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## **The 2005 NPT Review Conference and Nuclear Disarmament**

*Mitsuru KUROSAWA\**

The 2005 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) was held for four weeks from May 2 to 27 at the headquarters of the United Nations in New York. Although it was expected that states parties would deeply discuss every issue on nuclear non-proliferation and nuclear disarmament, review the operation of the treaty and recommend measures to be taken in the coming five years, the conference spent more than half of the time on the resolution of a procedural matter, and the three Main Committees could not agree on final consensus papers. As a result, the conference failed to adopt a final consensus document on substantive matters.

The conference is, in general, assessed as a failure. The failure will weaken the international nuclear non-proliferation regime and have a negative influence on peace and security in the international community as a whole.

This paper will examine the issue of nuclear disarmament in particular. What kinds of discussions were conducted at the review conference? What kinds of confrontations appeared at the conference? What kinds of implications do the discussions have for the future progress of nuclear disarmament?

First, I will analyze the international security environment since 2000, focusing on the characteristics of the security environment in the context of nuclear non-proliferation and disarmament, and the development of arguments at preparatory committees. Second, I will follow the process of the conference both on procedural matters and substantive matters. Third, as the central focal point of the paper, I will examine the discussions on nuclear disarmament at the conference by considering the process of discussion and the points of confrontation on each of the main nuclear disarmament issues. Finally, I will assess the conference as a whole and ponder next steps.

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## Situations before the Conference

### *Security Environment since 2000*

The 2000 NPT Review Conference was the most successful NPT Review Conference as all three main committees reached an agreement and the states parties adopted a final document with consensus. In particular, they agreed on 13 concrete steps for nuclear disarmament including an unequivocal undertaking to accomplish the total elimination of their nuclear weapons. The outcome of the conference was very useful for the strengthening of the international nuclear non-proliferation regime.<sup>1)</sup>

The change in international security circumstances five years after the 2000 conference has been considerable, and the 2005 conference was held under completely different international circumstances than previous conferences. There are many aspects of change, but the following two are the most important and significant.

The first is the emergence of “the second generation of nuclear proliferation” that was not anticipated when the treaty was negotiated and concluded. States parties such as Iraq, Iran, Libya and North Korea were in non-compliance or violation of the obligations under the treaty, while they were parties to the NPT. North Korea made a statement to withdraw from the treaty in January 2003, and declared its possession of nuclear weapons in February 2005. Libya agreed to abandon its nuclear and other weapons of mass destruction programs after negotiations with the United Kingdom and the United States in December 2003. The war in Iraq, led by the U.S. and the U.K. in April 2003 destroyed the regime of Saddam Hussein, but later it was announced by the U.S. that no weapons of mass destruction existed in the country.

Suspicion of Iran’s nuclear program started in October 2003, when an 18 year long clandestine uranium enrichment program was revealed. While Iran insists that all it desires is the peaceful use of nuclear energy, recognized under the NPT, the U.S. and others suspect that it is developing a program for making nuclear weapons and has demanded that Iran stop its program. This point was one of the sharpest confrontations at the 2005 review conference. In addition to these so-called rogue

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1) On the analysis of the 2000 NPT review conference, see, Mitsuru Kurosawa, “The 2000 NPT Review Conference and Nuclear Disarmament,” *Osaka University Law Review*, No.48, February 2001, pp.1-38.

states, non-state actors such as terrorists are a new threat to the international community.

The second is a radical change of U.S. policy in general and nuclear policy in particular with the transition from the Clinton administration to the Bush administration. The changes from multilateralism to unilateralism in the international community, and from a supporter to a neglecter of international norms and institutions are based on the philosophical backbone of the Bush administration. It is an attempt to keep the sphere of discretionary power as wide as possible.

This tendency has been strengthened and widened by the terrorist attacks on the U.S. on September 11, 2001. The U.S. strongly opposed to the CTBT that would prevent the development of new types of nuclear weapons, and declared the U.S. withdrawal from the ABM Treaty which would prevent the U.S. deployment of missile defense systems. In addition, the U.S. submitted *The National Security Strategy of the United States of America* in September 2002, and *National Strategy to Combat Weapons of Mass Destruction* in December 2002. They permit the use of force that would transcend the right of self-defense as traditionally understood.

#### *Arguments at Preparatory Committees*

The first session of the preparatory committee for the 2005 review conference started in 2002. The U.S. stressed the importance of non-proliferation aspects and in particular argued that the issue of non-compliance was the most urgent and we should concentrate our efforts on non-compliance. On the other hand, non-nuclear-weapon states, and mainly non-aligned states (NAM), emphasized the lack of progress in nuclear disarmament, and argued that we should discuss the implementation of the 13 steps for nuclear disarmament by the nuclear-weapon states.

In 2002 and 2003, the U.S. stated that it would not support and implement all 13 steps agreed to in 2000, because it was opposed strongly to the CTBT and withdrew from the ABM Treaty, but it unambiguously supported Article VI and the goal of nuclear disarmament.<sup>2)</sup> However, at the third session of the preparatory committee in 2004, the U.S. stated: "The U.S. remains strongly committed to its Article VI

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2) On the arguments at the 1<sup>st</sup> and 2<sup>nd</sup> sessions of the preparatory committee, see Mitsuru Kurosawa, "Nuclear Non-Proliferation Regime and Nuclear Disarmament: Implementation of the 2000 Final Document," *Osaka University Law Review*, No.51, February 2004, pp.1-19.

obligations, and President Bush has made major contributions to the goals of Article VI. We can not divert our attention from the violations we face by focusing on Article VI issues that do not exist.”<sup>3)</sup> The U.S. treats the agreements of the previous review conferences — decisions and a resolution adopted without votes as the package with the decision on an indefinite extension of the treaty in 1995 and the final document adopted by consensus in 2000 — as not effective anymore, because the international security environment has radically changed.

At the 1<sup>st</sup> and 2<sup>nd</sup> sessions, the chairman’s fact summary which summarizes the content of the discussion was formally adopted and incorporated into the report of the session. However, at the 3<sup>rd</sup> session, a chairman’s fact summary was not adopted as a formal document of the session, because of the strong opposition by the U.S. More importantly, the final and 3<sup>rd</sup> session failed to agree on its provisional agenda, subsidiary bodies, and background documentations, because the states parties could not agree how to deal with the agreements at previous review conferences. They only agreed on its date and venue, rules of procedure, president and other officials, secretary general, and financing.<sup>4)</sup>

In the case of the 2000 review conference, a consensus was not reached on subsidiary bodies at the preparatory committee, but they agreed on its provisional agenda. In addition, on the establishment of subsidiary bodies, consultation led to agreement just before the conference, and on the first day of the conference they were established.

Before the 2005 conference started on May 2, extensive consultation was held, but consensus on the provisional agenda could not be established.

## **Proceedings of the Conference**

### *Characteristics of the Arguments at the Conference*

At the conference, substantive discussion is held at three Main Committees. The Main Committee I deals with nuclear disarmament, the Main Committee II deals with non-proliferation and safeguards and the Main Committee III deals with

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3) Statement by US Under-Secretary of State for Arms Control and International Security, John R. Bolton to the 3<sup>rd</sup> session of preparatory committee for the 2005 review conference of the NPT, “The NPT: A Crisis of Non-Compliance,” New York, April 27, 2004.

4) On the 2004 preparatory committee, see, John Simpson and Jenny Nielsen, “Fiddling While Rome Burns? The 2004 NPT PrepCom,” *The Nonproliferation Review*, Vol.11, No.2, Summer 2004, pp.116-141.

peaceful uses of nuclear energy. Only if all three main committees succeed in adopting a consensus document, will a final document for the conference as a whole be adopted at the plenary meeting.

At the previous review conferences, discussion on nuclear disarmament has been so hot and confrontational that the elaboration of a consensus document in the Main Committee I has been very difficult. In contrast, in the Main Committees II and III, it has been rather easy to achieve consensus documents. For example, at the 1990 and 1995 Review Conferences, the Main Committees II and III agreed on consensus documents, but the Main Committee I did not. At times it has been suggested that as so many confrontational issues are included in the Main Committee I, some of them should be transferred to the Main Committee II or III.

This traditional characteristic changed considerably at the 2005 Review Conference, because many new and confrontational issues have emerged in the fields of non-proliferation and peaceful uses of nuclear energy. As a result, each of the three main committees had to deal with and try to resolve new issues. This was the most eminent characteristic of the conference in 2005.

The Secretary-General of the United Nations, Kofi Annan states that “nuclear threats remain. Indeed, in the five years since you last met, the world has reawakened to nuclear dangers, both new and old. And we all bear a heavy responsibility to build an efficient, effective, and equitable system that reduces nuclear threats, I challenge you to accept that disarmament, non-proliferation and the right to peaceful uses are all vital,” and recommends action on the following issues:<sup>5)</sup>

- 1) You must strengthen confidence in the integrity of the treaty, particularly in the face of the first withdrawal announced by a state.
- 2) You must ensure that measures for compliance are made more effective, for example, by universalization of the Model Additional Protocol.
- 3) You must act to reduce the threat of proliferation not only to states, but to non-states actors.
- 4) You must expedite agreements to create incentives for states to voluntarily forego the development of fuel cycle facilities.
- 5) You must take the initial steps for a nuclear-weapon-free world. Prompt negotiation of a fissile material cut-off treaty for all states is vital and indispensable. All states should reaffirm their commitment to a moratorium

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5) The United Nations Secretary-General Kofi Annan's Address to the Nuclear Non-proliferation Treaty Review Conference in New York, SG/SM/9847, DC/2956, 2 May 2005.

on testing, and early entry into force of the Comprehensive Nuclear Test-Ban Treaty. All nuclear-weapon states should de-alert their existing weapons, and give negative security assurances to the non-nuclear-weapon states.

Mr. Mohamed ElBaradei, the Director-General of the IAEA, states, "While our twin goals – security and development – remain the same, our mechanisms for achieving those goals must evolve," and recommends the following measures:<sup>6)</sup>

- 1) We should re-affirm the goals we established for ourselves in 1970, that is, nuclear disarmament, non-proliferation and peaceful uses of nuclear energy.
- 2) We must strengthen the IAEA's verification authority through the additional protocol and effective export control.
- 3) We need better control over proliferation sensitive parts of the nuclear fuel cycle: activities that involve uranium enrichment and plutonium separation.
- 4) We must secure and control nuclear material by improving physical protection of nuclear material.
- 5) Nuclear-weapon states could make further irreversible reduction in their existing arsenals, and reduce the strategic role currently given to nuclear weapons.
- 6) Our verification efforts must be backed by an effective mechanism for dealing with non-compliance through reliance on the Security Council.
- 7) We should use all mechanisms within our reach to address the security concerns of all. The conference should encourage the establishment of additional nuclear-weapon-free zones in areas such as the Middle East and the Korean Peninsula.

As is clear from the statements of these two leaders, the issues that should be reviewed and discussed are multiple and complex. In particular, it is evident that new issues have emerged in the area of non-proliferation and peaceful uses of nuclear energy.

The United States argues for a discussion focused on non-compliance with non-proliferation norms while ignoring the issue of nuclear disarmament, stating that "Today, the treaty is facing the most serious challenge in its history due to instances of noncompliance. Some continue to use the pretext of a peaceful nuclear program to pursue the goal of developing nuclear weapons. This conference provides an opportunity for us to demonstrate our resolve in reaffirming our collective

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6) Mohamed ElBaradei, Treaty on the Non-Proliferation of Nuclear Weapons, 2005 Review Conference, United Nations, New York, General Debate, 2 May 2005.

determination that noncompliance with the treaty's core nonproliferation norms is a clear threat to international peace and security."<sup>7)</sup>

France, likewise, emphasizes the aspect of non-proliferation rather than nuclear disarmament, stating: "Since our last review conference, profound changes have taken place in the world. ...Marked to a great extent by the Cold War, it was understandable that the proceedings of the 1995 Review and Extension Conference and of the 2000 Review Conference should have been largely devoted to the implementation of Article VI of the treaty. The priority in 2005 is to meet the serious challenges constituted by the proliferation crises that are a threat to international peace and security."<sup>8)</sup>

Almost all other states argue for a balanced discussion on the three pillars of the treaty, that is, nuclear non-proliferation, nuclear disarmament and the peaceful uses of nuclear energy. Not only the non-nuclear-weapon states, but also the U.K., Russia and China argue for discussion on all the issues. For example, the New Agenda Coalition (NAC) states that "The NPT is the essential bedrock within our global security regime. The three pillars of the NPT – non-proliferation, nuclear disarmament and peaceful uses – have been indispensable in attracting its near universal membership. Indeed, without each one of those pillars there would not have been a treaty."<sup>9)</sup>

Regarding the strong interconnection between non-proliferation and disarmament, Japan states that "In order to reinforce the authority and credibility of this regime, both nuclear-weapon states and non-nuclear-weapon states must implement their obligations and commitments under the treaty, and promote both nuclear non-proliferation and disarmament."<sup>10)</sup>

### *Procedural Matters – Provisional Agenda and Subsidiary Bodies*

The third and final session of the preparatory committee for the 2005 review

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7) Statement by Stephan G. Rademaker, United States Assistant Secretary of State for Arms Control to the 2005 Review Conference of the NPT, New York, May 2, 2005.

8) Statement by H. E. Mr. François Rivasseau, Ambassador, Permanent Representative of France to the Conference on Disarmament, 2005 Review Conference of the State Parties to the NPT, New York, May 5, 2005.

9) Statement by Hon. Marian Hobbs, Minister for Disarmament and Arms Control, New Zealand on Behalf of the New Agenda Coalition – Brazil, Egypt, Ireland, Mexico, South Africa, Sweden and New Zealand, 2005 Review Conference of the Parties to the NPT, 2 May 2005.

10) Statement by H. E. Ambassador Yoshiki Mine, Representative of Japan to the NPT Review Conference in 2005 at the Plenary Meeting of Main Committee I, 19 May 2005.



conference was unable to reach agreement on a provisional agenda. Informal consultation between the third session and the conference could not produce any compromise. As a result, the 2005 conference started without an agenda.

The main reason why states parties could not agree on a provisional agenda is that the U.S. was reluctant to have any reference to the outcomes of the previous review conferences in an agenda. The U.S. treats the outcome of the previous review conferences, in particular the thirteen steps for nuclear disarmament, as no longer effective because the international security environment has radically changed. The U.S. also wants the discussion at the conference to focus on the issue of non-compliance. However, almost all other states, in particular the NAM states, considered the outcome of the previous conferences as a base for discussion at the 2005 conference.

In the case of the 2000 review conference, the agenda on this subject was as follows: Review of the operation of the treaty as provided for in its Article VIII, paragraph 3, taking into account the decisions and the resolution adopted by the 1995 NPT Review and Extension Conference. If you follow this example, an agenda in 2005 would be: Review of the operation of the treaty as provided for in its Article VIII, paragraph 3, taking into account the decisions and the resolution adopted by the 1995 NPT Review and Extension Conference and the final document adopted by the 2000 NPT Review Conference.

Although the conference started and the general debate began on May 2, the states parties could not agree on an agenda. As a result, three main committees could not be established and substantive discussion that was scheduled to start on May 5 did not begin. On the last day of the first week, May 6, the President submitted his own draft agenda to the plenary meeting. Although it was highly expected that the draft would be accepted, Egypt lodged an objection to it and consultation continued.

The provisional agenda submitted by the President on May 6 includes only "Review of the operation of the Treaty," without any reference to the outcomes of the previous conferences, but a President's statement was attached to it as a note, that reads: "It is understood that the review will be conducted in the light of the decisions and the resolution of previous Conferences, and allow for discussion of any issue raised by states parties."

Egypt's proposed amendment was to change "in the light of" into "taking into account" and to insert "and the outcomes" after "the resolution." The first amendment is intended to use the same words as in 2000 Review Conference, and the second one is intended to make the reference to the 2000 final document

clearer, in addition to the reference to the 1995 decisions and resolution.

Consultation continued in the second week, and on Wednesday, May 11, as Egypt withdrew its amendment, the original President's provisional agenda with the attached statement of the President was adopted.<sup>11)</sup> At that time, Malaysia, on behalf of the NAM states, submitted a document that included its interpretation of the agenda. It says: "The agenda establishes the framework for conducting the review of the operation of the treaty in accordance with Article VIII, paragraph 3 of the treaty, the decisions and the resolution of previous conferences, in particular the 1995 Review and Extension conference and the decision of the 2000 review conference to adopt by consensus its final document."<sup>12)</sup>

Although the agenda was agreed, the issues of allocation of items to the main committees and the establishment of subsidiary bodies remained. As a result, the main committees were not established and no substantive discussion started. By the end of the second week, when half of the conference term had passed, an agreement had not yet been achieved.

The allocation of items does not seem so difficult as it is simply allocation of new items among the three Main Committees. In accordance with the President's draft, the issues of disarmament and non-proliferation education, and institutional issues will be dealt with respectively in the Main Committee I and in the Main Committee II. The issue of withdrawal will be dealt with under other provisions of the treaty in the Main Committee III.

On the establishment of subsidiary bodies, the NAM had proposed to establish subsidiary bodies to consider, respectively, issues related to nuclear disarmament, security assurances and regional issues with particular reference to the 1995 resolution on the Middle East.<sup>13)</sup> The President's draft provides for the establishment of subsidiary body 1 under the Main Committee I that will focus on nuclear disarmament and security assurances, subsidiary body 2 under the Main Committee II that will examine the regional issues, including with respect to the Middle East and implementation of the 1995 Middle East resolution, and subsidiary body 3 under the Main Committee III that will address other provisions of the treaty, including Article X.

Finally, on May 18, Wednesday of the third week, the President's drafts were accepted, with agreement on allocation of items to the Main Committees of the

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11) NPT/CONF.2005/30, 11 May 2005, NPT/CONF.2005/31, 12 May 2005.

12) NPT/CONF.2005/32, 12 May 2005.

13) NPT/CONF.2005/WP.17, 2 May 2005.

Conference<sup>14)</sup> and decision on subsidiary bodies.<sup>15)</sup> The allocation of items follows the previous conferences and additionally adds disarmament and non-proliferation education to the Main Committee I and institutional issues to the Main Committee II. The issue of withdrawal was included in the mandate of the subsidiary body 3.

It was decided that the Chairman of each subsidiary body would be elected by the NAC, the Western group, and the NAM respectively. Allocation of sessions for subsidiary bodies within each Main Committee was also confrontational, and it had been proposed that five sessions for subsidiary body 1, four sessions for body 2, and three sessions for body 3 within seven sessions for each Main Committee. However, the President proposed to follow the pattern of allocation in the 2000 Review Conference in a balanced manner, and this proposal was accepted. Finally, substantive discussion in each Main Committee and subsidiary body started on May 19.

Dispute on the agenda again happened at the end of the conference when the drafting committee submitted its draft final document. It included the full text of both statements of the President and the NAM in connection with review of the operation of the treaty. The U.K. lodged an objection and asked to delete the statement of the NAM. After informal consultation, it was agreed that the full text of the statement of the President would remain but the full text of the statement of the NAM would be deleted and only note of the statement and its document number would remain.

As is clear from the examination above, the 2005 conference spent most of its time on the resolution of procedural matters. Superficially it was a confrontation on procedural matters, but substantially it was a confrontation on substantive matters, such as what is the objective of the review at the conference, what should be discussed at the conference, what is the current threat to the international community, and what outcomes were expected from the conference. There was a great difference of opinion on these questions.

#### *Arguments at the Main Committees*

The time for substantive discussions in the Main Committees was reduced to only five days because they started on May 19 and ended on May 25, with the last two days reserved for the plenary sessions. Six formal sessions were allocated to

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14) NPT/CONF.2005/DEC.1, 18 May 2005.

15) NPT/CONF.2005/DEC.2, 18 May 2005.

each Main Committee, and two within six were allocated for each subsidiary body. In reality, as additional informal meetings were held in each Main Committee and subsidiary body, the actual time for discussion was longer than the formal allocation time.

The Main Committee I deals with non-proliferation of nuclear weapons, disarmament and international peace and security as well as security assurances and subsidiary body 1 focuses on nuclear disarmament and security assurances. During the sessions of Main Committee I, issues relating to Articles I and II and disarmament and non-proliferation education were discussed based on the chairman's draft working paper. At the subsidiary body 1, the issues of nuclear disarmament and security assurances were discussed based on the chairman's paper.

The last session was held in the morning on May 25, when it was clear that it would be impossible to reach agreement on a working paper. The Committee was not able to reach a consensus on the text of the Chairman's working paper of the Main Committee I and the working paper of the Chairman of subsidiary body 1 as they didn't reflect the views of all states parties. Nevertheless, the Committee agreed to annex the papers to its report. As a result, the final document includes the chairman's working papers which were not agreed to by the full committee.

The Main Committee II deals with the issues of non-proliferation of nuclear weapons, safeguards and nuclear-weapon-free zones, and subsidiary body 2 examines regional issues, including with respect to the Middle East and implementation of the 1995 Middle East resolution. Discussion in the Main Committee II produced consensus in part but not entirely, and no consensus emerged in the debate in subsidiary body 2 where all sentences were bracketed. Although it was proposed to send the bracketed working paper to the plenary, finally it was decided at the last session in the afternoon on May 24 that the report from the Main Committee II includes only procedural matters and no substantive matters.

The Main Committee III deals with the inalienable right to develop, research, produce and use nuclear energy for peaceful purposes, and subsidiary body 3 addresses other provisions of the treaty, including Article X. Article X relates to the issue of withdrawal. In the discussion under the Main Committee III, a considerable part of the working paper reached consensus, but sharp confrontation appeared over the issues of universality and withdrawal. The possibility to send the bracketed working paper to the plenary was pursued, but finally it was decided not to send it.

As a result, the final document of the 2005 Review Conference includes only procedural proceedings, with the exception of the chairman's working paper from the Main Committee I that was not agreed upon.

## **Nuclear Disarmament**

### *Nuclear Disarmament in General*

All five nuclear-weapon states declare that they are abiding in good faith by the obligations under Article VI. The U.S. states that "The United States remains fully committed to fulfilling our obligations under Article VI. Since the last review conference the United States and the Russian Federation concluded our implementation of START I reductions, and signed and brought into force the Moscow Treaty of 2002. In addition, we have reduced our non-strategic nuclear weapons by 90% since the end of the Cold War. We have also reduced the role of nuclear weapons in our deterrence strategy."<sup>16)</sup>

Russia states that "The Russian Federation is committed to its obligation under the Treaty, including to the nuclear disarmament measures. Russia fulfilled its obligations under the START to reduce strategic nuclear arms. By now, Russia has cut down its arsenals of non-strategic nuclear weapons fourfold. The US-Russian Treaty on Strategic Offensive Reductions has become a new significant step toward nuclear disarmament."<sup>17)</sup>

The U.K. states that "The UK is fully committed to all our obligations under the Treaty and we recognize that we have particular obligations, as a nuclear-weapon state, under Article VI of the Treaty. We re-affirm our unequivocal undertaking to accomplish the total elimination of nuclear arsenals leading to nuclear disarmament. We continue to make progress on nuclear disarmament. Since the end of the Cold War the United Kingdom has reduced the explosive power of its nuclear forces by more than 70%."<sup>18)</sup>

France states that "Since it acceded to the NPT, France has taken, in the field of nuclear disarmament and general and complete disarmament, decisions whose scope all States Parties are aware of. On the occasion of this Review Conference,

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16) Statement by Stephan G. Rademaker. (note 7)

17) Statement by H. E. Sergey I. Kislyak, Deputy Minister of Foreign Affairs of the Russian Federation at the Review Conference of the Parties to the NPT, New York, May 3, 2005.

18) Statement by Ambassador John Freeman, Head of the UK Delegation to the Seventh Review Conference of the NPT, New York, May 2005.

my country is intent on reaffirming its commitments under Article VI of the Treaty. It signed the CTBT in 1996 and ratified it in 1998; it has dismantled its nuclear testing centre in the Pacific. France has also drastically cut its nuclear arsenal.”<sup>19)</sup>

China states that “As a nuclear-weapon state, China has never shunned its responsibility in nuclear disarmament. The Chinese Government has always supported a complete prohibition and thorough destruction of nuclear weapons, exercised utmost restraint in developing nuclear weapons. China has never taken part, and will not do so, in any nuclear arms race.”<sup>20)</sup>

As is clear from the statements above by the five nuclear-weapon states, they all strongly argue that they are committed to the obligations under Article VI. In order to highlight their own activities towards nuclear disarmament, they all submitted reports or pamphlets that show how sincerely they are working for nuclear disarmament.<sup>21)</sup> However, these reports amount to propaganda about their own activities in this field. It is necessary to judge their reports or pamphlets objectively, as they do not touch upon what they are not doing, that is, the lack of effort in nuclear disarmament.

The most remarkable among the statements by the five nuclear-weapon states is China’s, which criticizes the actions of other states. Highlighting threats to international security, China lists the abandonment of the ABM Treaty, danger of weaponization of outer space, lack of entry into force of the CTBT, stalemate of international arms control and disarmament, and paralyzed CD with no starting of negotiations of the FMCT and PAROS. Focusing on negative developments, China refers to the lingering Cold War mentality, unilateralism, advocating pre-emptive strategy, listing other countries as targets of nuclear strikes, lowering the threshold for using nuclear weapons, and researching and developing new types of nuclear weapons for specific purposes.<sup>22)</sup>

On the other hand, the NAC is skeptical of the progress in nuclear disarmament, stating, “We call on China, France, Russia, the United Kingdom and the United

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19) Statement by H. E. Mr. François Rivasseau. (note 8)

20) Statement by Mr. Zhang Yan, Head of the Chinese Delegation in the General Debate at the 2005 NPT Review Conference, May 3, 2005, New York.

21) The U.S. submitted *The Commitment of the United States of America to Article VI of the Treaty on the Nonproliferation of Nuclear Weapons*, 2005. Russia submitted *Practical Steps taken by the Russian Federation in the Field of Nuclear Disarmament*, New York, 2005. The U.K. submitted *Strengthening Non-Proliferation: The 2005 NPT Review Conference*. France submitted *Fighting Proliferation, Promoting Arms Control and Disarmament: France’s Contribution*, 2005. China submitted *China’s Contributions to Nuclear Disarmament*.

22) Statement by Mr. Zhang Yan. (note 20)

States to honour their obligations towards nuclear disarmament. Thirty-five or more years ago the international community agreed that “effective measures” would be undertaken to achieve nuclear disarmament. Measured in terms of their promise, we had high hopes for the agreed outcomes of the last two Review Conferences. In terms of the fulfillment of those outcomes we are greatly disappointed.”<sup>23)</sup>

The NAM expressed its deep concern, stating that “The Non-Aligned Movement whose members make up a large majority of the States Parties to the NPT, wishes to reaffirm the importance of achieving the total elimination of all weapons of mass destruction globally, in particular nuclear weapons. While recognizing recent moves by nuclear-weapon states that could lead towards disarmament, we reiterate our deep concern over the slow pace of progress in this regard.”<sup>24)</sup>

Sweden is rather critical of the progress on nuclear disarmament, stating that “Only limited progress has been made towards nuclear disarmament. There are even worrying signs pointing in the opposite direction. One nuclear weapon state is modernizing its nuclear arsenals, another is planning research on new nuclear warheads, a third has announced its intension to develop new delivery vehicles for nuclear weapons.”<sup>25)</sup>

Canada is also critical, stating that “Progress on nuclear disarmament has been compromised by the protracted impasse in the Conference on Disarmament. The specific assignments given it by the NPT’s 2000 Review Conference, namely to negotiate a Fissile Material Cut-Off Treaty and to establish a subsidiary body on nuclear disarmament remain unfulfilled.”<sup>26)</sup>

One of the most controversial points in the discussion is whether to take into account the outcomes of the previous review conferences, just as Japan states that “35 years after the NPT’s entry into force, we must once again recall: our obligations under Article VI to pursue negotiations in good faith on disarmament measures; our commitment to the 1995 decision on ‘Principles and Obligations,’ an integral part of a package with the NPT indefinite extension; and the ‘unequivocal

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23) Statement by Hon. Marian Hobbs. (note 9)

24) Statement by the Hon. Syed Hamid Alber, Minister of Foreign Affairs of Malaysia on Behalf of the Group of Non-aligned States Parties to the NPT at the General Debate of the 2005 Review Conference of the Parties to the NPT, 3 May 2005, New York.

25) Statement by H. E. Laila Freivalds, Minister for Foreign Affairs of Sweden, 2005 Review Conference of the Parties to the NPT, United Nations, New York, 3 May 2005.

26) Statement by Mr. Jim Wright, Political Director and Assistant Deputy Minister, International Security Branch of Canada to the 2005 NPT Review Conference, New York, 2 May 2005.

undertaking to accomplish the total elimination of nuclear weapons,' one of the 13 practical steps agreed upon in the 2000 Final Document."<sup>27)</sup> Almost all states discussed the issue by taking into account the outcomes of the previous conferences, while only the U.S. entirely refrained from referring to previous outcomes.

At the preparatory committees in 2002, the U.S. stated that "The United States no longer supports some of the Article VI conclusions in the Final Document from the 2000 NPT Review Conference. A prominent example of this is the ABM Treaty and another example of a treaty we no longer support is the CTBT."<sup>28)</sup> In 2003 it stated that "While the United States no longer supports all 13 steps, we unambiguously support Article VI and the goal of nuclear disarmament."<sup>29)</sup> This position was criticized severely by many non-nuclear-weapon states.

The U.S. posture moved further against nuclear disarmament in 2004, when the U.S. declared that it had completely committed to the obligations under Article VI and had no problem in its implementation.<sup>30)</sup> The U.S. denied any reference to the outcomes of the previous review conferences, stating that "Review Conferences are not amendment conferences, and any declarations or decisions or other text emanating from them neither supercede, nor reinterpret, nor add onto the explicit legal obligations of all parties under the Treaty."<sup>31)</sup>

The other controversial issue is the relationship between nuclear disarmament and general and complete disarmament. Many states, in particular non-nuclear-weapon states, demand that priority should be given to nuclear disarmament though Article VI includes reference to a treaty on general and complete disarmament, because the NPT is a treaty on nuclear weapons and the central obligation under Article VI is nuclear disarmament. On the other hand, France argues, both at the preparatory committees and the Review Conference, that nuclear disarmament is possible only within the framework of general and complete disarmament and refuses to give priority to nuclear disarmament. At the 2005 Review Conference, the U.S. supported this position.

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27) Statement by H. E. Ambassador Yoshiki Mine. (note 10)

28) Statement by Ambassador Eric C. Jarvis, Permanent Representative of the U.S. to the Conference on Disarmament, April 11, 2002.

29) Information Paper from the United States concerning Article VI of the NPT, 1 May 2003.

30) Statement by John Bolton. (note 3)

31) Statement by Ambassador Jackie W. Sanders, Special Representative of the President for the Non-Proliferation of Nuclear Weapons to the 2005 Review Conference of the NPT, U.S. Implementation of Article VI and the Future of Nuclear Disarmament, Main Committee I, New York, May 2005.



Argument on nuclear disarmament was conducted at the subsidiary body 1 established under the Main Committee I. The Chairman first submitted his first version of a draft working paper and discussion was conducted based on it. Then he submitted his second version by taking account of the arguments, and then discussion continued until he submitted his third and final version. Naturally there was no consensus on many parts of the chairman's draft because there was not enough time to discuss the issues deeply, but more significantly there was a sharp confrontation on many issues. In spite of the fact that the final version of the chairman's draft could not get consensus support, it was decided that the draft would be sent to the Plenary Meeting as an annex to the report of the Main Committee I.

Regarding nuclear disarmament in general, the working paper of the chairman of the subsidiary body 1 includes the following paragraphs.

**1. The Conference remains alarmed by the continued threat to humanity posed by the existence of nuclear weapons, reaffirms the need to make every effort to avert the danger to all mankind of nuclear war and nuclear terrorism and to take measures to safeguard the security of peoples.**

**2. The Conference recalls the Principles, Objectives and Undertakings for Nuclear Non-Proliferation and Disarmament including the principles of irreversibility, transparency, verifiability and undiminished security for all.**

**3. The Conference recalls the commitment to pursue effective measures and make systematic and progressive efforts to implement Article VI including the unequivocal undertaking by the nuclear-weapon states to accomplish the total elimination of their nuclear arsenals, and other steps.**

The U.S. opposes the second paragraph on the principles and demands to delete it in its entirety. On the third paragraph, the U.S. demands the deletion of "and make systematic and progressive efforts" and delete "including the unequivocal undertaking by the nuclear-weapon states to accomplish the total elimination of their nuclear arsenals, and other steps."<sup>32)</sup>

#### *Comprehensive Nuclear-Test-Ban Treaty (CTBT)*

In the general debate, almost all states referred the issue, asking for the early entry into force of the CTBT and the maintenance of a moratorium on nuclear testing, just as is stipulated in the Final Document of the 2000 Review Conference.

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32) NPT/CONF.2005/WP.62, 27 May 2005.

First, on the early entry into force, some states argue just for its early entry into force, but others ask the eleven states whose ratification is needed for its entry into force but have not ratified it to sign and ratify the treaty. Russia, the U.K. and France have already ratified it and ask for its early entry into force. China has signed but not ratified it, and states that it supports an early entry into force of the CTBT and is now working actively on its internal legal proceedings for ratifying the treaty.<sup>33)</sup> The NAC, the NAM, the European Union and Japan also support and demand its early entry into force. The U.S., which did not refer to this issue in the general debate, stated in the Main Committee I that “The United States does not support the Comprehensive Nuclear-Test-Ban Treaty, and will not become a party to it.”<sup>34)</sup>

The NAM regrets the fact that one nuclear-weapon state has taken the decision not to proceed with the ratification of the CTBT and suggests that positive decisions by the nuclear-weapon states would have the desired impact on the progress towards its entry into force.<sup>35)</sup> Japan states that “We must recall that the CTBT is an integral part of the 1995 package to allow the indefinite extension of the NPT,”<sup>36)</sup> and Austria also states that “the conclusion of a CTBT was an essential element in gaining support from non-nuclear-weapon states for the indefinite extension of the NPT at the Review and Extension Conference in 1995.”<sup>37)</sup> The working paper submitted by Australia, Austria, Canada, Denmark, Hungary, Ireland, the Netherlands, New Zealand, Norway and Sweden emphasizes that the CTBT was an integral part of the indefinite extension of the NPT.<sup>38)</sup>

Second, on the testing moratorium, almost all states argue for the maintenance of the moratorium until the CTBT enters into force. The NAM underscores the importance of the five nuclear-weapon states maintaining their voluntary moratoriums, but believes that moratoriums do not take the place of the signing, ratification and entry into force of the CTBT. The NAM further emphasizes that the development of new types of nuclear weapons is contrary to the guarantee given by the five nuclear-weapon states at the time of the conclusion of the CTBT, namely, that the Treaty would prevent the improvement of existing nuclear

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33) Statement by Mr. Zhang Yan. (note 20)

34) Statement by Ambassador Jackie W. Sanders. (note 31)

35) NPT/CONF.2005/WP.18, 2 May 2005.

36) Statement by H. E. Ambassador Yoshiaki Mine. (note 10)

37) Statement by Ambassador Wernfried Koeffler, Head of Delegation of Austria, 2005 NPT Review Conference, New York, 4 May 2005.

38) NPT/CONF.2005/WP.9, 26 May 2005.

weapons and the development of new types of nuclear weapons.<sup>39)</sup>

The U.S. did not refer to the testing moratorium, but in a pamphlet<sup>40)</sup> distributed during the conference it states that “the NPR did not call for a resumption of testing. The United States has maintained and confirmed its moratorium. It has no plans to conduct nuclear tests. The enhanced test readiness program is not a signal of an intension to resume testing.” At the Main Committee I, the U.S. stated that “the U.S. has not conducted a nuclear test since 1992, continues to observe its nuclear testing moratorium, has no plans to conduct a nuclear test, and encourages others not to test.”<sup>41)</sup>

Third, on the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), many states expressed support for the work of the CTBTO in preparation of its entry into force, mainly in the field of verification, even though the Treaty has not entered into force. For example, Japan states that efforts to develop the CTBT verification regime, including the International Monitoring System (IMS), should also be continued.<sup>42)</sup> The U.K. will continue to play an active role in the establishment of the verification system for the CTBT,<sup>43)</sup> and the EU highlights the importance of the work of the CTBT Organization Preparatory Commission,<sup>44)</sup> and the NAC welcomes the importance of maintaining the moratorium towards the early establishment of the CTBTO in order to build the verification regime.<sup>45)</sup> Even the U.S. expresses its willingness to continue to work with the Provisional Technical Secretariat on IMS-related activities.<sup>46)</sup>

Under the first draft of the chairman, the CTBT was treated in two separate paragraphs that urged States Parties to “recall the importance and urgency of early entry into force of the CTBT”, and “pending entry into force of relevant treaties, reaffirm or declare on testing of nuclear weapons and nuclear explosive devices.” The second and third versions are the same, stating as follows:

**9. In looking forward to the entry into force of the Comprehensive**

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39) NPT/CONF.2005/WP.18, 2 May 2005.

40) *The Commitment of the United States of America to Article VI of the Treaty on the Nonproliferation of Nuclear Weapons*, 2005, p.5.

41) Statement by Ambassador Jackie W. Sanders. (note 31)

42) Statement by H. E. Ambassador Yoshiki Mine. (note 10)

43) Statement by Ambassador John Freeman. (note 18)

44) Statement by H. E. Mr. Nicolas Schmit, Minister Delegate for Foreign Affairs of Luxembourg on Behalf of the European Union, General Debate, 2005 Review Conference of the States Parties to the NPT, New York, 2 May 2005.

45) NPT/CONF.2005/WP.27, 4 May 2005.

46) Statement by Ambassador Jackie W. Sanders. (note 31)

**Nuclear-Test-Ban Treaty, the Conference welcomes efforts since 2000 against the testing of nuclear weapons or other nuclear explosive devices, including through maintenance of the existing moratoria, support for the preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization, progress made in developing the International Monitoring System, and the increased membership of the Treaty.**

Initially, the U.S. opposed the phrases “the early entry into force of the CTBT” and “the increased membership of the Treaty,” but finally demanded to delete the paragraph in its entirety.<sup>47)</sup> Many states asked the concerned states to ratify the Treaty as soon as possible, just as the Japanese proposal<sup>48)</sup> and the Japanese-Australian proposal<sup>49)</sup> demand that the Conference urge all states that have not yet ratified the CTBT, in particular those 11 states whose ratification is required for it to enter into force, to do so at the earliest opportunity. The NAC suggests that all states should spare no efforts to achieve the early entry into force of the CTBT,<sup>50)</sup> and the NAM believes that the five nuclear-weapon states have a special responsibility to ensure the entry into force of the CTBT.<sup>51)</sup>

#### *Cut-Off Treaty (FMCT)*

Negotiations on an FMCT has not yet started in spite of the fact that ten years ago the states parties agreed on the immediate commencement and early conclusion of negotiations on an FMCT, and five years ago they agreed to the immediate commencement of negotiations on an FMCT with a view to their conclusion within five years.

At the 2005 conference, virtually every state urged the immediate commencement of the negotiation on an FMCT. The five nuclear-weapon states support its immediate commencement in principle; the U.S. states that “we have called upon the Conference on Disarmament to initiate negotiations on an FMCT.”<sup>52)</sup> Russia reiterated its position in favor of the earliest possible beginning of negotiations on an FMCT,<sup>53)</sup> the U.K. looks forward to the early negotiation,

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47) NPT/CONF.2005/WP.62, 27 May 2005.

48) NPT/CONF.2005/WP.21, 4 May 2005.

49) NPT/CONF.2005/WP.34, 19 May 2005.

50) NPT/CONF.2005/WP.27, 4 May 2005.

51) NPT/CONF.2005/WP.18, 2 May 2005.

52) Statement by Rademaker, (note 7)

53) Statement by H. E. Mr. Sergey I. Kislyak. (note 17)

without preconditions, in the CD of a FMCT,<sup>54)</sup> France encourages the launch of negotiations on an FMCT,<sup>55)</sup> and China demands efforts to reach agreement on the negotiation of an FMCT.<sup>56)</sup>

Japan urges an early commencement of negotiations on an FMCT,<sup>57)</sup> the EU appeals to the CD for the immediate commencement of an FMCT,<sup>58)</sup> the NAC urges resumption in the CD of negotiations of an FMCT<sup>59)</sup>, and the NAM urges the CD to agree a programme of work that includes negotiations of an FMCT.<sup>60)</sup> There exists a general consensus on the immediate commencement of the negotiations of an FMCT.

Some states argue for the maintenance of a moratorium on the production of fissile material for weapon purposes until an FMCT is concluded. This was not agreed upon at the 2000 Review Conference because of strong opposition by China. Japan calls upon all nuclear-weapon states and the non-NPT states to declare moratoriums on the production of fissile materials for any nuclear weapons pending the entry into force of an FMCT,<sup>61)</sup> the U.S. calls to join it in declaring a moratorium,<sup>62)</sup> and the NAC also calls for the upholding and maintenance of a moratorium.<sup>63)</sup>

More precisely, the EU calls on China to join the other NWS to declare a moratorium on the production of fissile material for nuclear weapons and to abstain from any increase of its nuclear arsenal,<sup>64)</sup> and Australia urges China, India, Pakistan and Israel to apply a moratorium.<sup>65)</sup>

The first confronting point is a linkage with other issues. The CD could not start the negotiation of an FMCT for a long time mainly because China demanded a strong linkage with the commencement of the negotiation of PARAS, but China agreed to abstain from the stringent linkage in 2003. However, at the 2005 Review

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54) Statement by Ambassador John Freeman. (note 18)

55) Statement by H. E. Mr. François Rivasseau. (note 8)

56) Statement by Mr. Zhang Yan. (note 20)

57) Statement by H. E. Mr. Nobutaka Machimura, Minister for Foreign Affairs of Japan at the 2005 Review Conference of the Parties to the NPT, 2 May 2005, New York.

58) Statement by H. E. Mr. Nicholas Schmit. (note 44)

59) NPT/CONF.2005/WP.27, 4 May 2005.

60) NPT/CONF.2005/WP.18, 2 May 2005.

61) Statement by H. E. Ambassador Yoshiki Mine. (note 10)

62) Statement by Stephan G. Rademaker. (note 7)

63) NPT/CONF.2005/WP.27, 4 May 2005.

64) Statement by H. E. Mr. Nicholas Schmit. (note 44)

65) Statement by the Hon. Alexander Dower MP, Minister for Foreign Affairs of Australia, 2005 Review Conference of the Parties to the NPT, 2 May 2005.

Conference, some states argued for a softer linkage. Russia stated that “I wish to reiterate our position in favor of the earliest possible beginning, at the CD, negotiations on a treaty banning production of fissile material for nuclear weapons or other nuclear explosive devices. We also support the idea of establishing ad hoc Committees within the CD framework to deal with nuclear disarmament issues and negative security assurances. In fact, we need to reach a comprehensive compromise on the CD programme of work that would finally unblock its practical disarmament activities. We are open to such compromises.”<sup>66)</sup>

China also states that “In the CD, efforts should be made to reach agreement on the program of work so as to start the negotiation of FMCT at an early date, as well as establish the ad hoc committees and start substantive work on nuclear disarmament, security assurances for non-nuclear-weapon states and non-weaponization of the outer space.”<sup>67)</sup> The NAM asks the CD to agree on a programme of work that includes the immediate commencement of negotiations on an FMCT, and at the same time it calls to establish an ad hoc committee on nuclear disarmament and emphasizes the urgent need for the commencement of substantive work on the prevention of an arms race in outer space.<sup>68)</sup>

Other states do not mention the linkage and it seems that they want to start the negotiation on an FMCT independently if possible. The U.S. is clear on this point, stating: “We hope that FMCT negotiations can begin in the CD without conditions or linkages to other issues.”<sup>69)</sup>

The second controversial point is on the issue of verification. The Shannon mandate agreed to in 1995 and maintained since, states clearly that “a non-discriminatory, multilateral and internationally and effectively verifiable treaty” is necessary. This is an agreed condition on an FMCT and verification is thought to be necessary and possible. However, in July 2004, the U.S. argued for the negotiation of an FMCT without verification, stating that “The U.S. policy review raised serious concerns that realistic, effective verification of an FMCT is not achievable.”<sup>70)</sup> At the 2005 Review Conference, the U.S. demanded negotiation of an FMCT without verification,<sup>71)</sup> and the U.K. urged the early negotiation, without

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66) Statement by H. E. Mr. Sergey I. Kislyak. (note 17)

67) Statement by Mr. Zhang Yan. (note 20)

68) NPT/CONF.2005/WP.18, 2 May 2005.

69) *The Commitment of the United States of America*. (note 40), p.11.

70) “Sanders Says Verification of Fissile Cutoff Treaty Not Achievable,” USINFO.STATE.GOV [http://usinfo.state.gov/is/Archive/2004/Aug/06-640593.html]

71) Statement by Ambassador Jackie W. Sanders. (note 31)

preconditions, of an FMCT.<sup>72)</sup> The other three nuclear-weapon states do not touch upon the issue of verification. Japan, Canada, Sweden and Germany do not necessarily refer to the issue of verification either.

On the other hand, the NAM and the NAC urged the negotiation of an FMCT with verification in accordance with the Shannon mandate, an internationally and effectively verifiable treaty, and the NAM expressed concern over attempts to limit the scope of the negotiations on an FMCT.<sup>73)</sup> Australia suggested that the FMCT should include measures to verify that parties are complying with their obligations,<sup>74)</sup> stating that an FMCT without a robust verification regime would be devoid of its purpose.<sup>75)</sup> The EU attached special importance to the negotiation of a non-discriminatory and universal Treaty banning the production of such fissile material without preconditions while bearing in mind the special coordinator's report and the mandate contained therein.<sup>76)</sup>

An appropriate subsidiary body with a mandate to deal with nuclear disarmament was agreed to in the 2000 final document but has not been established yet. Russia and China advocate the establishment of the subsidiary body in connection with the ad hoc committee to negotiate an FMCT, and the NAC and the NAM also strongly urge its establishment. The NAM reiterates its call to establish, as soon as possible, and as a high priority, an ad hoc committee on nuclear disarmament that would negotiate a phased programme for the complete elimination of nuclear weapons with a specified time frame, including a nuclear weapons convention.<sup>77)</sup> Canada touches upon this issue as well, but the U.S., the U.K., France, Japan and the EU do not refer to this issue.

The first version of the chairman's draft does not directly refer to an FMCT but provides that "pledge urgent efforts to pursue and implement options for enhanced multilateral and other action on nuclear disarmament, including compliance aspects, such as the negotiation of additional international instruments reinforcing the objectives and work of the Treaty." It also writes that "pending entry into force of relevant treaties, reaffirm or declare moratorium on production of fissile materials for nuclear weapons and nuclear explosive devices." Many states criticize to the first part because it is very ambiguous and not understandable. The second and the

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72) Statement by Ambassador John Freeman. (note 18)

73) NPT/CONF.2005/WP.18, 2 May 2005.

74) Statement by the Hon. Alexander Downer NP. (note 65)

75) Statement by Ambassador Wernfried Koeffler. (note 37)

76) Statement by H. E. Mr. Nicolas Schmit. (note 44)

77) NPT/CONF.2005/WP.18, 2 May 2005.

third versions are provided for as follows:

**10. The Conference pledges urgent efforts, especially in the Conference on Disarmament, to pursue and implement options for enhanced multilateral and other action on nuclear disarmament, including compliance aspects, and appeals to all members of the Conference on Disarmament to demonstrate the necessary flexibility to enable adoption of a programme of work that will advance crucial NPT-related tasks.**

The Chairman's working paper remains very abstract without mentioning an FMCT. In that sense, it seems to be retrogression from the agreement at the 2000 Review Conference as it lacks direct reference to an ad hoc committee on an FMCT and a subsidiary body on nuclear disarmament. A Japan-Australia proposal reaffirms the immediate commencement of FMCT negotiation and its early conclusion, the NAC and the NAM urge to start negotiations on an FMCT and establish a subsidiary body for nuclear disarmament at the CD, and in addition, the NAM calls for negotiation on PAROS. China urges negotiation on nuclear disarmament, negative security assurances and the prevention of an arms race in outer space as well as an FMCT. Russia requests the establishment of ad hoc committee on nuclear disarmament and negative security assurances as well as an FMCT. The U.S. has no comment on this paragraph.

The fact that the Chairman's working paper is extremely ambiguous and abstract means that it is now extremely difficult to find a common position on the program of work at the CD, because there is much difference of opinion based on the current international security environment. On the other hand, it is the expression of Chairman's willingness to stress the necessity of agreement in the CD on a program of work that would advance NPT-relevant issues without going into specifics of mandate.

#### *Reduction of Strategic Nuclear Weapons*

The final document of the 2000 Review Conference includes "the early entry into force and full implementation of START II and the conclusion of START III as soon as possible while preserving and strengthening the ABM Treaty." However, the Bush administration abandoned the START process and withdrew from the ABM Treaty in 2002. The U.S. states that "The United States remains fully committed to fulfilling our obligations under Article VI. Since the last review conference the United States and the Russian Federation concluded our implementation of START I reductions, and signed and brought into force the



Moscow Treaty of 2002. Under the Moscow Treaty, we have agreed to reduce our operationally deployed strategic nuclear warheads to 1,700-2,200, about a third of the 2002 levels, and less than a quarter of the level at the end of the Cold War. When this Treaty is fully implemented by the end of 2012, the United States will have reduced the number of strategic nuclear warheads it had deployed in 1990 by about 80%.<sup>78)</sup> Russia states that “The Russian Federation is committed to its obligations under the Treaty, including to the nuclear disarmament measures. Russia fulfilled its obligations under the START to reduce strategic nuclear arms. The US-Russian Treaty on Strategic Offensive Reductions has become a new significant step towards nuclear disarmament.”<sup>79)</sup>

However, the NAM remains deeply concerned by the lack of progress towards achieving the total elimination of nuclear weapons. While noting the signing of the Moscow Treaty, the NAM stresses that reductions in deployments and in operational status cannot take the place of irreversible cuts in, and the total elimination of, nuclear weapons. The non-entry into force of START II is a setback to the 13 practical steps. The Group calls for the application of the principles of irreversibility and increased transparency.<sup>80)</sup> The NAC criticizes that the majority of weapons reductions are not irreversible, transparent, or verifiable.<sup>81)</sup>

As an intermediary, Japan highly values the Moscow Treaty and encourages both Russia and the U.S. to work towards its full implementation and to consider building on the Treaty to realize further reductions. Japan also calls upon all nuclear-weapon states to take further steps towards nuclear disarmament.<sup>82)</sup> The EU welcomes the Moscow Treaty, but emphasizes the importance of the principles of irreversibility, transparency and verifiability. The EU expects further reductions in the Russian and US arsenals.<sup>83)</sup>

Although the ABM Treaty was treated as a cornerstone of strategic stability and as a basis for further reductions of strategic offensive weapons in the 2000 final document, it was abandoned with the unilateral withdrawal by the U.S. Related to this, China and the NAM urge the commencement of negotiations on PAROS in the CD, worrying about the possibility of a new arms race in outer space.

The Chairman’s draft referred to this issue in two paragraphs: the first relates

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78) Statement by Stephan G. Rademaker. (note 7)

79) Statement by H. E. Mr. Sergey I. Kislyak. (note 17)

80) NPT/CONF.2005/WP.18, 2 May 2005.

81) Statement by Hon. Marian Hobbs. (note 9)

82) Statement by H. E. Ambassador Yoshiki Mine. (note 10)

83) Statement by H. E. Mr. Nicolas Schmit. (note 44)

with the Moscow Treaty and the second with the reduction of nuclear weapons. The first paragraph of the first draft stipulates that states-parties “recognize the importance of the Moscow Treaty and seek sustained efforts to implement it.” The second and third version is the same, providing for as follows.

**4. The Conference recognises the importance of the Moscow Treaty and seeks sustained efforts to implement it, and urges its parties to undertake the reduction by 2012 to the lowest target number of nuclear warheads and by agreed timetables.**

Many states referred to the shortcoming of the Moscow Treaty, but there was no objection on this paragraph including by the U.S.

The second paragraph on the reduction is as follows with minor changes from the Chairman’s first draft.

**5. Building upon the decisions taken at the 1995 and 2000 Review Conferences, the Conference urges more intensified progress by the nuclear-weapon states in reducing or continuing to reduce their non-strategic and strategic nuclear arsenals.**

Japan proposes that “The Conference agrees that the realization of a safe world free from of nuclear weapons will require further steps, including deeper, more transparent and irreversible reductions in all types of nuclear weapons by all nuclear-weapon states as they work towards their complete elimination.”<sup>84)</sup> The NAC calls upon the nuclear-weapon states to take further steps to reduce their non-strategic and strategic nuclear arsenals. And the NAM urges a phased programme for the complete elimination of nuclear weapons within a specified time frame.

The U.S. demands to delete in its entirety, as the paragraph refers to the outcomes of the previous review conferences and urges the reduction of both non-strategic and strategic nuclear arsenals. Russia also responds negatively.

#### *Reduction of Non-Strategic Nuclear Weapons*

The 2000 final document includes the further reduction of non-strategic nuclear weapons. The Japanese proposal mentioned above refers to non-strategic nuclear weapons by calling upon all nuclear-weapon states to further reduce all types of nuclear weapons. The EU stresses the need to implement the declarations made by the Presidents of Russia and America in 1991 and 1992 on unilateral reductions in their stocks of non-strategic nuclear weapons and calls on all states with non-

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84) NPT/CONF.2005/WP.21, 4 May 2005.

strategic nuclear weapons to include them in their general arms control and disarmament processes, with a view to their reduction and elimination.<sup>85)</sup> Germany, as a first step, proposes the complete implementation of the respective unilateral commitments that were made by the U.S. and Russia in 1991 and 1992 to reduce their sub-strategic nuclear arsenals. Its objective is to reduce and eliminate these weapons on all sides. Germany believes that increased transparency measures could be agreed upon that would account for these weapons. A further step could then be the formalization and verification of unilateral measures for reduction.<sup>86)</sup> Sweden, with a sense of urgency, calls on all countries possessing non-strategic weapons to engage in negotiations on further reductions with the subsequent aim of their total elimination, as a central non-proliferation concern is that terrorists may try to obtain them due to their relatively small size and the availability of delivery systems for such weapons.<sup>87)</sup>

On the other hand, the U.S. states that the U.S. has reduced its non-strategic nuclear weapons by 90% since the end of the Cold War, dismantling over 3,000 such weapons pursuant to the Presidential Nuclear Initiatives of 1991 and 1992,<sup>88)</sup> and Russia states that "The reduction of its non-strategic (tactical) nuclear weapons (TNW) represents a real contribution of the Russian Federation to the fulfillment of its obligations under Article VI of the NPT. By now the Russian TNWs are deployed only within national territory and concentrated at central storage facilities of the Ministry of Defense. All Russian nuclear weapons are under reliable control, with all necessary measures taken to avoid their unauthorized use. At the same time it is important to note that Russia's non-strategic nuclear arsenal has been reduced by four times as compared to what the Soviet Union possessed in 1991. We will further reduce the level of these weapons. This process will certainly be pursued with due account for the military and strategic situation and our national security interests."<sup>89)</sup> The U.K., France and China make no mention on this issue.

The issue of non-strategic nuclear weapons is included in the paragraph mentioned above in connection with strategic nuclear weapons, providing for as follows:

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85) Statement by H. E. Mr. Nicolas Schmit. (note 44)

86) Speech by Joschka Fisher, Federal Minister for Foreign Affairs of Germany at the Opening Session of the 7th Review Conference of the Parties to the NPT, New York, 2 May 2005.

87) Statement by H. E. Ms. Laila Freivalds. (note 25)

88) Statement by Stephan Rademaker. (note 7)

89) *National Report on the Implementation of the Non-Proliferation Treaty by the Russian Federation.*

**5. Building upon the decisions taken at the 1995 and 2000 Review Conferences, the Conference urges more intensified progress by the nuclear-weapon states in reducing or continuing to reduce their non-strategic and strategic nuclear arsenals.**

Regarding non-strategic nuclear weapons, another paragraph states as follows:

**6. The Conference affirms the value of full implementation of the Presidential Nuclear Initiative and of the extension of such a mechanism to all states possessing non-strategic nuclear weapons.**

The U.S. demands to delete the phrase “and of the extension of such mechanism to all states possessing non-strategic nuclear weapons.”

#### *A Diminishing Role of Nuclear Weapons*

The Japanese proposal is the same as the provision in the 2000 Final Document, stating “The Conference reaffirms the necessity of a diminishing role for nuclear weapons in security policies to minimize the risk that such weapons will ever be used and to facilitate the process of their total elimination.”<sup>90)</sup> The New Agenda addresses the increasing concerns about the lack of compliance and implementation of all commitments made in the context of the NPT regime. In particular, the NAC addresses the troubling development that some nuclear-weapon states are researching or even planning to develop new or significantly modify existing nuclear weapons, and worries that these actions have the potential to create the conditions for a new nuclear arms race and would be contrary to the Treaty.<sup>91)</sup>

South Africa urges against the development of new types of nuclear weapons in accordance with their commitment to diminish the role of nuclear weapons in their security policies,<sup>92)</sup> and Brazil states that “Although the NPT has no provision that expressly prohibit modernization of nuclear weapons and their means of delivery, the introduction of new weapon types and the announcement of strategic doctrine that tend to lower the threshold for the utilization of nuclear weapons run counter to the ‘unequivocal commitment’ to fulfill nuclear disarmament, and bypasses the ‘thirteen practical steps’ towards that goal adopted in 2000.”<sup>93)</sup> The NAM remains

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90) NPT/CONF.2005/WP.21, 4 May 2005.

91) Statement by Hon. Marian Hobbs. (note 9)

92) Statement by the Republic of South Africa during the General Debate of the 2005 Review Conference of the States Parties to the NPT delivered by Mr. Abdul Samad Minty, Deputy Director-General, Department of Foreign Affairs, New York, 3 May 2005.

93) Statement by the Head of Delegation of Brazil, Ambassador Ronaldo Sardenberg, at VII Review Conference of the NPT, New York, 2 May 2005.

deeply concerned by strategic defense doctrines that set out the rationales for the use of nuclear weapons, as demonstrated by the recent policy review by one of the nuclear-weapon states to consider expanding the circumstances in which these weapons could be used.<sup>94)</sup>

In the same way, China criticizes U.S. policy, stating; “some negative developments, including sticking to the Cold War mentality, pursuing unilateralism, advocating pre-emptive strategy, listing other countries as targets of nuclear strike and lowering the threshold of using nuclear weapons, researching and developing new types of nuclear weapons for specific purposes, add new destabilizing factors to international security,”<sup>95)</sup> and recommends to abandon the policies of nuclear deterrence based on the first use of nuclear weapons and not to use or threaten to use nuclear weapons against non-nuclear-weapon states.<sup>96)</sup>

Against these criticisms, the U.S. responds by stating that “We have reduced the role of the nuclear weapons in our deterrence strategy and are cutting our nuclear stockpile almost in half, to the lowest level in decades,” and precisely explains their status as follows.<sup>97)</sup>

The Defense Department’s 2001 Nuclear Posture Review codified the diminished role of nuclear weapons in post-Cold War U.S. defense strategy. Importantly, the 2001 NPR also established a New Triad, one that places far less reliance on nuclear capabilities than did its predecessor. The charge that the 2001 NPR called for new nuclear weapons is not correct. The United States is not developing, testing or producing any nuclear warheads and has not done so in more than a decade.

In this regard, there are two activities that have been debated extensively: a modest research effort on advanced nuclear-weapon concepts that Congress recently redirected to study technologies to enhance confidence in warhead reliability without testing; and a study on whether – without testing – an existing weapon could be adapted to hold at risk hardened, deeply buried targets. These activities have been mischaracterized by critics. The research on advance concepts had multiple purposes, including the furtherance of stockpile stewardship, which is the ongoing U.S. effort to ensure the safety and reliability of its nuclear weapons without testing. In similar fashion, the robust nuclear earth penetrator (RNEP) study is intended to look at one

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94) NPT/CONF.2005/WP.18, 2 May 2005.

95) Statement by Mr. Zhang Yan. (note 20)

96) NPT/CONF.2005/WP.2, 26 April 2005.

97) *The Commitment of the United States of America*. (note 40), pp.4-5.

possible way to enhance deterrence using an existing warhead. There has been no decision to move beyond the study stage, which will require Presidential and congressional action.

Critics have also argued that leaders would see low-yield weapons as readily usable, and that the nuclear threshold would be lowered as a consequence of their deployment. This is just not the case. Since the 1950s, the United States has had low-yield weapons. There were thousands at the highest of the Cold War. They have not been used. A decision to use nuclear weapons, which must be made by the President, is not easier if yields are lower. The nuclear threshold has always been very high and will remain so.

On these issues, Russia, the U.K and France made no comment.

The issue of the further reduction of the operational status of nuclear weapon systems was also discussed at the conference. The Japanese proposal recommends that the Conference call for nuclear-weapon states to further reduce the operational status of nuclear weapon systems in ways that promote international stability and security,<sup>98)</sup> the EU calls on all states concerned to take appropriate practical measures in order to reduce the risk of accidental nuclear war,<sup>99)</sup> and Sweden calls on nuclear-weapon states to de-alert, that is to reduce the operational status of nuclear weapons systems.<sup>100)</sup>

The NAC recommends agreeing that the nuclear-weapon states take further measures to de-alert and deactivate nuclear weapons systems, to remove nuclear warheads from delivery vehicles and to withdraw nuclear forces from active deployment pending the total elimination of these weapons.<sup>101)</sup> On the other hand, the nuclear-weapon states that agreed at the 2000 Review Conference to de-target nuclear weapons do not offer further concessions on the issue.

The Chairman's working paper deals with these issues in two paragraphs as follows:

**7. Pending the achievement of nuclear disarmament, the Conference calls upon the nuclear-weapon states to resolve further to restrict the deployment of nuclear weapons, their operational readiness and their potential role as defined in national security doctrines.**

The Japan-Australia proposal calls for a further reduction in the operational status of nuclear weapons systems and a diminished role for nuclear weapons in

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98) NPT/CONF.2005/WP.21, 4 May 2005.

99) Statement by H. E. Mr. Nicolas Schmit. (note 44)

100) Statement by H. E. Ms. Laila Freivalds. (note 25)

101) NPT/CONF.2005/WP.27, 4 May 2005.

security policies, and the NAC also urges to de-alert and deactivate nuclear weapons systems and to diminish the role of nuclear weapons in their security policies, in accordance with the agreed commitments at the 2000 review conference. The U.S. demands to delete this paragraph in its entirety.

**8. The Conference calls on the nuclear-weapon states to forego any efforts to research and develop new types of nuclear weapons or other nuclear explosive devices.**

The Japan-Australia proposal does not touch upon this issue, but the NAC recommends against developing new types of nuclear weapons, and the NAM worries that the possible development of new types of nuclear weapons could impair the commitment of nuclear disarmament. The U.S. demands to delete this paragraph in its entirety.

#### *Verification and Disposition of Fissile Material*

Placing fissile material designated as no longer required for military purposes under IAEA verification and disposal was agreed to at the 2000 Review Conference and was implemented by the U.S. and Russia.

The U.S. stated at the Main Committee I that “the U.S. has removed 174 tons of highly enriched uranium and 52 tons of plutonium from further use as fissile material in nuclear warheads, placing some of this material under IAEA safeguards, and thus far converting approximately 60 tons irreversibly for uses as civil reactor fuel. The U.S. and Russia have committed to dispose of 34 tons each of plutonium so that it is no longer usable for nuclear weapons. Under the 1993 HEU Purchase Agreement, the U.S. and Russia have down-blended over 240 metric tons of HEU from Russian nuclear weapons.” The U.S. also refers to the cooperative threat reduction program since 1992 and G-8 Global Partnership against the Spread of Weapons and Materials of Mass Destruction of 2002.<sup>102)</sup> Russia also refers to the implementation of the programme for the reprocessing of 500 tons of highly-enriched uranium extracted from Russian nuclear weapons into nuclear power plant fuel and the complete reprocessing 250 tons of HEU as its contribution to irreversible nuclear disarmament.<sup>103)</sup>

Japan is very active on this issue, proposing the following two paragraphs in its working paper and Japan-Australia working paper. On international cooperation in

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102) Statement by Ambassador Jackie W. Sanders. (note 31)

103) Statement by H. E. Mr. Sergey I. Kislyak. (note 17)

reducing nuclear-weapon-related materials, it reads: "With a view to accelerating the reduction of nuclear weapons excess to military needs, the Conference encourages states to pursue efforts within the framework of international cooperation initiatives for the reduction of nuclear-weapon-related materials, such as the Cooperative Threat Reduction programme and the Group of Eight Global Partnership against the Spread of Weapons of Mass Destruction." Regarding securing fissile materials, it reads: "The Conference stresses that fissile material resulting from reduction in nuclear arsenals must be controlled and protected to the highest standard, and calls for arrangements by all nuclear-weapon states to place fissile material no longer required for military purposes under international verification as soon as is practicable, to ensure that such material is irreversibly removed from use for nuclear weapons,"<sup>104)</sup>

The EU recognizes the importance, from the point of view of nuclear disarmament, of the programmes for the destruction and elimination of nuclear weapons and the elimination of fissile materials as defined under the G8 Global Partnership,<sup>105)</sup> and the NAC stresses the need for all five nuclear-weapon states to make arrangements for the placing of their fissile material no longer required for military purposes under IAEA or other relevant international verification and to make arrangements for the disposition of such material for peaceful purposes in order to ensure that such material remains permanently outside military programmes.<sup>106)</sup>

The Chairman's working paper provides for as follows:

**11. The Conference seeks affirmation by the nuclear-weapon states that they will place, as soon as practicable, fissile material designated as no longer required for weapons purposes under IAEA or other relevant international verification, and, welcoming work already undertaken on the development of verification capabilities for nuclear disarmament, urges that such work be initiated by those nuclear-weapon states not already doing so.**

The U.S. demands to add "controls" after "IAEA", and delete "or other relevant international verification."

#### *Reporting on and Transparency in Nuclear Disarmament*

In the 2000 final document, increased transparency with regard to nuclear

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104) NPT/CONF.2005/WP.21, 4 May 2005; NPT/CONF.2005/WP.34, 11 May 2005.

105) Statement by H. E. Mr. Nicolas Schmit. (note 44)

106) NPT/CONF.2005/WP.27, 4 May 2005.



weapon capabilities and the implementation of agreements pursuant to article VI and regular reporting on the implementation of article VI and paragraph 4 (c) of the 1995 decision on Principles and Objectives are included. The NAC states that "Full acknowledgement for the progress that the nuclear-weapon states assert they are making towards nuclear disarmament requires greater transparency. A first step towards transparency is the regular submission of Article VI reports in accordance with step 12 as agreed at the 2000 Review Conference,"<sup>107)</sup> and urges "to agree that the nuclear-weapon states take further action towards increasing their transparency and accountability with regard to their nuclear weapon arsenals and their implementation of disarmament measures and in this context to recall the obligation to report as agreed in step 12."<sup>108)</sup>

The NAM calls for the application of the principles of irreversibility and increased transparency by the nuclear-weapon states regarding nuclear disarmament and other related arms control and reduction measures.<sup>109)</sup> Many other states express concern on the lack of irreversibility, transparency and verifiability of the Moscow Treaty.

The first draft by the Chairman "acknowledges efforts by the nuclear-weapon states to improve transparency, and recognises that increased information on existing levels of nuclear weapons and fissile material held by nuclear-weapon states, provided on an annual basis, facilitates measuring ongoing efforts to implement Article VI." However, the second draft and the final version shifted its emphasis to reporting of the implementation of Article VI, providing for as follows:

**12. Reaffirming the importance of reporting, the Conference welcomes the reports and information submitted to the Conference and agrees to provide reports on implementation of Article VI on an annual basis.**

The U.S. demands to replace "agrees" with "encourages all states party," as well as to delete "on an annual basis."

### *Negative Security Assurances*

Negative security assurances have been on issue of high priority for non-nuclear-weapon states, and in particular for the non-aligned states, since the time of the negotiation of the treaty as an issue of principle. In addition, the non-aligned states worry about the increasing possibility of the use of nuclear weapons, because

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107) Statement by Ambassador Tim Caughley on Behalf of the New Agenda Coalition, 18 May 2005.

108) NPT/CONF.2005/WP.27, 4 May 2005.

109) NPT/CONF.2005/WP.18, 2 May 2005.

of the adoption by the Bush administration of the new doctrine of pre-emption. Although the 2000 Review Conference called upon the Preparatory Committee to make recommendations to the 2005 Review Conference on the issue of legally binding security assurances, this has not been realized.

The NAM, reiterating that efforts to conclude a universal, unconditional and legally binding instrument on security assurances to non-nuclear-weapons should be pursued as a matter of priority, calls for the negotiation of a universal, unconditional and legally binding instrument on security assurances, as it is the legitimate right of states that have given up the nuclear-weapon option to receive security assurances. It also believes that legally binding security assurances within the context of the treaty would provide an essential benefit to the states parties.<sup>110)</sup>

The NAC calls upon the nuclear-weapon states to fulfill their existing commitments with regard to security assurances pending the conclusion of multilaterally negotiated legally binding security assurances for all non-nuclear-weapon states parties, which could either be in the format of a separate agreement reached in the context of the Treaty on the Non-Proliferation of Nuclear Weapons or as a protocol to the Treaty.<sup>111)</sup> South Africa urges the negotiation of legally binding security assurances by the nuclear-weapon states to the non-nuclear-weapon states parties, believing that non-nuclear-weapon states have the right to be provided with internationally legally binding security assurances under the NPT that would protect them against the use or threat of use of nuclear weapons.<sup>112)</sup> The Republic of Korea also supports the concept of negative security assurances as a practical means of reducing the sense of insecurity, and believes that nuclear-weapon states should provide strong and credible security assurances to non-nuclear-weapon states that faithfully meet their NPT and other safeguard obligations.<sup>113)</sup>

Russia supports the earliest possible beginning, at the CD, negotiations on an FMCT, and the establishment of an ad hoc committee to deal with nuclear disarmament issues and negative security assurances.<sup>114)</sup> China believes that it is more than justified for the non-nuclear-weapon states to request to be free from the

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110) NPT/CONF.2005/WP.18, 2 May 2005.

111) NPT/CONF.2005/WP.27, 4 May 2005.

112) Statement by Mr. Abdul Samad Minty. (note 92)

113) Statement by H. E. Park In-kook, Ambassador, Alternative Head of the Republic of Korea at the 2005 Review Conference of the Parties to the NPT, Main Committee I, 19 May 2005, New York.

114) Statement by H. E. Mr. Sergey I. Kislyak. (note 17)

threat of nuclear weapons upon foregoing development of those weapons, and to have nuclear-weapon states provide assurances in this regard in a legally binding form. China undertakes, unconditionally, not to use or threaten to use nuclear weapons against non-nuclear-weapon states or nuclear-weapon-free zones. China has consistently urged all nuclear-weapon states to undertake these commitments in a legal form, and will continue to do so.<sup>115)</sup> China urges that internationally legally binding instruments on these issues should be concluded as early as possible and that the CD should re-establish an ad hoc committee on negative security assurances and start substantive work and negotiations without delay.<sup>116)</sup>

The U.S., the U.K. and France are opposed to the idea of legally binding negative security assurances, stating that security assurances included in the UN Security Council resolution 984 of 1995 are enough and that there is no change in their policy. The EU urges pursuing consideration of the issue of security assurances to the non-nuclear-weapon states parties to the NPT and calls on nuclear-weapon states to reaffirm existing security assurances noted by the UN Security Council in resolution 984 (1995).<sup>117)</sup>

Security assurances were discussed under the mandate of the subsidiary body 1 on “nuclear disarmament and security assurances,” but substantive and constructive discussion that would lead to a compromised agreement have not conducted because time was extremely limited and big differences of position existed between the U.S., the U.K. and France on the one hand and the NAM and the NAC on the other hand.

A working paper submitted by the Chairman on this issue has seven paragraphs, but the following two are substantive:

**3. The Conference calls upon the nuclear-weapon states to respect fully their existing commitments with regard to security assurances pending the conclusion of multilaterally negotiated legally binding security assurances for all non-nuclear weapon states party.**

**7. The Conference agrees on the need for further work, in the context of the strengthened review process, to be undertaken during the next review period on how security assurances would be encapsulated in legally binding instrument with a view to endorsing the outcome of these deliberations at the 2010 NPT Review Conference.**

Paragraph 3 only deals with the first half of the NAC proposal. In addition, the

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115) Statement by Mr. Zhang Yan. (note 20)

116) NPT/CONF.2005/WP.7, 26 April 2005.

117) Statement by H. E. Mr. Nicolas Schmit. (note 44)

NAC urges for legally binding security assurances in the form of a new treaty in the context of the NPT or a protocol to the treaty. The NAM firmly demands the negotiation of a universal, unconditional and legally binding document on negative security assurances. To these paragraphs, the U.S., the U.K. and France are opposed.

Further, the Chairman's working paper includes the following paragraph:

**6. The Conference recognises that assurances against the use or threat of use of nuclear weapons are conditional and not applicable if any beneficiary is in material breach of its own non-proliferation and disarmament obligations under the treaty.**

Malaysia, Cuba and others oppose this paragraph.

## **Assessment of the Conference and Future Prospects**

### *Assessment of the Conference*

The 2005 NPT Review Conference is generally assessed as a failure, as the Secretary-General of the UN, Mr. Kofi Annan states that "Regrettably, there are times when multilateral forums tend merely to reflect, rather than mend, deep rifts over how to confront the threats we face. The Review Conference of the Nuclear Nonproliferation Treaty, which ended on Friday with no substantive agreement, was one of these. Today, the treaty faces a dual crisis of compliance and confidence. Delegations at the month-long conference, which is held once every five years, could not furnish the world with any solutions to the grave nuclear threats we all face."<sup>118)</sup>

The failure to adopt a substantive document at the conference reflects the situation of the international environment at the time of the conference, and depends in great part on the attitude of the states parties that play a central role, as is shown in the analysis of the six previous review conferences.

The Review Conference itself could not agree on a final document in 1975, but the strong leadership of the chairman produced a final declaration. In both 1980 and 1990 the Review Conferences adopted no documents. In 1985, there was no consensus on the issue of the CTBT, but participants adopted a final declaration by including both pros and cons on the CTBT. In 1995, states parties agreed on three

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118) Kofi A. Annan, "Break the Nuclear Deadlock", *International Herald Tribune*, Monday, 30 May 2005. [<http://www.ihf.com/articles/2005/05/29/news/edannan.php>]

decisions including one on an indefinite extension of the treaty and one resolution, but they could not agree on the review of the operations of the treaty.

The 2000 Review Conference did adopt a final document which included both the review of the past five years and the measures recommended for the future. It was really a rare case. Before the conference, many states were pessimistic on the final outcome of the conference, because the international climate was not good. For example, there was the sharp confrontation between the U.S. and China on the future of the ABM Treaty, and the U.S. Senate rejected the ratification of the CTBT in 1999.

The key players at the 2000 Review Conference were the five nuclear-weapon states and the New Agenda Coalition. The nuclear-weapon states submitted a common statement at the end of the first week, showing their common position for negotiation by shelving the thorny issue of the ABM Treaty. On the other hand, the NAC submitted a draft document with excellent content, due to a group consisting of experienced ambassadors versed in nuclear disarmament issues, and representatives of non-nuclear-weapon states. Both displayed their leadership fully to lead the negotiation towards an agreed document.

In addition, it should be remembered that one of the reasons for the successful outcome at the 2000 Review Conferences was the states parties showing very friendly attitudes by yielding their original positions to negotiate a compromise. For example, the original version of the NAC proposal on the unequivocal undertaking of nuclear elimination included much more detailed measures that should have materialized in the subsequent five years. The NAC agreed to drop these measures and Russia and France were very reluctant to accept the unequivocal undertakings, but finally softened their positions and agreed to it. For its part, the NAC agreed to drop its demands which the nuclear-weapon states had opposed. Although there was a sharp confrontation between the U.S. and Iraq on the final day, they finally found phrases that were satisfactory to both by extending the negotiation to the next day.

The 2005 Review Conference, to the contrary, witnessed no willingness to compromise by any main player. This is one of the reasons for the failure of the conference. The main players at the conference were the U.S., Egypt and Iran. The five nuclear-weapon states could not agree on a common statement, as is shown by the fierce criticism of the U.S. attitude by China, although they were reportedly consulting. There was a sharp difference among them, for example, on the CTBT that Russia, the U.K. and France have already ratified and that the U.S. is strongly opposed to.

The NAC could not display as strong leadership as it did in 2000. Egypt, a member of the NAC, played an extraordinarily radical role without support from other members of the NAC or the NAM. Although New Zealand and Malaysia made statements on behalf of the NAC and the NAM respectively, they did not play important roles nor did they display any leadership as the representatives of the groups.

If the nuclear-weapon states and the NAC or the NAM started negotiations, middle powers such as Japan, Australia, Canada or the EU could have played an important intermediary role. However, such a situation did not emerge this time. As a new development of the 2005 Review Conference, the EU has submitted joint working papers that are supported by more than 25 states. It was expected that the EU could play a leading role because of its many useful and acceptable recommendations supported by many states. However, the Minister delegate of Luxembourg has shown no leadership. In addition, the President of the Conference, Mr. Sergio Duarte, did not or could not display enough leadership to lead the Conference towards a final success.

At the background of the conference, a new threat to the nuclear non-proliferation regime has emerged in the statement of withdrawal by North Korea, nuclear suspicions of Iran, revelations of a nuclear black market controlled by Mr. A. Q. Kahn, the possibility of nuclear terrorism and other such concerns. No state objects to the conference dealing with these issues. Indeed, the new threats were expected to be some of the focal points of the discussions at the conference.

On the other hand, the issue of nuclear disarmament was expected to be the other focal point of the conference, because the U.S. emphasized the usefulness of small nuclear weapons in its security policy and proceeded with a study of the new concept of nuclear weapons and the shortening of the preparation time for the resumption of nuclear testing. Additionally no progress has been made in the denuclearization of the Middle East. Finally, the U.S. strongly argued that the outcomes of the previous review conferences were neither effective nor applicable anymore.

The U.S. demanded to discuss only nuclear non-proliferation issues, in particular the issue of non-compliance, as it thought that there was no problem in nuclear disarmament that is implemented by the U.S. The non-aligned states, including Egypt, argued that without discussing nuclear disarmament they could not discuss the issue of non-proliferation. Both insisted on their positions strenuously, without showing any possibility for compromise. This stubbornness is one of the most fundamental causes of the failure of the conference.

The Egyptian objection to the provisional agenda submitted by the President on the last day of the first week and to other procedural matters that later prevented substantive discussion for almost two weeks should be blamed, because we did not have enough time to discuss substantive matters although it is doubtful whether we could have agreed on a consensus document even if we had enough time. In this sense, Egypt should be blamed for its position blocking the proceedings of the conference. However, we should not overlook the background of this position but should find its real cause.

It was understandable that the U.S. referred to the threat of the crisis in nuclear non-proliferation and insisted that measures be taken to meet the crisis, focusing on the issues of North Korea and Iran, in order for the international community as a whole to positively deal with these issues by sending a clear message to them. All states should have cooperated with the U.S. and agreed to strengthen the nuclear non-proliferation regime that was eroding.

However, the U.S., on the other hand, repeated only that the U.S. has been committed to Article VI. The U.S. declined to discuss the implementation of the agreements adopted at the previous review conferences, in particular, the thirteen concrete steps for nuclear disarmament agreed to in 2000. The U.S. defended its position by stating that the U.S. was not bound by those agreements because they were agreed to in certain political circumstance and that the circumstance have changed dramatically, making the agreement non-binding today.

Against this argument, almost all other states, including other nuclear-weapon states, declared the agreements alive and binding, though they were politically binding, and argued that we should advance taking into account these agreements. Many states treat the decision on "Principles and Objectives" as a condition for the indefinite extension of the treaty of 1995, seeing them as a package without a vote. The decision on the extension is legally binding and the decision on "Principles and Objectives" is politically binding, expressing an agreed upon interpretation of Article VI.

The U.S. claimed that there was nothing in the treaty which prevented the nuclear-weapon states from modernizing their nuclear forces. The U.S. strenuously opposed the CTBT in particular, and demanded to delete all parts that related to the final document of the 2000 Review Conference in the Chairman's draft working paper on nuclear disarmament submitted to the subsidiary body 1 of the 2005 Review Conference. Many non-nuclear-weapon states were afraid that the agreements adopted in the package including indefinite extension and elaborated into the 13 steps would lose their validity if the U.S. remained strongly opposed. If

a new agreement is adopted in accordance with the U.S. preferences, the new agreement would supercede the previous agreements and then the agreements from 1995 and 2000 would have no validity. That may be one of the reasons why non-aligned states, including Egypt, did not want to discuss substantive issues by objecting to procedural matters.

The significance that the U.S. attached to this conference can be assessed through various aspects. While Vice-President Gore and Secretary of State Albright made statements at the general debate at the Review Conference in 1995 and 2000 respectively, Stephen Rademaker, Assistant Secretary of State made a statement for the U.S. in 2005. In addition, no high officials who have the authority to change U.S. policy attended the conference. As a result, the U.S. kept its original position without any compromise, showing a very stubborn attitude. This makes clear that the U.S. had no plan to negotiate a compromise from the beginning.

As a general assessment, you may be able to say that the conference was useful because a certain level of discussion was conducted and the position of each state or state group became clear. However, the assessment of the conference as a whole must be more negative because of the very limited time for discussion and the lack of substantive and constructive discussion aimed at a compromise leading to a consensus document. Even if we had enough time, it would have been difficult to reach agreement because there were fundamental difference of opinion between some nuclear-weapon states and some non-aligned states. If we had three weeks for substantive discussion as originally planned, instead of one week, discussion could have been more detailed, resulting in partial consensus or resulting in useful discussion for future development.

As a conclusion, the confrontational structure that prevented any compromise existed not only during the conference but also before the conference, and stubborn attitudes were prevailing in the international environment. They are the root of the failure of the conference.

### *Future Perspective*

The fact that the conference failed to agree on a consensus substantive document does not necessarily mean that the NPT or the international nuclear non-proliferation regime is at risk of breakdown. The fundamental structure of the non-proliferation regime will be kept alive, as many states parties stated that the NPT was a cornerstone of the international security system, and they would make efforts



to strengthen the NPT regime.

However, the failure of the conference has had considerable negative influence on the NPT and the regime, and the integrity of the NPT and the regime has eroded.

First, the conference sent a negative message regarding the future prospect for progress in nuclear disarmament. This is due to the U.S. ignoring the agreements of 1995 and 2000 and trying to undermine their effectiveness. The U.S. demanded to delete five paragraphs in their entirety among the 12 paragraphs submitted by the Chairman of the subsidiary body 1, the content of which is almost the same as the content of the final document adopted in 2000 by consensus.

In particular, the progress in the early entry into force of the CTBT would be impossible unless the U.S. changes its attitude towards it. Many states have already ratified the CTBT, but 11 among 44 states whose ratification is needed for its entry into force have not. Columbia, Indonesia and Vietnam have a high possibility of ratification if states concerned positively persuade them. In order to get the ratification of Israel, Egypt and Iran in the Middle East, India and Pakistan in South Asia, and North Korea in Northeast Asia, it is necessary to proceed with an improvement in the security environment of these regions in parallel. China, which claims that it is eager to get ratification by its congress, seems waiting for U.S. ratification. The key to the entry into force of the CTBT is the attitude of the U.S. If the U.S. ratifies, China will follow suit. U.S. ratification will additionally persuade other relevant states as well.

Currently, all states observe the test moratorium. However, as the U.S. works to shorten the preparation time to resume testing and to study new types of nuclear weapons, the possibility of the resumption of testing can not be excluded completely. If the U.S. conducts testing, other states will follow and the international nuclear non-proliferation regime will suffer a decisive wound.

Although there seems to be general consensus on the immediate commencement of the negotiation of an FMCT in the CD, the early commencement of the negotiation will not take place as is shown in the ambiguous wording without direct reference to an FMCT in the Chairman's working paper at the subsidiary body 1. In addition, it is necessary but very hard to agree on the program of work of the CD, because the issue of linkage with other items must be discussed and solved. One more difficult issue is how to deal with verification of an FMCT, as the U.S. opposes a verification mechanism while many non-nuclear-weapon states think it indispensable.

The U.S. and Russia treat the Moscow Treaty as a symbol of implementing their obligations under Article VI and will not take further measures soon. However, it

is critical that the two states take further measures in order to prevent the treaty losing effect in 2012. Steps be taken as soon as possible. In addition, as the START I Treaty is to lose effect in 2009 on which the verification of the Moscow Treaty depends, consultations between the two will be necessary.

Both the U.S. and Russia are currently very reluctant to deal with non-strategic nuclear weapons, stating their control must be considered in the context of all other weapon systems. However, it may be possible to consult or negotiate measures to improve control and security of these nuclear weapons. The negotiations, including both the reduction of Russia's non-strategic nuclear weapons and the withdrawal of U.S. non-strategic nuclear weapons deployed in NATO western European states may be possible, although it seems unlikely soon.

The nuclear-weapon states in general assert that they are diminishing the role of nuclear weapons in their security policy. In particular, the U.S. claims that it significantly diminished the role of nuclear weapons in the Nuclear Posture Review of 2002. It is true that the role of nuclear weapons has decreased in a strategic aspect between the U.S. and Russia. However, in a non-strategic aspect their role is increasing as the U.S. tries to develop small nuclear weapons or "bunker busters." In addition, the cases where nuclear weapons may be used are increasing in the nuclear doctrine of both the U.S. and Russia and neither supports the no-first use doctrine. The development and deployment of a U.S. missile defense system may force China and Russia to modernize their nuclear arsenals.

Second, on nuclear non-proliferation, there are urgent issues like North Korea and Iran. The issue of North Korea will be continuously dealt with in the framework of the Six Party Talks, and the Iran nuclear issue will be negotiated among Iran and the three EU countries, (the U.K., France and Germany). It will probably be difficult to reach an early settlement in either case. It is very regrettable that the 2005 Review Conference failed to send a clear message to these states and agree on further measures on non-proliferation.

Most states urge that the additional protocol should be a standard or a condition for nuclear export. It may be possible to develop these measures within the IAEA or the Nuclear Suppliers Group (NSC). New measures initiated by the U.S. such as the Proliferation Security Initiative (PSI) and measures taken under the UN Security Council resolution 1540 are complementary to the NPT, and should be pursued in accordance with current rules of international law. They are useful as a symptomatic treatment, but we also need in parallel the resolution of root causes.

Regarding problems in the Middle East, the highest priority among states parties in the Middle East focuses on Israeli nuclear weapons. The growing frustration

among the Middle East states parties at the conference with the lack of progress in the implementation of the Middle East resolution adopted at the 1995 review conference is very clear. There has been no progress in establishing a nuclear-weapon-free zone or a zone free of weapons of mass destruction in the Middle East, while Israel is modernizing its nuclear forces with help from the U.S. The Middle East states place more emphasis on the Israel problem including its accession to the NPT than the issue of withdrawal.

It is urgent that the U.S. treat this issue seriously, promoting the peace process in the Middle East. Otherwise, the possibility of a breakdown in the regime cannot be completely excluded. As one of the causes of the failure of the conference, the importance of this aspect should be recognized.

Third, on the peaceful uses of nuclear energy, some states urge restriction on sensitive activities such as uranium enrichment and plutonium reprocessing. They propose restrictions on the export or the multilateral control of these activities. On the other hand, many developing countries demand their inalienable right to develop, research, produce and use nuclear energy for peaceful purposes. It is necessary to accommodate these different positions between the non-proliferation of nuclear weapons and the peaceful use of nuclear energy.

## **Conclusion**

The 2005 NPT Review Conference that was held for four weeks in May did not agree on any substantive document, as more than half of the time was wasted on procedural matters resulting in limited time for the substantive discussions. At the background of this failure, there was a divisive confrontation on the priority between nuclear non-proliferation and nuclear disarmament. There was also a big difference of opinion on what the threat is and how to deal with it.

In the international community after the year 2000, there emerged new threats such as North Korea's statement on the withdrawal from the NPT, the suspicion of Iran's nuclear program, the revelation of a nuclear black market by A.Q. Kahn, the possibility of nuclear terrorism and others. The U.S. insisted upon focusing the debate on these non-proliferation issues. Many other states urged discussion both on non-proliferation and disarmament issues in a balanced manner.

The U.S. claimed that the agreements at the previous review conferences, in particular the thirteen concrete steps for nuclear disarmament agreed in consensus in 2000, were not effective anymore and avoided reference to these agreements, while insisting that it has been completely committed to the obligations on nuclear

disarmament under Article VI. Conversely, many non-nuclear-weapon states believed that the U.S. attitude was too unilateral and unacceptable, and the review should be based on previous agreements, including agreements from the previous review conferences.

The intransigent attitudes shown by both sides at the conference where fundamentally different positions were held lead to the breakdown of the conference. Although the failure of the conference had been anticipated even before it started, the result was much worse and unsatisfactory because of the lack of time for substantive discussions.

It is inevitable that the international nuclear non-proliferation regime will be negatively impacted by the failure of the conference. It is urgent that every state make efforts to maintain and strengthen the regime by taking measures step by step that were discussed at the conference in both nuclear non-proliferation and nuclear disarmament.

