uses of nuclear energy. It is the most useful instrument to fight against proliferation and it continues to play an irreplaceable role in our collective security.



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appeared that none of the countries or groups was prepared to be the one responsible for the RevCon's failure over Article VI.

As for the WMD-free zone in the Middle East, the draft of the Final Document asked the UN Secretary-General (acting via a special representative) to convene a conference no later than March 1, 2016, with all decisions on preparations and on the agenda of the conference to be taken by a consensus. Russia, the UK, and the United States were to lose their privileged right to convene (or, conversely, not to convene) the conference. Russia, which orchestrated the entire Middle East effort, supported the document. At the same time, the tight deadline and the proposal to strip the United States of its veto right on convening the conference obviously ran counter to the Israeli position. That proved fatal for the 2015 Final Document.

## **WHAT IT MEANS FOR THE NPT REVIEW PROCESS**

The lack of consensus on the Final Document does not mean that the basic principles on which the NPT is founded are being questioned by its members. The vast majority of the NPT state parties have a clear interest in nuclear nonproliferation, and the price of violating the treaty's provisions is high enough to deter potential proliferators. To understand what the failure of the 2015 RevCon means for the nuclear nonproliferation regime, let us look at the broader context of that failure.

First, there is nothing unprecedented or even unusual about an NPT Review Conference ending without a Final Document. Since the treaty entered into force in 1970, its members have failed to reach a consensus on a Final Document at four RevCons out of nine (in 1980, 1990, 2005 and 2015). Statistically, there is roughly a 50/50 chance of any given RevCon adopting a Final Document. The outcome of the 2015 conference, disappointing as it may be, does not really help us to understand the key trends taking place in the nuclear nonproliferation regime.

Second, the key differences that are being discussed in the framework of the NPT review process have not really changed ever since the treaty was signed. Over the past 40 years the bi-centric world order has collapsed, and India, Pakistan, and North Korea have tested nuclear weapons. Nevertheless, disarmament under Article VI of the NPT remains the most contentious issue. As Joseph Nye wrote in 1985 in his article headlined "The Logic of Inequality", the non-nuclear weapon states accuse the nuclear-weapon states of "discrimination, hypocrisy, and failure to live up to their commitments to disarm". According to Nye, "Excessive rhetoric is a hallmark of such conferences, and it will not necessarily signify an imminent collapse of the treaty. Yet these charges underscore more basic, long-run security problems ... that could lead to the failure of the NPT."<sup>11</sup> Several months after that article was published, the 3<sup>rd</sup> NPT Review Conference successfully adopted a Final Document, and in another 10 years' time the Treaty was extended indefinitely. Meanwhile, the history of attempts to establish a WMD-free zone in the Middle East — i.e. the straw that broke the camel's back in 2015 — can be traced back to at least 1974.<sup>12</sup>

Third, the world has already seen a confrontation between two nuclear superpowers — yet the nuclear nonproliferation regime was left relatively unscathed. Relations between Russia and the United States currently remain very tense, which bodes ill for bilateral disarmament. The United States is accusing Russia of violating the Budapest Memorandum, while Moscow says that NATO's joint nuclear missions are a violation of Articles I and II of the NPT. At the same time, both sides continue to comply with the existing arms control agreements, such as the New START Treaty and the INF Treaty (even though

## Ambassador Pedro Motta Pinto Coelho Permanent Representative of Brazil to the Conference on Disarmament

### **– In your view, what are the main contradictions in the interpretation of Article VI of the NPT?**

– It is a difficult question. Nuclear-weapon states are still hanging on to the traditional interpretation of Article 6. Which, first of all, does not imply an obligation for a multilateral disarmament. Second, nuclear-weapon states believe that disarmament represents a long-term process. Third, according to them, this commitment has already been met by means of a number of initiatives. This is the main contradiction because we, non-nuclear-weapon states, feel that there is a legal obligation in Article 6 to pursue negotiation in good faith, which has not been observed by nuclear-weapon states. That is not to say that Article 6 by itself is not a legal obligation.

This leads us to another contradiction, the so-called legal gap. As for Brazil, the legal gap means the necessity to observe the existing legal obligations under Article 6. The nuclear-weapon states don't seem to consider themselves to be bound by the obligations, moreover, they even can accept the idea that the legal gap exists, and this is very dangerous approach. We need to stress that Article 6 already constitutes a legal obligation. Actually, there is no legal gap. We only accept this term in the sense of the implementation of legal commitment that already exists in Article 6.

### **– Since the signing of the NPT all nuclear reductions were pursued either bilaterally or unilaterally, but not directly in the framework of the Treaty. In your view, what is the role of the NPT in nuclear disarmament?**

– The idea that reductions of nuclear arsenals and weapons can be done unilaterally and bilaterally is welcome. However, this is not enough with respect to the commitments under the NPT. Looking at the outcome of the 2015 NPT Review Conference, I do not think that NPT will ever have the substantial value to push to disarmament; we are very disappointed about that. We are even questioning the value of the NPT as such. In this Review Conference it was very clear that there is no favorable context for the NPT to be able to push forward disarmament. Although the conference gave some positive suggestions, they were not approved.

The idea of creating of an open-ended working group under the General Assembly to move forward these negotiations was rather a good point, in spite of the fact that it re-emphasized

the role of the consensus. If under the presence circumstances we try to involve the General Assembly it may be a positive move. Especially, given the situation at the Conference on disarmament.

There were countries, including members of the New Agenda Coalition, pushing for rejection of the final document, giving the weakness of the section on disarmament. I thought that we should give it a try. We have talked to the Humanitarian Group, because we are a part of it. Maybe this was not an outcome they had expected. But in my view the final document included the main aspects of the humanitarian approach, this is why Brazil saw the document in a positive way. We were quite happy with the results in Committee 2 as well as in Committee 3. Overall, considering the draft document as a whole, we thought we should give it a try and considered a positive result for the Conference.

However, the result on the Middle East made it impossible, which is why I said that the results of the NPT review conference were not that bad. The “bad” of all these is the situation of the Treaty itself. After the Conference the NPT is in a very delicate position, as it has exhausted itself, has come to its limits. I do not know what else can the NPT conceive in terms of disarmament, it has come to its limits.

### **– At the 2015 NPT Review Conference Austria, on behalf of more than 150 states, gave a statement on the humanitarian consequences of nuclear weapons. How do you see the future of the Humanitarian Initiative?**

– I think it is very important. It is not going to go away; on the contrary, this movement has the potential of giving disarmament a boost. Whatever is going to happen to disarmaments right now, in the short to the middle term, is going to be driven by the humanitarian approach. For instance, if we decided to go toward a nuclear weapons ban, I think, the Humanitarian Group would be more than prepared to do so. I hope that between now and the next General Assembly meeting we should articulate some kind of a specific move together with the General Assembly. I think we should not go outside, at least that's how Brazil sees it. I acknowledge that it is not very clear within the Humanitarian Group. There is no clear idea on how to deal specifically with the issue if it is going to be a ban treaty and if this issue is going to be dealt within the General Assembly or in parallel with it. This is still to be seen.



each side accuses the other of violating the INF). Russia and the United States also continue to cooperate in the P5 framework, a consultation format within the NPT that was established in 2009.

At this time Russia is not prepared to support Washington's proposals on further nuclear arms reductions, which would see the ceilings reduced to 1,000 deployed warheads. In Moscow's view, further reductions require strategic stability, and Washington is currently undermining that stability by deploying its ABM system, developing non-nuclear strategic weapons, and rejecting Russia's proposal to sign a treaty that would ban the placement of weapons in space. If any of these trends change as a result of improvement in bilateral relations or the emergence of creative diplomatic solutions, bilateral and multilateral disarmament initiatives could well be put back on the agenda.

All that being said, however, there are several worrying trends gaining momentum in the NPT review process. The main issues being debated at the RevCons remain unchanged — but the sides appear increasingly unwilling to compromise or to search for a consensus. The state parties that are unhappy with the state of the NPT review process are looking for short and straight paths to their goals, especially in the area of disarmament. There is a growing temptation to move the discussion on the most contentious issues to the UN General Assembly or to some ad hoc body, where decisions would be taken by a majority rather than consensus. That would enable the majority of the states to ram through their own agenda, ignoring the position of the dissenting states. Such a step may appear superficially attractive, but it is very unlikely to yield the desired results. To the contrary, it would further weaken the NPT review process, and consequently, the nuclear nonproliferation regime as a whole. That risk is perfectly illustrated by the following two examples.

During the latest RevCon, the inflexible position of the United States and its allies, who lobbied Israeli interests at the negotiations on establishing a WMD-free zone in the Middle East, clashed with the Egyptian delegation's unwillingness to forget about the promises given in 1995 and 2010. In the end, Washington refused to accept the Middle East section of the Final Document, meaning that the entire Final Document was not approved. Since the special coordinator in charge of convening the Middle Eastern WMD conference, the Finnish diplomat Jaakko Laajava, has essentially stepped down, and no new decisions have been made, preparations for the conference have been frozen indefinitely. The Director of the nonproliferation and arms control department in the Russian Foreign Ministry, Mikhail Ulyanov, was very frank in his remarks on the issue. "The previous mandate for the WMD-free zone has already expired, and it appears that the new one can be approved only at the next Review Conference in 2020".<sup>13</sup>

Meanwhile, other participants in the review process may have their own ideas. For example, nothing can stop the Arab states from putting the Middle East WMD-free zone issue on the agenda of the UN General Assembly. Using the backing of the Non-Aligned Movement, the Arab States Group could secure enough votes at the General Assembly to instruct the UN Secretary-General to convene a conference on the proposed WMD-free zone despite U.S. and Israeli opposition.

Such a move would be met with jubilation in the Arab world, but it would not make us any closer to launching proper negotiations involving all the regional players — and without such negotiations there is no chance of establishing a WMD-free zone in the region. Initially at the 2015 NPT Review Conference, the Arab States Group came up with fairly uncompromising demands on the issue of convening the WMD-free zone conference, but it then

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**— In your view, what are the main contradictions in the interpretation of Article VI of the NPT?**

— The United States does not regard Article VI of the Nuclear Non-Proliferation Treaty (NPT) to contain contradictions, whether in interpretation or in practice. The letter of the Treaty is clear, in that it obligates parties to pursue nuclear disarmament. The NPT sets no timelines for achieving nuclear disarmament and no single pathway or specific measures for getting there.

Some incorrectly assert that Article VI obligates NPT parties to establish a legal framework for accomplishing nuclear disarmament. There is no basis for this argument in the Treaty text, its negotiating history or subsequent practice of its parties. Nor is there a basis for the argument that an international treaty on general and complete disarmament (GCD) is a necessary predicate for nuclear disarmament. Article VI plainly provides for pursuing nuclear disarmament without any such linkages or preconditions.

Differences among NPT parties with respect to Article VI are primarily political, not legal. Some are frustrated with the pace of nuclear disarmament actions; this is a frustration the United States shares. There are practical, achievable actions that could be taken now to advance nuclear disarmament. This includes bilateral efforts such as further nuclear negotiations between the United States and Russia, as President Obama proposed in 2013, as well as multilateral efforts such as completion of a Fissile Material Cutoff Treaty, and entry into force of the Comprehensive Nuclear Test-Ban Treaty. More radical ideas, such as pursuit of a nuclear weapons ban or time-bound elimination of nuclear weapons, are neither achievable in the current environment nor a practical next step toward fulfillment of Article VI goals.

**— Since the signing of the NPT all nuclear reductions were pursued either bilaterally or unilaterally, but not directly in the framework of the Treaty. In your view, what is the role of the NPT in nuclear disarmament?**

— The NPT establishes a legal obligation to pursue nuclear disarmament. It is the only international treaty that does so, making it a vital instrument serving international peace and security. However, the NPT sets no timelines for nuclear disarmament and identifies no spe-

cific measures for carrying forward this goal. Measures that have been completed, whether bilateral treaty reductions, unilateral steps, or multilateral negotiations as with the CTBT, all contribute to achievement of NPT goals, but none are specifically prescribed by the Treaty.

The NPT itself does not provide a forum for nuclear arms control or disarmament negotiations. Other bodies exist for this purpose, specifically the Geneva-based Conference on Disarmament for multilateral negotiations. What the NPT provides for is a review process every five years, which the parties have used historically to reach shared understandings on actions that have been taken and those that could contribute to the implementation of Article VI, as well as all other aspects of the Treaty. Those understandings are political and not legally binding, but they serve an important function by helping to set common expectations and guide future actions.

**— At the 2015 NPT Review Conference Austria, on behalf of more than 150 states, gave a statement on the humanitarian consequences of nuclear weapons. How do you see the future of the Humanitarian Initiative?**

— The United States fully appreciates the destructive potential of nuclear weapons, and we and the rest of the world have long understood the catastrophic consequences that could result from their use. This concern underpins U.S. nonproliferation and disarmament efforts and has for decades. In this regard, we share the impatience of humanitarian initiative supporters who call for accelerating the pace of nuclear disarmament actions. However, we see no viable alternative to a practical step-by-step approach, which has produced major reductions in nuclear forces since the NPT entered into force. What we do not support are attempts to exploit international attention given to nuclear weapons through the humanitarian initiative in order to pursue impractical, unachievable aims, including a nuclear weapons ban on possession or use, or the time-bound elimination of nuclear weapons. It remains our hope that the drivers of the humanitarian initiative will use the process to improve understanding and facilitate engagement among NPT states and not drive them apart.



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toned those demands down in order to win broader support for its initiatives. For example, a new paragraph was included in the text of the draft Final Statement to the effect that all decisions at the negotiations on convening the conference would be taken by a consensus, which would essentially give Israel a veto on all substantive issues.<sup>14</sup> If, however, the Arab states decide to initiate a UN General Assembly resolution, they will not have to tone anything down. A resolution would be adopted even if the clause on taking decisions unanimously were to be removed, whether Israel likes it or not. Such terms will be even less favorable for Tel Aviv than the ones that were eventually rejected at the RevCon. As a result, the conference on establishing a WMD-free zone in the Middle East will have to be held without the only state in the region that actually possesses nuclear weapons.

The situation with nuclear disarmament also looks very complex. During the latest RevCon, 160 state parties supported the so-called Humanitarian Initiative, which focuses on the consequences of nuclear weapons use for people and the environment. That group of states advocated the establishment of legally binding instruments for eliminating nuclear weapons<sup>15</sup> — a proposal the P5 states find unacceptable — and insisted on the inclusion in the Final Document of the terms and wording formulated by the group (such as *humanitarian consequences* of nuclear weapons). For their part, the nuclear-weapon states refused to recognize the *humanitarian* approach and insisted that despite the opinion of the majority of NPT state parties, there is no need for immediate action in the area of disarmament; just like the non-nuclear weapon states, they devoted their energies to debating terminology rather than matters of substance.

Many participants and observers believed that a disarmament section of the Final Document that would include *humanitarian* terminology but lack any binding decisions on disarmament had a fair chance of being approved. Even though many non-nuclear weapon states were less than enthused by the contents of that section, nobody wanted to be the one responsible for the RevCon's failure. It is therefore safe to assume that some members of the Humanitarian Initiative felt a great deal of relief when U.S. Under Secretary of State Rose Gottemoeller declared that it would be better "to conclude this conference without a final consensus document rather than endorse a bad final document".<sup>16</sup>

To summarize, the expectations of the non-nuclear weapon states were not met, and two of the NPT depository states, the United States and Britain, prevented the adoption of a Final Document in order to further the interests of a country that is not even a member of the Treaty. The chances are now high that some of the state parties that are particularly unhappy with such an outcome could go beyond the framework of the review process. The Humanitarian Initiative and its more radical wing, i.e. the 108 states that have signed the Humanitarian Pledge to *stigmatize, prohibit and eliminate* nuclear weapons, could choose to start working on the long-discussed legal instruments of banning such weapons. That could be done at the UN General Assembly or at the next conference on the humanitarian consequences of nuclear weapons.

If the proposed convention on the prohibition of nuclear weapons is put on the agenda of either of these forums, the states that possess nuclear weapons, their allies, and some of the more moderate countries will choose not to participate in the discussion. Such a step would further exacerbate the differences between the various groups of states advocating different approaches.

There has always been a risk of the NPT review process splitting up along the ideological divides. The inherent inequality on which the treaty is predicated and the large number of

region and issue-specific groups in the review process framework make such a fragmentation a distinct possibility. Nevertheless, over the past 45 years the state parties have largely managed to hear each other. The dialogue between them enabled the review process to move forward; the Review Conferences and sessions of the Preparatory Committee have been a good venue for discussions and for attempts to find a consensus. That practice must not end.

The Arab states' unwillingness to continue negotiations on the Middle Eastern WMD-free zone on U.S. and Israeli terms is entirely understandable, especially since not a single one of the promises made since 1995 has been kept, and there are still no guarantees of success. Nevertheless, the negotiations must continue — but without Tel Aviv's participation, they will be pointless, and direct Arab-Israeli dialogue must carry on. For their part, the United States and Israel must understand that the Arab states' patience is not inexhaustible. And if the conference on a Middle Eastern WMD-free zone is convened without Tel Aviv, that will only exacerbate regional differences and increase international pressure on Israel; both countries would prefer to avoid such a turn of events.

As for nuclear disarmament, the Humanitarian Initiative states must have some clarity about their goals and realistic ways of achieving them. So far, the introduction of *humanitarian* terminology and discussions of new data concerning the consequences of nuclear weapons use remain barely above actual progress on the nuclear disarmament front in the group's list of priorities. The Humanitarian Initiative has managed to attract more attention to the importance of Article VI of the NPT, and the initiative itself has become a rallying call on nuclear disarmament issues for the majority of NPT states. But if the group wants to remain relevant, its participants will have to engage in a complex diplomatic effort so as to augment their broad support with an agenda which all NPT states would agree to discuss. For the foreseeable future, the states that possess nuclear arsenals will not agree to sign up for a convention banning those arsenals. The Humanitarian Initiative, meanwhile, lacks any serious alternative proposals on disarmament for the near and medium time frame; that has a negative impact on the entire NPT review process.

Meanwhile, the states that possess nuclear weapons must not reject the humanitarian approach out of hand. The main idea of the Humanitarian Initiative is that a nuclear war would have catastrophic consequences. The nuclear-weapon states understand that better than most. The realization that a nuclear war must not be allowed to break out is at the foundation of the nuclear deterrence strategy; it is also one of the reasons why nuclear weapons have never been used in the past 70 years. What is more, not a single nuclear power denies the need for disarmament. From the P5's point of view, disarmament is an important and complex process that must be taken forward step by step, without any harm to the security of all the countries involved. Open dialogue between the nuclear and non-nuclear weapon states on possible disarmament steps and their implementation would increase the transparency of the review process, strengthen the NPT, and augment the nuclear nonproliferation regime.

The NPT state parties must continue to pursue dialogue on the most contentious issues. The 2020 Review Conference will mark 50 years since the entry of the NPT into force. Few recall that had the state parties extended the treaty by 25 years in 1995 instead of agreeing to an indefinite extension, we would now be in for another nail-biting finale of the Review and Extension Conference in 2020.

Fortunately, there is now no need to worry that the entire Treaty will simply cease to exist because of some procedural issue or the position of a single country. Free of that threat,



the NPT state parties must now work together so as to achieve their shared goal: making the world a safer place for all its citizens. The treaty that was signed almost half a century ago is entirely adequate to that task. 🗨️

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