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2015 NPT Review Conference and Nuclear Disarmament

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Abstract

The purpose of this paper is to understand the current status of nuclear disarmament and survey the future possible courses of nuclear disarmament on the basis of an examination of the arguments during the 2015 NPT Review Conference. First, I will evaluate the implementation of nuclear disarmament undertakings for the last five years and consider the two most eminent topics in this Conference: the humanitarian approach to nuclear disarmament and the legal framework for a world without nuclear weapons.

Second, I will examine concrete measures for nuclear disarmament: reduction of nuclear weapons, reduction of the role of nuclear weapons, de-alerting and response to nuclear risk, negative security assurances and nuclear-weapon-free zones, comprehensive nuclear-test-ban treaty, fissile material cut-off treaty, transparency and regular reporting, and disarmament and non-proliferation education.

Third, I will study four main challenges to a world without nuclear weapons: U.S.-Russia relations, forum for nuclear disarmament negotiation, humanitarian concerns and security, and how to advance nuclear disarmament.

Although the 2015 NPT Review Conference failed to adopt a final document by consensus, the arguments during the Conference and the Draft Final Document by the President provide us plenty of information to understand the current status of the important issues and survey the future possible courses of nuclear disarmament.

I Introduction

The Review Conference of the Parties of the Treaty on Non-Proliferation of Nuclear Weapons (NPT) was held at the Headquarters of the United Nations in New York from April 27 to May 22, 2015. Compared with the situation during the last Review Conference in 2010, the circumstances surrounding nuclear weapons and nuclear disarmament have become much worse. Mainly because of the sharp

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confrontation on the Ukraine issue between the Russian Federation and the United States along with other NATO states, the negotiations on nuclear disarmament between the two nuclear superpowers have completely stopped. In fact, Russia has pursued a policy of emphasizing the military and political value of nuclear weapons by contemplating an up-grade of its nuclear preparedness. This is a complete reversal away from the agreement of the 2010 Review Conference in which the Russian government said it would work towards reducing the role of nuclear weapons in its military strategy.

Furthermore, no conference has been held on establishing a Middle East zone free of nuclear weapons and all other weapons of mass destruction, which was one of the main agreements that assured the consensus acceptance of the 2010 final document. This situation angers Arab states and increases their frustration. In addition, in spite of the agreement in 2010 by the nuclear-weapon states that they would reduce the role of nuclear weapons and take policies pursuing a world without nuclear weapons, all are reportedly modernizing their nuclear arsenals and maintaining their traditional posture that their security heavily depends on nuclear weapons.

The Conference could not agree on the Draft Final Document¹⁾ submitted by the President of the Conference, because a few states opposed the part about the Middle East. However, it is generally conceived that there was a general consensus in other parts of the Draft Final Document, including the part dealing with nuclear disarmament.

Under these circumstances, one of the most significant improvements in the last five years is the development of a “humanitarian approach to nuclear disarmament”. In the final document of the 2010 NPT Review Conference²⁾, the Conference expressed its deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons and reaffirmed the need for all states at all times to comply with applicable international law, including international humanitarian law. On the basis of this statement, the Conferences on the Humanitarian Impact of Nuclear Weapons were held in Oslo (March 2013), Nayarit (February 2014), and Vienna (December 2014), and various joint statements on the humanitarian dimension of nuclear weapons were delivered. In

1) 2015 NPT Review Conference, Draft Final Document, Volume I, NPT/CONF.2015/R.3, 21 May 2015.

2) 2010 NPT Review Conference, Final Document, Volume I, NPT/CONF.2010/50(Vol.1), 18 June 2010.

both cases, the number of participating states has increased.

The other improvement is the efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons, including negotiations on a nuclear weapons convention or agreement on a framework of separate mutually reinforcing instruments as is written in the 2010 final documents. The issues about how to proceed with nuclear disarmament have been widely discussed.

II Discussions on Nuclear Disarmament in General

1 Nuclear Disarmament: 2010-2015

Evaluation by States at the Conference

The United States stated that “The United States is unequivocally committed to disarm. We have and we will continue to scale down our arsenals, and to continue to move, step by step, toward nuclear disarmament. We have pledged not to pursue new nuclear warheads and we haven’t tested a nuclear weapon in 23 years. We have reduced the role that nuclear weapons play in our national security strategy. We have reduced the alert status of our nuclear arsenal.³⁾”

The Russian Federation stated that “Russia consistently implements all the provisions of the NPT, including Article VI. We have reduced our nuclear arsenal to a minimal level. Russia is strongly committed to the goal of nuclear disarmament. A vivid demonstration of that is our consistent implementation of the New START Treaty. We are ready to discuss nuclear disarmament issues in the most serious and meaningful way.⁴⁾”

The United Kingdom stated that “The United Kingdom remains firmly committed to step-by-step disarmament, and our obligations under Article Six. We announced in January that we have reduced the number of warheads on each of our deployed ballistic missile submarines from 48 to 40, and the number of operational missiles on each of those submarines to no more than eight.⁵⁾”

France stated that “As regards disarmament, France shares the long-term objective of eliminating nuclear weapons, when the circumstances so allow. It has consistently demonstrated this objective over the 15 years by halving its total weapons stockpile and dismantling its nuclear test site and fissile-material

3) 2015 NPT Review Conference, General Debate, Statement by the United States, 27 April 2015.

4) 2015 NPT Review Conference, General Debate, Statement by the Russian Federation, 27 April 2015.

5) NPT Review Conference, General Debate, Statement by the United Kingdom, 27 April 2015.

production facilities for weapons.⁶⁾”

China stated that “China, as a staunch champion for nuclear disarmament, stands for the complete prohibition and thorough destruction of nuclear weapons and has faithfully fulfilled its nuclear disarmament obligations under the Treaty.⁷⁾”

The five legally recognized nuclear-weapon states (P5) stated as a group that “As detailed in our respective national reports to the 2015 Review Conference, there has been very substantive progress on Article VI. The Cold War nuclear arms race has ended. Global stocks of nuclear weapons are at their lowest point in over half century as the result of unprecedented efforts on the part of the nuclear-weapon states. When fully implemented, the New START Treaty will result in the lowest number of deployed nuclear weapons in the United States and Russia since the 1950s.⁸⁾”

The Non-Proliferation and Disarmament Initiative (NPDI) stated that “On disarmament, we welcome steps taken so far by the nuclear-weapon states, including by the Russian Federation and the United States under the New START Treaty, which is being implemented in spite of the current difficult political climate. But there are still more than 16,000 nuclear warheads in existence today, many on high alert.⁹⁾”

The New Agenda Coalition (NAC) stated that “Today, while the non-proliferation pillar of the Treaty has worked well in limiting the horizontal proliferation of nuclear weapons and the non-proliferation provisions and obligations under the Treaty have been strengthened, the commitments embodied in the disarmament pillar of the NPT remain unfulfilled.¹⁰⁾” The New Agenda Coalition continues to reject attempts to assert a right to indefinite possession of nuclear weapons by the nuclear-weapon states or to justify the continued retention of nuclear weapon on security grounds¹¹⁾.

The Group of Non-aligned Movement (NAM) States stated that “The nuclear-

6) NPT Review Conference, General Debate, Statement by France, 27 April 2015.

7) 2015 NPT Review Conference, General Debate, Statement by China, 27 April 2015.

8) 2015 NPT Review Conference, General Debate, Statement by the Five Nuclear-Weapon States, 30 April 2015.

9) 2015 NPT Review Conference, General Debate, Statement by The Netherlands on behalf of the NPDI (Non-proliferation and Disarmament Initiative), 27 April 2015.

10) 2015 NPT Review Conference, General Debate, Statement by New Zealand on behalf of the NAC(New Agenda Coalition), 27 April 2015.

11) 2015 NPT Review Conference, Working Paper by the NAC, Taking Forward Nuclear Disarmament, NPT/CONF.2015/WP.8, 9 March 2015.

weapon states have not made progress in eliminating their nuclear weapons. The role of nuclear weapons in security policies of the nuclear-weapon states has not diminished. Some nuclear-weapon states are modernizing their nuclear arsenals and planning research on new nuclear warheads, others have announced their intention to develop new delivery vehicles for nuclear weapons. We express deep concern at the continued lack of progress in the implementation of nuclear disarmament obligations and commitments by the nuclear-weapon states.¹²⁾”

During the process of discussion, the first draft¹³⁾ submitted by the Chairman of Subsidiary Body I included the following paragraph:

4 While acknowledging that some progress has been made in implementing disarmament commitments since the 2010 Review Conference, the Conference recognizes that greater and accelerated implementation efforts are required, particularly on the part of the nuclear-weapon states, including through the specification of concrete benchmarks and agreed timelines.

The fourth draft¹⁴⁾ submitted by the Chairman of Main Committee I included the following paragraph:

8 The Conference recognizes that the slow pace of the implementation of nuclear disarmament obligations and commitments, concerns over breaches of the Treaty’s obligations and the lack of universality, undermine confidence in the Treaty.

However, the draft final document submitted by the President of the Conference includes no reference to the overall evaluation on the implementation of the nuclear disarmament obligations by the nuclear-weapon states.

As is clear from the statements of the states, there are various evaluations of the progress in nuclear disarmament. According to the nuclear-weapon states, progress in nuclear disarmament is good enough and they are sincerely implementing their obligations. The NPDI judges the progress in nuclear disarmament as not good enough, although there has been certain progress. On the other hand, the NAC and the NAM strongly criticize the nuclear-weapon states by stating that they have either not implemented their nuclear disarmament

12) 2015 NPT Review Conference, General Debate, Statement by Iran on behalf of the NAM (Group of Non-aligned Movement), 27 April 2015.

13) 2015 NPT Review Conference, Subsidiary Body I: Draft Substantive Elements, NPT/CONF.2015/SB.I/CRP.1, 8 May 2015.

14) 2015 NPT Review Conference, Main Committee I: Revised Draft Chairman’s Report, NPT/CONF.2015/MC.I/CRP.4/Rev.1, 15 May 2015.

obligations at all or not implemented them enough.

The evaluations are so varied mainly because the groups all evaluate the obligations subjectively from their own points of view. In addition, the evaluation is difficult because the action plans adopted at the 2010 Conference are the outcome of compromise and the content of the obligations is not necessarily expressed precisely and concretely. In particular, many obligations do not include timelines or benchmarks for implementing obligations clearly. As a result, various different interpretations of obligations are possible. Thus, I will try to evaluate the progress in nuclear disarmament obligations in the last five years on the basis of the final document of the 2010 NPT Review Conference¹⁵).

Implementation of the 2010 Action Plans

The final document of 2010 NPT Review Conference contains 22 action plans on nuclear disarmament. In A. Principles and Objectives, all states parties commit to pursue policies that are fully compatible with the treaty and the objective of achieving a world without nuclear weapons under Action 1 and to apply the principles of irreversibility, verifiability, and transparency under Action 2. Activities by the nuclear-weapon states are not generally conceived to be compatible with Action 1 because all are reportedly modernizing their nuclear arsenals. Three principles under Action 2 seem to be implemented partially, but this is not good enough.

In B. Disarmament of Nuclear Weapons, the nuclear reduction in accordance with the New START Treaty under Action 4 has been implemented by the U.S. and Russia, but discussions on follow-on measures have not been continued. Requirements for nuclear reduction under Actions 3, 5(a), and 5(b) have not been fully implemented. Requests to diminish the role of nuclear weapons under Action 5(c), discuss policies for preventing the use of nuclear weapons under Action 5(d), reduce the operational status of nuclear weapons systems under Action 5(e), and reduce the risk of accidental use of nuclear weapons under Action 5(f) have

15) See Gareth Evans, Tanya Ogilive-White, Ramesh Thakur, *Nuclear Weapons: The State of Play 2015* (Australian National University, 2015); Gaukhar Mukhatzhanova, *Implementation of the Conclusions and Recommendations for Follow-on Actions* (James Martin Center for Nonproliferation Studies, April 2015); Reaching Critical Will, *The NPT Action Plan Monitoring Report* (March 2015); Hiroshima Prefecture, *Hiroshima Report 2015: Evaluation of Achievement in Nuclear Disarmament, Non-proliferation and Nuclear Security in 2014* (March 2015); Hiroshima Prefecture, *Hiroshima Report 2014: Evaluation of Achievement in Nuclear Disarmament, Non-proliferation and Nuclear Security in 2013* (March 2014).

generally not been implemented, although some measures have been taken mainly by the U.S. Establishment of a subsidiary body to deal with nuclear disarmament under Action 6 has not been realized.

In C. Security Assurances, the agreement to immediately begin discussion of negative security assurances under Action 7 has not been implemented. In connection with the signature and ratification of the protocols to NWFZ treaties under Action 9, all five nuclear-weapons states have signed the protocol to the Central Asia Nuclear Weapon Free Zone Treaty, and all except the U.S. have ratified it.

In D. Nuclear Testing, the undertaking by all nuclear-weapon states to ratify the Comprehensive Nuclear-Test-Ban Treaty with all expediency under Action 10 has not been realized because neither the U.S. nor China has ratified it.

In E. Fissile Material, the reaffirmation by the conference of the urgent necessity of negotiation and bringing to a conclusion a Fissile Material Cut-off Treaty has not been implemented as no negotiations have been conducted.

These explanations make clear that, by the time of the 2015 NPT Review Conference, no subsidiary body had been immediately established to deal with nuclear disarmament at the Conference on Disarmament (CD) under Action 6, no discussions had immediately begun for effective international arrangements for negative security assurances at the CD under Action 7, the CTBT had not been ratified by all nuclear-weapon states with all expediency under Action 10, and the agreement by all states to immediately begin negotiations of a FMCT at the CD under Action 15 had not been put into action. The level of the implementation of the several measures for concrete nuclear disarmament introduced under Action 5 has been very low, although some measures have been partially implemented by some states.

As a result, the 2010 Action Plans included in the Final Document generally have not been implemented, except the entry into force and implementation of the New START Treaty by the U.S. and Russia, and the signature and ratification of the protocol to the Central Asia NWFZ Treaty.

2 Humanitarian Approach to Nuclear Disarmament

One of the main issues for discussion at the Review Conference in 2015 was on the humanitarian approach to nuclear disarmament based on the development of positive and constructive arguments for the humanitarian approach in the last five years. The joint statement read by Austria was supported by 159 states, and the Austrian Pledge (Humanitarian Pledge) was also supported by 107 states, showing

that the great majority supported this idea. At the same time, the joint statement read by Australia on behalf of 26 states emphasized not only the humanitarian dimension but also the security dimension. The P5 nuclear-weapon states were rather negative towards the humanitarian approach and preferred to emphasize the security aspect for nuclear disarmament.

159 States Joint Statement by Austria

The central message from the joint statement on humanitarian consequences of nuclear weapons¹⁶⁾ read by Austria is as follows:

Our countries are deeply concerned about the catastrophic humanitarian consequences of nuclear weapons. We firmly believe that awareness of the catastrophic consequences of nuclear weapons must underpin all approaches and efforts towards nuclear disarmament.

It is in the interest of the very survival of humanity that nuclear weapons are never used again under any circumstances. The catastrophic effects of a nuclear weapon detonation, whether by accident, miscalculation or design, cannot be adequately addressed.

All efforts must be exerted to eliminate the threat of these weapons of mass destruction. The only way to guarantee that nuclear weapons will never be used again is through their total elimination.

The working paper on humanitarian impact of nuclear weapons¹⁷⁾ submitted by Austria, Chile, Costa Rica, Egypt, the Holy See, Indonesia, Ireland, Malaysia, Mexico, New Zealand, Nigeria, the Philippines, South Africa, Sweden, and Switzerland recommended actions such as to emphasize that the consequences of a nuclear weapon detonation and the risks associated with this weaponry concern the security of all humanity; to affirm that it is in the interest of the very survival of humanity that nuclear weapons are never used again, under any circumstances; to be cognizant of the fact that the risk of nuclear weapons' use can only be avoided through the total elimination of nuclear weapons; to emphasize that the scope of consequences of nuclear weapon detonation raises profound moral and ethical questions; and to stress that there is an urgent need for full implementation of existing obligations to identify and pursue effective measures to achieve a world

16) 2015 NPT Review Conference, General Debate, Statement by Austria, Joint Statement on the Humanitarian Consequences of Nuclear Weapons, 28 April 2015.

17) 2015 NPT Review Conference, Working Paper by Austria and 14 other states, Humanitarian Impact of Nuclear Weapons, NPT/CONF.2015, WP.30, 22 April 2015.

without nuclear weapons.

The NAM states that “We remain extremely concerned at their possible use or threat of use and are convinced that their total elimination is the only absolute guarantee against such use or threat of use. We firmly believe that any use or threat of use of nuclear weapons would be a crime against humanity and a violation of the principles of the Charter of the United Nations and international law, in particular international humanitarian law.¹⁸⁾”

The NAC states that “The international community’s understanding of the catastrophic humanitarian consequences of a nuclear weapon detonation has increased exponentially since the last NPT Review Conference in 2010 with a number of key findings emerging from the evidence presented at three conferences in Norway, Mexico and Austria. The complete elimination of nuclear weapons is the only way to avoid a nuclear weapon detonation and the catastrophic humanitarian consequences that would follow.¹⁹⁾”

The essential logic of these statements is that (i) the awareness of the catastrophic consequences of nuclear weapons must underpin all approaches and efforts toward nuclear disarmament, (ii) it is the interest of the very survival of humanity that nuclear weapons are never used again, and (iii) all efforts must be exerted to eliminate nuclear weapons.

The similar and important message is also included in the Austrian Pledge²⁰⁾ (Humanitarian Pledge), which was read by the Austrian Minister for Foreign Affairs, at the end of the Third International Conference on the Impact of Nuclear Weapons in December 2014 in Vienna emphasizing the following points:

2 Austria pledges to follow the imperative of human security for all and to promote the protection of civilians against risks stemming from nuclear weapons.

3 Austria calls upon all states parties to the NPT to identify and pursue effective measures to fill the legal gap for the prohibition and elimination of nuclear weapons;

18) 2015 NPT Review Conference, General Debate, Statement by Iran on behalf of the NAM, 27 April 2015.

19) 2015 NPT Review Conference, General Debate, Statement by New Zealand on behalf of the NAC, 27 April 2015.

20) 2015 NPT Review Conference, Working Paper by Austria, The Vienna Conference on the Humanitarian Impact of Nuclear Weapons and the Austrian Pledge, NPT/CONF.2015/WP.29, 21 April 2015.

5 Austria pledges to cooperate with all relevant stakeholders in efforts to stigmatize, prohibit and eliminate nuclear weapons in the light of their unacceptable humanitarian consequences and associated risks.

26 States Joint Statement by Australia

The Joint Statement on the Humanitarian Consequences of Nuclear Weapons²¹⁾ read by Australia on behalf of Australia, Belgium, Bulgaria, Canada, Croatia, Czech Republic, Estonia, Finland, Georgia, Germany, Greece, Hungary, Iceland, Italy, Japan, Latvia, Lithuania, Luxemburg, The Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, and Turkey includes the following sentences as the central message.

The renewed global focus on the humanitarian impact of nuclear weapons has reenergised concerns about the horrific consequences for humanity that would result from a nuclear weapons detonation or a terrorist attack involving fissile material. We stress the significance of spreading awareness of the humanitarian impact of nuclear weapons across borders and generations.

It is crucial that all states more resolutely and urgently fulfill their disarmament commitments and work to ensure these weapons are not used and do not proliferate. At the same time, eliminating nuclear weapons is only possible through substantive and constructive engagement with those states which possess nuclear weapons. To create the conditions that would facilitate further major reduction in nuclear arsenals and eventually eliminate them requires the global community to cooperate to address the important security and humanitarian dimensions of nuclear weapons.

We need to work methodically and with realism if we are going to attain the necessary confidence and transparency to bring about nuclear disarmament. There are no short cuts.

Like the Austrian joint statement, this statement also stresses the concerns about the horrific consequences for humanity and emphasizing that these must be a base for our efforts to ensure nuclear weapons are never used. However, it stresses that to create the conditions for nuclear reduction and elimination, the global community must cooperate to address the important security and humanitarian dimensions of nuclear weapons, and that we need to work methodically and with realism if we are going to attain the necessary confidence

21) 2015 NPT Review Conference, General Debate, Statement by Australia, Joint Statement on the Humanitarian Consequences of Nuclear Weapons, 30 April 2015.

and transparency to bring about nuclear disarmament. The statement does not deny the humanitarian approach, but it emphasizes the importance of the security dimension for nuclear disarmament to proceed.

The Nuclear-Weapon States

The U.S. stated that “The Conference could acknowledge the international interest in the catastrophic consequences that could accompany the use of nuclear weapons, and emphasize that this concern underpins efforts and commitments towards nuclear disarmament and prevention of the proliferation of nuclear weapons to additional states or non-state actors. It could affirm that it is in the interest of all nations that the nearly 70-year record of non-use of nuclear weapons be extended forever.²²⁾”

The UK stated that “it attended the Vienna Conference because we recognize the importance that many attach to this initiative. Our deterrence doctrines were developed in the full knowledge of those potential consequences. Some would like to force the speed of disarmament without taking into account wider security considerations. This risks jeopardizing the achievements of the NPT and undermining its future.²³⁾”

France stated that “France is fully aware of the severe effects of nuclear weapons. Nuclear weapons cannot be used as battlefield weapons. French nuclear deterrence is purely defensive and strictly limited to defending its vital interests under extreme circumstances of self-defence. It is fully compliance with international law.²⁴⁾”

The P5 Nuclear-Weapon States stated that “We are ever cognizant of the severe consequences that would accompany the use of nuclear weapons. We affirm our resolve to prevent such an occurrence from happening. We each give the highest priority to ensuring the safety, security, and effective control over nuclear weapons. We further affirm that we do not target any state with nuclear weapons.²⁵⁾”

22) 2015 NPT Review Conference, General Debate, Statement by the United States, 27 April 2015.

23) 2015 NPT Review Conference, General Debate, Statement by the United Kingdom, 27 April 2015.

24) 2015 NPT Review Conference, General Debate, Statement by France, 27 April 2015.

25) 2015 NPT Review Conference, General Debate, Statement by the Five Nuclear-Weapon States, 30 April 2015.

Generally, the nuclear-weapon states are negative to support the humanitarian approach. However, the U.S. supports the approach and recommends extending the 70-year record of the non-use of nuclear weapons. The U.K. with the U.S. attended the Third International Conference. Russia and France were very negative towards this approach at the Review Conference.

The nuclear-weapon states as a whole recognize the severe consequences of the use of nuclear weapons and give the highest priority to ensuring the safety, security, and effective control of nuclear weapons. They are ready to prevent any accidental use of nuclear weapons, but intentional use is not mentioned because their security doctrines are underpinned by the possible use of nuclear weapons under the theory of nuclear deterrence.

Draft Final Document

As evidence of wide and deep discussions of the humanitarian approach, the Draft Final Document by the President includes the following paragraphs in the review. The Conference reiterates its deep concern at the catastrophic humanitarian consequences (para.135), acknowledges the need to make every efforts to avert the danger of a nuclear war (para.136), notes the conferences held in Oslo, Nayarit, and Vienna (para.137), notes various joint statements on humanitarian dimension (para.138), notes the Pledge presented at the Vienna Conference (para.139), and notes that no states or international organizations could adequately address the humanitarian emergency (para.140).

The operative paragraph 1 of the Draft Final Document provides for the following:

1 The Conference emphasizes that deep concerns pertaining to the catastrophic humanitarian consequences of any use of nuclear weapons are a key factor that should continue to underpin efforts in the field of nuclear disarmament and that awareness of these consequence should lend urgency to efforts by all states leading to a world without nuclear weapons. The Conference affirms that, pending the realization of this objective, it is in the interest of humanity and the security of all peoples that nuclear weapons never be used again.

This is the first paragraph of the action plans on nuclear disarmament in the Draft Final Document, and it emphasizes the catastrophic humanitarian consequences of any use of nuclear weapons to underpin efforts for nuclear disarmament and awareness of these consequences as a key for moving toward a world without nuclear weapons.

Strongly argued for is the phrase “it is in the interest of humanity and the

security of all peoples that nuclear weapons never be used again.” The previous version stipulated that “it is in the interest of the very survival of humanity that nuclear weapons never be used again.” “The interest of the very survival of humanity” was changed to “the interest of humanity and security of all peoples.” The word “security” was inserted because the nuclear-weapon states and the 26-state joint statement argued for the importance of security as well as humanitarian interests in nuclear disarmament. Therefore, the draft final document provides for “the security of all peoples”.

3 Legal Framework for a World Without Nuclear Weapons

NAC Proposal

The 2010 NPT Review Conference affirms that “all states need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons” and notes the five-point proposal for nuclear disarmament of the Secretary-General of the United Nations, which proposes consideration of negotiations on a nuclear weapons convention or agreement on a framework of mutually reinforcing instruments.

The NAC urges all states parties to seize the opportunity of this Review Conference to begin work in earnest on the construction of a comprehensive, legally binding mechanism for the achievement and maintenance of a world without nuclear weapons, whether that is pursued through the negotiation of a stand-alone agreement or a framework of mutually supportive instruments. This should include clearly defined benchmarks and timelines and be backed by a strong system of verification²⁶⁾.

The NAC submitted a working paper on Article VI of the NPT²⁷⁾ elaborating the legal framework for nuclear elimination, the main parts of which are as follows:

1 The final document of 2010 Review Conference affirmed that “all states need to make special efforts to establish the necessary framework to achieve and

26) 2015 NPT Review Conference, General Debate, Statement by New Zealand on behalf of the NAC, 27 April 2015.

27) 2015 NPT Review Conference, Working Paper by the NAC, Article VI of the NPT, NPT/CONF.2015/WP.9, 9 March 2015. The NAC had submitted a working paper with the same title in 2014 that examined in more detail the options for a legal framework for the achievement and maintenance of a world without nuclear weapons. 2014 NPT Preparatory Commission, Working Paper by the NAC, Article VI of the NPT, NPT/CONF.2015/PC.III/WP.18, 2 April 2014.

maintain a world without nuclear weapons”.

2 The NAC believes that it is high time to elaborate the “effective measures” relating to nuclear disarmament.

3 This paper seeks to elucidate the legal approaches capable of advancing “effective measures.”

8 In the light of this analysis, it is apparent that states parties are presented with a choice between two legally distinct approaches.

9 The first approach involves the negotiation of a) stand-alone agreement, whether a comprehensive convention or a ban treaty. The difference between the two agreements lies not in their architecture – they are indeed points on the same legal spectrum – but in their location along that spectrum in terms of scope and level of detail. The broader and more detailed comprehensive convention is at one end of the spectrum and the ban treaty is towards the other.

10 The second approach, that of a framework agreement comprising mutually supporting instruments, is architecturally distinct from the comprehensive convention/ban treaty approach in that it does not aim to create a set of obligations in a single stand-alone agreement. Instead, it establishes obligations pursuant to a “head”, or primary, agreement that would be negotiated first and that would formulate the objectives of the overall regime, establishes broad commitments of the states parties, and institutes a general system of governance for subsequent negotiations. These subsequent “second tier” negotiations would then articulate more detailed rules on discrete aspects of the overall regime (often through a set of individual protocols). States parties will need to decide, in the course of the negotiation, how broadly to define the scope of the head agreement and the second-tier protocols, and also what process to establish for negotiating these protocols.

11 The NAC believes that work to advance article VI’s “effective measures” should now focus on enabling a choice between two legal approaches: the stand-alone comprehensive convention/ban treaty or the framework agreement of mutually supporting instruments.

In addition, the Austrian Pledge²⁸⁾ strongly argues for “to take effective measures to fill the legal gap” as follows:

28) 2015 NPT Review Conference, Working Paper by Austria, The Vienna Conference on the Humanitarian Impact of Nuclear Weapons and the Austrian Pledge, NPT/CONF.2015/WP.29, 21 April 2015.

3 Austria calls upon all states parties to the NPT to renew their commitment to the urgent and full implementation of existing obligations under article VI, and to this end, to identify and pursue effective measures to fill the legal gap for the prohibition and elimination of nuclear weapons, and Austria pledges to cooperate with all stakeholders to achieve this goal.

Nuclear Weapons Convention

A comprehensive nuclear weapons convention has been called for by the NAM states for a long time. The NAM stated at the Conference that “We reaffirm our proposal for the urgent commencement of negotiating and bringing to a successful conclusion, in the Conference on Disarmament, a comprehensive nuclear weapons convention, which includes a phased program and a specified time frame for the complete elimination of nuclear weapons.²⁹⁾”

The NAM submitted one working paper³⁰⁾ stating “The Group of Non-Aligned States Parties to the Treaty reaffirms the urgent necessity of negotiating and bringing to a conclusion a phased program for the complete elimination of nuclear weapons with a specified time frame. It reiterates its call to the Conference on Disarmament to immediately establish, as the highest priority, a subsidiary body to negotiate and conclude a comprehensive convention on nuclear weapons to prohibit their possession, development, production, acquisition, testing, stockpiling, transfer, use or threat of use and to provide for their destruction.”

The NAM submitted another working paper³¹⁾ titled “Drafts Elements for a Plan of Action for the Elimination of Nuclear Weapons” that lists actions taken through three phases: first phase: 2015-2020, second phase: 2020-2025, and third phase: 2025-2030.

Nuclear Weapons Ban Treaty

The idea of a nuclear weapons ban treaty is new in the NPT review process and emerged from international NGOs during a last few years. The characteristics of the idea rest on the following two points. One of the most significant

29) 2015 NPT Review Conference, General Debate, Statement by Iran on behalf of NAM (Group of Non-aligned Movement), 27 April 2015.

30) 2015 NPT Review Conference, Working Paper by the NAM, Nuclear Disarmament, NPT/CONF.2015/WP.13, 10 March 2015.

31) 2015 NPT Review Conference, Working Paper by the NAM, Draft Elements for a Plan of Action for the Elimination of Nuclear Weapons, NPT/CONF.2015/WP.14, 13 March 2015.

developments of this idea comes from the frustration of non-nuclear-weapon states at the lack of progress in nuclear disarmament in general. They say that “negotiations on a treaty banning nuclear weapons should be undertaken by committed nations even without the participation of those armed with nuclear weapons.³²⁾” The key difference is that negotiation of the nuclear weapons convention as currently conceived places the onus on the nuclear-armed states to lead the process, in which they have indicated no interest³³⁾.

The second characteristic of this idea concerns with the obligations under the treaty. Banning nuclear weapons would likely entail the development of an international legal instrument prohibiting the use, development, production stockpiling, transfer, acquisition, deployment, and financing of nuclear weapons, as well as prohibiting assistance of these acts. In short, this treaty would prohibit the use and possession of nuclear weapons. The International Campaign to Abolish Nuclear Weapons (ICAN) says that a nuclear weapons ban would globalize what nuclear-weapon-free zone treaties have done regionally and that the ban treaty itself need not necessarily envisage every complex step towards eliminations by all nations.

As the background of this new idea, two recent international trends can be identified. One is the successful conclusion of the Anti-Personnel Landmine Treaty and the Convention on Cluster Munitions. The negotiations of these treaties were initiated by Middle Powers without the participation of militarily strong and important states, and they succeeded in concluding the treaties through the Ottawa Process and Oslo Process, respectively. The other is a humanitarian approach to nuclear disarmament, which has been strongly argued for in recent discussions on nuclear disarmament. The Anti-Personnel Landmine Treaty and the Convention on Cluster Munitions were mainly negotiated on the basis of not a traditional arms control approach or the consideration of strategic stability but the negative humanitarian effects of these weapons, in particular against women and children.

However, the idea that negotiations should be started without the nuclear-weapon states is opposed by not only the nuclear-weapon states but also some non-nuclear-weapon states. For example, Russia states that “It is important to be aware that we have come very close to the stage when the advancement towards ‘nuclear zero’ is only possible through the involvement of all nuclear-weapon-

32) ICAN, *Ban Nuclear Weapons Now*, July 2013, p.2.

33) Ray Acheson, Thomas Nash, and Richard Moyes, *A Treaty Banning Nuclear Weapons*, Article 36 and Reaching Critical Will, May 2014, p.4.

capable states without exception.³⁴⁾” The joint statement³⁵⁾ submitted by Australia on behalf of 26 states argues that “eliminating nuclear weapons is only possible through substantive and constructive engagement with those states which possess nuclear weapons.” In addition, Angela Kane, High Representative for Disarmament Affairs of the United Nations, is critical of the idea of negotiations without nuclear-weapon states³⁶⁾.

Framework Agreement

In the Final Document of the 2010 NPT Review Conference³⁷⁾, the Conference notes the five-point proposal for nuclear disarmament of the Secretary-General of the United Nations, which proposes consideration of negotiations on a nuclear weapons convention or agreement on a framework of separate mutually reinforcing instruments.

The NAC proposal is to establish obligations pursuant to a “head”, or primary, agreement that would be negotiated first and that would formulate the objectives of the overall regime, establish broad commitments of the states parties, and institute a general system of governance for subsequent negotiations. These subsequent “second tier” negotiations would then articulate more detailed rules on discrete aspects of the overall regime (often through a set of individual protocols)³⁸⁾.

As examples, the United Nations Convention on Climate Change was concluded in 1994 as a framework treaty and the Kyoto Protocol was signed in 1997 for precise and concrete obligations. The Vienna Convention for the Protection of the Ozone Layer was signed in 1985 as a framework treaty and the Montreal Protocol on Substances that Deplete the Ozone Layer was signed in 1989. In addition, the Convention on Certain Conventional Weapons was signed in 1980 as a framework treaty, and five protocols for special and concrete obligations have

34) 2015 NPT Review Conference, General Debate, Statement by the Russian Federation, 27 April 2015.

35) 2015 NPT Review Conference, General Debate, Statement by Australia, Joint Statement on the Humanitarian Consequences of Nuclear Weapons, 30 April 2015.

36) Angela Kane, *The New Zealand Lecture on Disarmament*, UNODA Occasional Papers, No.26, June 2014, p.47.

37) 2010 NPT Review Conference, Final Document, Volume I, NPT/CONF.2010/50 (Vol.1), 18 June 2010.

38) 2015 NPT Review Conference, Working Paper by the NAC, Article VI of the NPT, NPT/CONF.2015/WP.9, 9 March 2015.

been signed so far.

In the case of nuclear abolition, the idea that “an unequivocal undertaking by the nuclear-weapon states to accomplish the total elimination of their nuclear arsenals” agreed in the Final Document of the 2000 NPT Review Conference³⁹⁾ is worth a deep examination. This is a political obligation that can possibly be changed into a legal obligation under a framework treaty for nuclear abolition.

Step by Step Approach

Those states opposed to a treaty prohibiting nuclear weapons assert the step by step approach. In particular, the nuclear-weapon states all strongly support the step by step approach.

The U.S. stated that “The United States will continue to work step-by-step toward fulfilling our obligations under Article VI and our commitment under the 2010 Action Plan across all three NPT pillars.⁴⁰⁾” and “we remain committed that the practical step-by-step path we are following remains the only realistic route to a world without nuclear weapons. I would underline that ‘step-by-step’ does not mean one step at a time. It means we pursue all available avenues, with steps building on and creating opportunities for others, all in the context of enhancing international stability, peace, and security.⁴¹⁾”

The U.K. stated that “The United Kingdom remains firmly committed to step-by-step disarmament. But let me be clear: the UK is here to negotiate in good faith, and will continue to strive to build the conditions for a world without nuclear weapons.⁴²⁾” France also stated that “The ultimate objective of elimination cannot be declared abstractly, without taking into account the international strategic context. It can only be reached through a series of concrete measures, step by step.⁴³⁾”

The five nuclear-weapon states as a group stated that “As NPT nuclear-weapon states, we reaffirm the shared goal of nuclear disarmament and general and complete disarmament. We continue to pursue progressive and concrete steps

39) 2000 NPT Review Conference, Final Document, Part I, NPT/CONF.2000/28(Part I), 20 May 2000.

40) 2015 NPT Review Conference, Working Paper by the U.S., Implementing the NPT: Disarmament, NPT/CONF.2015, WP.44, 29 April 2015

41) 2015 NPT Review Conference, Subsidiary Body I, Statement by the U.S., May 5, 2015.

42) 2015 NPT Review Conference, General Debate, Statement by the United Kingdom, 27 April 2015.

43) 2015 NPT Review Conference, General Debate, Statement by France, 27 April 2015.

towards this end in a way that promotes international stability, peace and security, and based on the principle of increased and undiminished security for all. We continue to believe that an incremental, step-by-step approach is the only practical option for making progress towards nuclear disarmament.⁴⁴⁾

Japan stated that “There are no shortcuts to nuclear disarmament and non-proliferation. Cooperation between nuclear-weapon states and non-nuclear-weapon states in advancing practical and concrete measures, which are outlined in the NPDI proposal, is the way forward.⁴⁵⁾” The NPDI stated that “We call for greater progress in meeting disarmament commitments. This includes enhanced transparency, a diminished role for nuclear weapons in military and security doctrines, deeper reductions in all types of nuclear weapons and multilateral negotiations for the reduction of nuclear weapons. We call on all states that have not done so, to sign and ratify the CTBT. We also welcome the work of the Fissile Material Cut-Off Treaty Group of Governmental Experts.⁴⁶⁾” They also support the step by step approach, which is now understood to be the same as the building blocks approach.

The building blocks approach was proposed by 20 non-nuclear-weapon states at the Third Preparatory Committee of the 2015 NPT Review Conference in April 2014⁴⁷⁾. It stated that “A focus on ‘building blocks’ can complement the pursuit of a ‘step by step’ approach. It foresees the possibility of parallel and simultaneous steps. While ultimate measures for achieving and maintaining a world without nuclear weapons will need to be multilateral, effective disarmament will require mutually reinforcing ‘building blocks’ that are multilateral, pluralistic, bilateral or unilateral. There are already in place a number of multilateral ‘building blocks’ in support of achieving and maintaining a world without nuclear weapons. More ‘building blocks’ are required. In due course toward a world without nuclear weapons, it will be necessary to give further thought, with a longer perspective, to how a multilateral nuclear disarmament framework or nuclear weapons convention

44) 2015 NPT Review Conference, General Debate, Statement by the Five Nuclear-Weapon States, 30 April 2015

45) 2015 NPT review Conference, General Debate, Statement by Japan, 27 April 2015.

46) 2015 NPT Review Conference, General Debate, Statement by The Netherlands on behalf of the NPDI (Non-proliferation and Disarmament Initiative), 27 April 2015.

47) 2014 NPT Preparatory Committee, Working Paper by Australia, Belgium, Canada, Czech Republic, Denmark, Estonia, Finland, Germany, Hungary, Italy, Japan, Lithuania, The Netherlands, Poland, Slovakia, Spain, Sweden and Ukraine, Building Blocks for a World without Nuclear Weapons, NPT/CONF.2015/PC.III/WP.23, 15 April 2014.

would look like as the final ‘building block’.”

Draft Final Document

The arguments on a legal framework for nuclear disarmament are mainly contained in paragraph 19, but paragraphs 2 and 3 also deal with this issue and how to make efforts for nuclear disarmament. Paragraph 2 stipulates that “The Conference calls for the pursuit of all effective measures for the full implementation of article VI.” The first draft for this was very precise, providing for “Pending the establishment of the necessary legal framework to achieve and maintain a world without nuclear weapons, the Conference endorsed the accelerated pursuit of various practical building blocks for a world without nuclear weapons that can be realized simultaneously, including through multilateral, plurilateral, bilateral and unilateral measures.”

Paragraph 3 was included only in the final version that stipulates that “The Conference reaffirms the urgent need for the nuclear-weapon states to implement the steps leading to nuclear disarmament agreed to in the Final Documents of the 2000 and 2010 Review Conferences, in a way that promotes international stability, peace and security, and based on the principle of undiminished and increased security for all.”

Paragraph 19 of the Draft Final Document provide for the following:

19 The Conference recommends that the United Nations General Assembly establish at its seventieth session an open-ended working group to identify and elaborate effective measures for the full implementation of article VI, including legal provisions or other arrangements that contribute to and are required for the achievement and maintenance of a world without nuclear weapons. The legal provisions could be established through various approaches, including a stand-alone instrument or a framework agreement. Without prejudice to the prerogative of the United Nations General Assembly to determine the methods of work of its subsidiary bodies in accordance with its rule of procedure, the Conference recommends that the open-ended working group conduct its work on the basis of consensus. The Conference encourages all states to engage in this open and inclusive process.

The reference to the legal provisions is only “a stand-alone instrument or a framework agreement,” which is much less precise than the explanation in the previous four versions, which stated that “a stand-alone instrument, which could take the form of a nuclear-weapons-ban treaty or a comprehensive nuclear weapons convention, as referred to in resolution A/RES/68/32, that would include

a phased programme for the complete elimination of nuclear weapons within a specified timeframe; a framework agreement comprising mutually supporting instruments that would establish the key prohibition, obligations and arrangement for time-bound, irreversible and verifiable nuclear disarmament; or other arrangements.” This means that the legal framework is greatly de-emphasized in the final version, because of the opposition or resistance from the nuclear-weapon states.

The recommendation for the establishment of an open-ended working group at the UN General Assembly will be discussed at its coming session. The issue of a legal framework causes a lot of division between those states that ask for a treaty and those that support the step by step approach.

III Concrete Measures for Nuclear Disarmament

1 Reduction of Nuclear Weapons

Reducing the number of nuclear weapons is the central measure for nuclear disarmament. Although the 2010 Final Document stipulated that “the nuclear weapon states commit to undertake further efforts to reduce and ultimately eliminate all types of nuclear weapons, deployed and non-deployed, including through unilateral, bilateral, regional and multilateral measures,” and “Russia and the U.S. commit to seek the early entry into force of the New START Treaty,” only the bilateral reduction by the U.S. and Russia has in fact been realized.

Many non-nuclear-weapon states including the NPDI⁴⁸⁾, the Nordic Countries⁴⁹⁾ and the NAM⁵⁰⁾ strongly called for measures for reducing nuclear weapons at the Conference, including not only further reduction by the U.S. and Russia but also reduction of non-strategic nuclear weapons and the participation of other nuclear-weapon states in negotiations.

Paragraphs 4, 5, and 6 of the Draft Final Document provide for the following:

4 The Conference calls upon all nuclear-weapon states, in implementing their unequivocal undertaking, to reduce further and eliminate, in a transparent, irreversible and verifiable manner, all types of nuclear weapons, strategic and

48) 2015 NPT Review Conference, Working Paper by the PPDI, Recommendations for Consideration, NPT/CONF.2015/WP.16, 20 March 2015.

49) 2015 NPT Review Conference, Working Paper by the Nordic Countries, NPT/CONF.2015/WP.15, 13 March 2015.

50) 2015 NPT Review Conference, Working Paper by the NAM, Nuclear Disarmament, NPT/CONF.2015/WP.13, 10 March 2015.

non-strategic, deployed and non-deployed, regardless of location, including through negotiations as well as unilateral, bilateral, regional and multilateral measures.

5 The Conference encourages the Russian Federation and the United States of America to commence negotiations at an early date to achieve greater reductions in their stockpiles of nuclear weapons with a view to concluding such negotiations as soon as possible. The Conference acknowledges the importance of the Russian Federation and the United States of America addressing all issues related to strategic stability in the nuclear disarmament process.

6 The Conference encourages the nuclear-weapon states to engage over the course of the next review cycle, with a view to achieving rapid reduction in the global stockpile of nuclear weapons.

Paragraph 4 is almost the same as that in the 2010 final document. The early versions of the first part of paragraph 5, which encourages the two nuclear superpowers to achieve further reduction, included such phrases as “including non-strategic nuclear weapons,” and “concluding negotiations prior to the expiration of the New START Treaty,” but they were deleted. The phrase in its second part “addressing issues pertaining to other types of related strategic offensive and defensive weapon systems with a view to facilitating and accelerating the nuclear disarmament process” was changed to “addressing all issues related to strategic stability in the nuclear disarmament process.”

It is important to mention here that the original paragraph included in the first to fourth versions stating that “the Conference calls upon the nuclear-weapon states to cease the development of new nuclear weapons and qualitative improvement of existing nuclear weapons systems that are designed to support military missions or provide for new military capability” was completely omitted from the final version.

At the final stage, Paragraph 12 was inserted in which the Conference urges the Conference on Disarmament to establish a subsidiary body to deal with nuclear disarmament using exactly the same phrasing as the 2010 Final Document.

The analysis of the part of nuclear reduction leads us to conclude that, during the debate at the Conference, new ideas and approaches were suggested, but the outcome is almost the same as the content in the 2010 Final Document.

2 Reduction of the Role of Nuclear Weapons

Reducing the role of nuclear weapons is one of the key elements in U.S.

President Barack Obama's historical address in Prague in April 2009. The 2010 Final Document called upon the nuclear-weapon states "to further reduce the role and significance of nuclear weapons in all military and security concepts, doctrines and policies."

The first version included encouragement to nuclear-weapon states to undertake not to be the first to use nuclear weapons, but it was soon deleted from the second version. The NAC demands that "the Conference should encourage all states parties that are part of regional alliances that include nuclear-weapon states to reduce the role of nuclear weapons in their collective security doctrines.⁵¹⁾"

Paragraph 7 of the Draft Final Document provides for the following:

7 The Conference calls upon all states concerned to continue to review their military and security concepts, doctrines and policies over the course of the next review cycle with a view to reducing the role and significance of nuclear weapons therein.

The content on the reduction of the role of nuclear weapons seems to be almost the same as that in the 2010 Final Document. However, taking into account the NAC proposal and the difference in the addressees between the two documents, we can find new progress in this paragraph. The addressees in 2010 are "the nuclear-weapon states," but ones in 2015 are "all states concerned," which means all states parties that are part of regional alliances that include a nuclear-weapon state.

As a result, non-nuclear-weapon states under the nuclear umbrella of nuclear weapon states, such as Japan, Australia, Republic of Korea, and the non-nuclear-weapon NATO members, are called upon to continue to review their military policies to reduce the role of nuclear weapons.

3 De-Alerting and Response to Nuclear Risk

The Final Document in 2010 called upon the nuclear-weapon states "to reduce the operational status of nuclear weapons system" and "to reduce the risk of accidental use of nuclear weapons." These measures have long been called for as measures to reduce the risk of nuclear weapons being used and their role and importance.

During the discussions at the Conference, the De-alerting Group took an initiative and urged the nuclear-weapon states to take all steps to rapidly and

51) 2015 NPT Review Conference, Working Paper by the NAC, Taking forward Nuclear Disarmament, NPT/CONF.2015/WP.8, 9 March 2015.

comprehensively address the great risks relating to high alert levels and take steps to rapidly reduce operational readiness⁵²⁾.

Paragraph 8 of the Draft Final Document provides for the following:

8 The Conference urges nuclear-weapon states to continue undertaking all efforts necessary to comprehensively address risks associated with unintended nuclear detonations, including, but not limited to, protection of command and control systems against potential cyber threats.

The earlier versions referred to “risks associated with nuclear weapons,” but the final version referred only to “risks associated with unintended nuclear detonations.” Also, “those stemming from threats posed by non-state actors” in the earlier version was deleted from the final version. As a result, it seems that the area with which to deal in connection with risks associated with nuclear weapons was narrowed and mainly focused on the protection of command and control systems against cyber threats.

Paragraph 9 of the Draft Final Document provides for the following:

9 The Conference encourages the consideration of further practical measures to reduce the operational status of nuclear weapons systems.

Although this paragraph from the first to fourth versions stated that “the Conference emphasizes the need to reduce rapidly, as an interim measure, the operational status of nuclear weapons systems, leading to a phased removal of all nuclear weapons from high alert levels, with a view to increasing international stability and security while lowering the humanitarian risks associated with nuclear weapons,” the final version contained almost none of this fruitful and meaningful content.

4 Negative Security Assurances and Nuclear-Weapon-Free Zones

Paragraph 13 on negative security assurances, which was inserted in the fifth version at the last point and repeated the content of the 2010 Final Document, provides for the following:

13 Recalling action 7 agreed to at the 2010 Review Conference, the Conference urges the Conference on Disarmament, within the context of an agreed, comprehensive and balanced programme of work, to immediately begin discussion of effective international arrangements to assure non-nuclear-weapon states against the use or threat of use of nuclear weapons, to discuss

52) 2015 NPT Review Conference, Working Paper by the De-alerting Group, NPT/CONF.2015/WP.21, 9 April 2015.

substantively, without limitation, with a view to elaborating recommendations dealing with all aspects of this issue, not excluding an internationally legally binding instrument.

Paragraph 14 on nuclear-weapon-free zones in the Draft Final Document provides for the following:

14 The Conference encourages all states concerned to ratify the nuclear-weapon-free zone treaties and their relevant protocols and to review any related reservations and interpretative declarations over the course of the next review cycle with a view to their withdrawal. The Conference encourages the parties to the Southeast Asia Nuclear-Weapon-Free Zone Treaty and the nuclear-weapon states to continue to engage constructively in order to resolve outstanding issues.

The part that encourages ratifying the treaties and protocols and reviewing reservations with a view to their withdrawal is just the same as that in the 2010 Final Document. In the last five years, the Protocol to the Central Asia Nuclear Weapon Free Zone Treaty was signed by all five nuclear-weapon states and ratified by all except the U.S. However, there has been no progress in the withdrawal of reservations and interpretative declarations. The part of the Southeast Asia Nuclear-Weapon-Free Zone was added in the third version in order to encourage engaging constructively to resolve outstanding issues for the signature and ratification to its protocol.

At the Conference, the U.S. emphasized not only negative but also positive security assurances taking into account Russia's recent reemphasis on nuclear weapons in its military and security policies. This means that Russia's commitment to negative security assurances has decreased.

5 Comprehensive Nuclear-Test-Ban Treaty

Paragraph 15 on the Comprehensive Nuclear-Test Ban Treaty (CTBT) provides for the following:

15 In reaffirming actions 10 to 14 agreed to at the 2010 Review Conference, the Conference calls upon the eight remaining states listed in Annex 2 of the Comprehensive Nuclear-Test-Ban Treaty to take individual initiative to sign and ratify that Treaty without further delay and without waiting for any other state to do so. Pending the entry into force of that Treaty and against the backdrop of, *inter alia*, widespread concern regarding the impact on health and environmental consequences resulting from nuclear tests and, in particular, the effects on children's and women's health, all states commit to cease and

refrain from nuclear-weapon test explosions or any other explosions, the use of new nuclear weapons technologies and from any action, including those at the former nuclear test sites, that would defeat the object and purpose of that Treaty, and to maintain moratoriums on nuclear test explosions. The Conference recalls that the CTBT will provide an effective disarmament and non-proliferation measure by constraining the development and qualitative improvement of nuclear weapons.

The central content of this paragraph, which calls upon the eight remaining states to sign and ratify the treaty and to commit to maintain moratoriums, is just the same as that in the 2010 Final Document. However, unlike the 2010 document, which states that “positive decisions by nuclear-weapon states would have the beneficial impact towards the ratification of that Treaty” and “the nuclear-weapon states have the special responsibility to encourage Annex 2 states to sign and ratify,” the 2015 document calls upon the eight remaining states to “take individual initiative to sign and ratify without waiting for any other states to do so.”

What is characteristic in the 2015 document is its reference to “against the backdrop of widespread concern regarding the impact on health and environmental consequences resulting from nuclear tests, in particular, the effects on children’s and women’s health,” meaning all states are called upon to cease and refrain from nuclear tests. This is clear evidence that the international community is clearly and deeply concerned with the humanitarian impact of nuclear tests.

6 Fissile Material Cut-off Treaty

Paragraph 16 on the Fissile Material Cut-off Treaty (FMCT) provides for the following:

16 Recalling action 15 agreed to at the 2010 Review Conference, the Conference urges the Conference on Disarmament, within the context of an agreed, comprehensive and balanced programme of work, to immediately begin negotiations of a treaty banning the production of fissile material for use in nuclear weapons or other nuclear explosive devices in accordance with the report of the Special Coordinator of 1995 (CD/1229) and the mandate contained therein. These negotiations should take into account in particular all substantive work undertaken during the past review cycle.

The main and central parts of this paragraph contain a recommendation almost the same as one in the 2010 document. It urges the Conference on Disarmament to immediately begin negotiations of a FMCT. The phrase “the Conference calls upon nuclear-weapon states to maintain and implement moratoriums,” which was

included in the first version, was deleted because of China's usual strong opposition. On the negotiating forum, the first version stipulated "preferably in the Conference on Disarmament," which was taken from the NPDI proposal⁵³⁾. That suggests the possibility of the negotiations in another forum when the CD does not work. The Nordic Countries clearly proposed that state should "note that the United Nations disarmament machinery as a whole, including General Assembly, subsidiary bodies and expert groups, should be used to pursue multilateral disarmament, especially when the Conference on Disarmament remains stalled.⁵⁴⁾"

As to the timeline, the first four versions included the phrase saying that the Conference urges states to commence immediately "and to conclude rapidly negotiations, before the end of the next review cycle." However, the timeline calling for concluding negotiations before the end of the next review cycle was deleted from the final version.

7 Transparency and Regular Reporting

Paragraph 10 on enhancing transparency by the nuclear-weapon states provides for the following:

10 The Conference encourages the nuclear-weapon states to build upon and expand their efforts to enhance transparency and increase mutual confidence, including by intensifying their discussion on definitions and terminology related to nuclear weapons, with a view to facilitating and accelerating nuclear disarmament.

This paragraph, which encourages the nuclear-weapon states to enhance transparency and increase mutual confidence, was adopted with no change from the first version. As an outcome of the discussion on definition and terminology related to nuclear weapons, a book was submitted entitled "P5 Glossary of Key Nuclear Terms"⁵⁵⁾ during the Conference.

Paragraph 11 on regular reporting provides for the following:

11 Welcoming the reports submitted by the nuclear-weapon states in a common

53) 2015 NPT Review Conference, Working Paper by the NPDI, Recommendations for Consideration, NPT/CONF.2015/WP.16, 20 March 2015.

54) 2015 NPT Review Conference, Working Paper by the Nordic Countries, Recommendations for Consideration, NPT/CONF.2015/WP.15, 13 March 2015.

55) P5 Working Group on the Glossary of Key Nuclear Terms, *P5 Glossary of Key Nuclear Terms*, April 2015. <<http://www.state.gov/documents/organization/243287.pdf#search='glossary+of+nuclear+terms'>>

reporting framework, the Conference encourages further detailed reporting. The Conference calls upon the nuclear-weapon states to provide regular reports on their nuclear disarmament-related undertakings in accordance with actions 5 and 20 of the 2010 action plan and further calls upon the nuclear-weapon states to continue their engagement on a standard reporting form and to report to the 2017 and 2019 sessions of the Preparatory Committee, encouraging them to take into account the following items, without prejudice to national security: (i) the number, type (strategic or non-strategic) and status (deployed or non-deployed) of nuclear warheads; (ii) the number and type of delivery vehicles; (iii) the measures taken to diminish the role and significance of nuclear weapons in military and security concepts, doctrines and policies; (iv) the measures taken to reduce the risk of unintended, unauthorized, or accidental use of nuclear weapons; (v) the measures taken to de-alert or reduce the operational readiness of nuclear weapon systems; (vi) the number and type of weapons and delivery systems dismantled and reduced as part of nuclear disarmament efforts; (vii) the amount of fissile material for military purposes. The Conference agrees that the 2020 Review Conference and the 2017 and 2019 sessions of the Preparatory Committee should allocate specific time to review the reports submitted by the nuclear-weapon states.

Towards the fulfillment of action 20 agreed to at the 2010 Review Conference, the Conference calls upon states parties to increase the quality, quantity and consistency of their reports as a contribution to enhanced transparency and to report on their efforts to implement all aspects of paragraph 4 (c) of the 1995 decision entitled “Principles and objectives for nuclear non-proliferation and disarmament.”

The 2020 Review Conference will review the progress made in implementing this reporting mechanism and consider next steps in this regard.

On this issue of transparency, the NPDI has taken the initiative and shown leadership by submitting the Working Paper⁵⁶⁾ on transparency of nuclear weapons at the first Preparatory Committee in 2012. On the basis of their belief that increased transparency of information related to nuclear disarmament is an important precondition for further progress in nuclear disarmament and verification, they submitted a “Draft standard nuclear disarmament reporting form” that describes very precise details of nuclear weapons related items to be reported.

56) 2015 NPT Review Conference, Working Paper by the NPDI, Transparency of Nuclear Weapons, NPT/CONF.2015/PC.I/WP.12, 20 April 2012.

At the Conference, the proposals by the NPDI and Japan were widely accepted and reflected in the Draft Final Document. Seven categories of items that the nuclear-weapon states are called upon to report were kept from the first to the fifth and final versions of this paragraph. That means there is a wide and general consensus on these seven categories.

In addition, the mechanism to scrutinize the information submitted by the nuclear-weapon states is clearly stipulated. The nuclear-weapon states should report to the 2017 and 2019 sessions of the Preparatory Committee, and the 2020 Review Conference and the 2017 and 2019 sessions of the Preparatory Committee should allocate specific time to review the reports submitted by the nuclear-weapon states.

Paragraph 17 on verification provides for the following:

17 The Conference encourages all states, including in cooperation with international organizations and civil society, to pursue and intensify efforts to develop nuclear disarmament verification capabilities, taking into account the role of the International Atomic Energy Agency in the area of verification, that will be required to provide assurance of compliance with nuclear disarmament agreement for the achievement and maintenance of a world without nuclear weapons, including through the new and continuing initiatives pursued under the leadership of Norway and the United Kingdom of Great Britain and Northern Ireland, as well as the International Partnership for Nuclear Disarmament Verification initiated by the United States of America.

This paragraph, which encourages all states to pursue and intensify efforts to develop nuclear disarmament verification capabilities, is almost unchanged from the first version.

8 Disarmament and Non-proliferation Education

During the Conference, Japan read a Joint Statement on Disarmament and Non-proliferation Education⁵⁷⁾ on behalf of 73 states and emphasized that “it is important to raise awareness both in nuclear disarmament and non-proliferation issues among the public, especially the young generation, of the catastrophic humanitarian consequences of the use of nuclear weapons, the threat of diverse risks and challenges posed by the proliferation of nuclear weapons, as well as steps required to overcome these challenges.”

57) 2015 NPT Review Conference, Main Committee I, Joint Statement on Disarmament and Non-proliferation Education by Japan on behalf of 73 states, 6 May 2015.

The NPDI submitted a working paper that recommended that “the Conference invite the world’s political leaders to visit Hiroshima and Nagasaki to witness the humanitarian consequences of nuclear weapons with their own eyes.”

Paragraph 18 on disarmament and non-proliferation education provides for the following:

18 In light of the 70th year since the end of the tragic devastation of World War II, the Conference encourages all states, including in cooperation with the United Nations and other international organizations, the Red Cross and Red Crescent Movement, local government, non-governmental organizations, academic institutions and the private sector, to continue and intensify efforts in the field of disarmament and non-proliferation education to raise the awareness of the public, in particular of younger and future generations, as well as of leaders, disarmament experts and diplomats on all topics relating to nuclear disarmament and non-proliferation, including through interactions with and directly sharing the experiences of the people and the communities affected by nuclear weapons to know their humanitarian impact. The Conference also encourages all states to make use of new information and communication technology in these efforts.

The first version included the sentence “In view of the 70th anniversary of the use of nuclear weapons, the Conference notes the proposal for world leaders, disarmament experts and youth to visit Hiroshima and Nagasaki to witness first-hand the catastrophic humanitarian consequences of the use of nuclear weapons and to hear the testimonies of the survivors (Hibakusha).” However, the wording met with a strong opposition from China and was then deleted from the second version, and the new phrase “including through interactions with and directly sharing the experiences of the people and the communities affected by nuclear weapons to know their humanitarian impact” was agreed in the final version. Although there is no direct reference to Hiroshima and Nagasaki, the people and the communities affected by nuclear weapons indirectly implies Hiroshima, Nagasaki, and others.

9 General Evaluation

The content of the recommendations for nuclear disarmament in the Draft Final Document generally seems to repeat the content of the 2010 Final Document and includes no significant new undertakings. The reason is that, as I explained in “Implementation of the 2010 Action Plans,” there has been almost no progress in nuclear disarmament since 2010. As almost all promises agreed in 2010 had not

been implemented, they needed to be repeated again in 2015.

The process of discussions at the Conference can be traced by examining each version from the first to the fifth and final. Generally speaking, the draft text included in the first to the fourth versions included many promising undertakings towards further nuclear disarmament, but in the fifth and final version, these measures were watered down by taking into account the opinions of the nuclear-weapon states with a view to reaching a consensus among the states parties.

IV Challenges for a World Without Nuclear Weapons

1 U.S.-Russia Relations

The first issue that should be examined to analyze the Conference is the relationship between the United States and Russia, because their sharp confrontation is one of the most important reasons the Conference failed to adopt a final document.

At the Conference, the U.S. stated that “Implementation of the New START Treaty is going well and it remains on track, and it will reduce our current stockpile of weapons significantly. But we know that we can cut back even further, and President Obama has made clear our willingness, readiness, now, to engage and negotiate further reductions of deployed strategic nuclear weapons by up to one-third below the level set by New START. Let me underscore: that offer remains on the table, and we urge the Russians to take us up on it.⁵⁸⁾”

In its response, Russia stated that “In fact, it is the US policy that hinders further nuclear reductions. That can be explained by its intransigent course, which effectively undermines strategic stability in the world through unilateral build-up of the global missile defense system, gradual advancement towards implementing the ‘prompt global strike’ concept, attempt to stop in the tracks the negotiations on banning the placement of weapons in outer space, and lack of progress in ratifying the CTBT at the national level.⁵⁹⁾”

This is quite contrary to the situation five years ago. Early in President Barack Obama’s first term, the relationship between the U.S. and Russia was quite good. They succeeded at resetting their relations, began negotiating a New START Treaty, and signed the Treaty just before the Review Conference. In contrast, the circumstances are much worse now mainly because of the Russia’s invasion of the Crimea.

58) 2015 NPT Review Conference, General Debate, Statement by the U.S., 27 April 2015.

59) 2015 NPT Review Conference, General Debate, Statement by Russia, 27 April 2015.

The first challenge is to restore and improve their relationship. This may be very difficult in the short term, but they should both work hard for it. As the New START Treaty is being implemented quite well in spite of their confrontation, they should make efforts on the basis of this fact to make further progress in this field. Also, as the Iranian nuclear issue is now moving towards a peaceful resolution, they could exploit the situation to improve their relationship. Under these circumstances, the U.S. may reconsider the missile defense systems program in Europe, which the U.S. justified as protection against Iranian missiles.

In addition, what is lacking at this Conference in comparison with the previous Conference is the lack of the leadership by the U.S. and the solidarity among the five nuclear-weapon states. For nuclear disarmament to process, the solidarity among the five is indispensable as they have to negotiate as a group with non-nuclear-weapon states. For last few years, the five nuclear-weapon states have been acting together on nuclear disarmament issues, such as making standard reporting formula and publishing the P5 Glossary of Key Nuclear Terms. However, the five need to cooperate more substantively on nuclear and security issues and make a common stand towards nuclear disarmament by building stronger confidence among them.

2 Forum for Nuclear Disarmament Negotiation

The second challenge concerns a forum for negotiating or discussing nuclear disarmament issues. The three concrete nuclear disarmament measures agreed upon in the 2010 Final Document but not implemented at all are related to the Conference on Disarmament (CD). Under action 6, all states agree that the CD should immediately establish a subsidiary body to deal with nuclear disarmament; under action 7, all states agree that the CD should immediately begin discussions of effective international arrangements for negative security assurances; and under action 15, all states agree that the CD should immediately begin negotiations of a fissile material cut-off treaty. All paragraphs asked that the CD should “immediately” take actions, but no actions have been taken. These recommendations had also been agreed in 1995 and 2000.

This is an extremely serious issue negatively influencing and blocking the progress in nuclear disarmament. All states, in particular the nuclear-weapon states, need to exert efforts to overcome this difficulty by taking concrete actions more seriously and constructively.

The direct reason the CD does not work is generally believed to be that Pakistan is blocking the adoption of a working program for the CD as it does not

want to start negotiations for a Fissile Material Cut-off Treaty (FMCT). Because it works with the consensus rule, the CD cannot start any action. Even if the above belief is true, almost no effort seems to have been made to break the deadlock. Rather, as the nuclear-weapons states have no will to start negotiations or discussions and seem to be exploiting Pakistan's attitude to cover up this unwillingness. The fact that China strongly opposed the moratorium on the production of fissile material for weapon purposes at the 2010 and 2015 NPT Review Conferences suggests that China is also opposed to beginning the negotiations on a FMCT. All five nuclear-weapon states seem to be very negative towards starting discussions on nuclear disarmament and negative security assurances.

On the negotiating forum for a FMCT, the first version stipulates "preferably in the Conference on Disarmament," which is taken from the NPDI proposal⁶⁰. That suggests the possibility of holding the negotiations in another forum when the CD does not work. The Nordic Countries also clearly proposed that states should "note that the United Nations disarmament machinery as a whole, including General Assembly, subsidiary bodies and expert groups, should be used to pursue multilateral disarmament, especially when the Conference on Disarmament remains stalled.⁶¹" These proposals were not adopted in the Draft Final Document, which clearly stipulated that negotiations should take place in the CD. Thus, we cannot expect any progress in the negotiation of a FMCT.

The challenge is to overcome the stalemate of the CD, and when this is still impossible, to examine other fora and start negotiations. First, the nuclear-weapon states and other states should more actively persuade Pakistan to accept the start of the negotiations. For example, the NPDI proposes that "the Conference agrees that national and security concerns hindering the commencement of negotiations within the CD on a FMCT can and should be effectively addressed in the course of negotiations."

Second, other fora should be examined to start negotiations on a FMCT, even if Pakistan does not participate in the negotiation at the beginning, as the Nordic Countries have proposed.

60) 2015 NPT Review Conference, Working Paper by the NPDI, Recommendations for Consideration, NPT/CONF.2015/WP.16, 20 March 2015.

61) 2015 NPT Review Conference, Working Paper by the Nordic Countries, Recommendations for Consideration, NPT/CONF.2015/WP.15, 13 March 2015.

3 Humanitarian Concerns and Security

The idea of the humanitarian approach to nuclear disarmament has gained general support in the last five years, and the Draft Final Document emphasizes that deep concerns pertaining to the catastrophic humanitarian consequences of any use of nuclear weapons are a key factor that should continue to underpin efforts in the field of nuclear disarmament. This is a very favorable recent trend in the field of nuclear disarmament. Traditionally, the disarmament issue has been treated only from the viewpoints of security and strategic stability. Thus, to indicate the importance of security and strategic stability in this field, the term “arms control” rather than “disarmament” had been used more widely.

The issue here is the comparative importance of humanitarian concerns and security. The first group represented by Austria on behalf of 159 states argues for nuclear disarmament only from the humanitarian concerns because of the catastrophic consequences of a nuclear detonation and calls for negotiation of a nuclear weapons convention as the only way to eliminate the possibility of using nuclear weapons. This idea is mainly supported by non-nuclear-weapon states not under the nuclear umbrella of nuclear-weapon states.

The second group represented by Australia on behalf of 26 states agrees with the first group on the catastrophic consequences of any use of nuclear weapons and supports the humanitarian approach. However, they argue that not only the humanitarian dimension but also security dimension must be taken into account for nuclear disarmament to proceed. The states that support this idea mainly enjoy the nuclear deterrence extended by nuclear-weapon states.

The third group consisting of the five nuclear-weapon states, with some variation, argues that the nuclear disarmament issue is essentially a matter of security. This idea is reflected in paragraph 3 of the Draft Final Document, in which the Conference reaffirms the urgent need for the nuclear-weapon states to implement the steps leading to nuclear disarmament agreed, “in a way that promotes international stability, peace and security, and based on the principle of undiminished and increased security for all.” Traditionally, the emphasis on the security dimension has been strongly argued for and treated as the central element to take into account when discussing nuclear disarmament.

The challenge here is how to reconcile these different positions among the three groups. First, the first and second groups should start consultations in order to reconcile the different positions among non-nuclear-weapon states. In particular, Japan and Finland, which support both joint statements by Austria and Australia, should initiate the efforts to reconcile the different positions.

The states in the second group will have to explain their security stance on the basis of their geopolitical situations. Then they should make efforts to reduce the role of nuclear weapons in their national security policy. That is what President Obama strongly supports, and he not only tries to do so in the U.S. nuclear policy and strategy but also asks other countries to do so. The states in the second group should ask the nuclear-weapon states under whose protection they are to take the policy of no first use of nuclear weapons, reduce the alert level of nuclear weapons, and take other actions to reduce the role of nuclear weapons in their national security policy.

By taking these measures, the difference between states in the first and second groups would be narrowed gradually. In the areas where the second-group states prioritize the humanitarian dimension over the security dimension, the states in the first and second groups together could ask the nuclear-weapon states to take measures to reduce the role of nuclear weapons.

4 How to Advance Nuclear Disarmament

The fourth challenge is how to advance nuclear disarmament, that is, which process we should take to achieve a world without nuclear weapons. From the discussion at the Conference, we can identify four kinds of processes. First, a comprehensive nuclear weapons convention that includes a comprehensive program for nuclear abolition through several phases within pre-determined timelines has been traditionally argued for by the group of non-aligned members (NAM).

Second, international NGOs have recently proposed a treaty banning nuclear weapons that prohibits the use and possession of nuclear weapons even without the participation of the nuclear-weapon states. The main motivation for this proposal is the lack of the will by the nuclear-weapon states to start negotiation on a comprehensive nuclear weapons convention.

Third, a framework agreement has been proposed consisting of a framework treaty that provides for fundamental obligation for nuclear abolition and protocols that stipulate concrete obligations for measures of nuclear disarmament. The UN Secretary-General proposed this agreement in 2008, and it was included in the 2010 Final Document, as an agreement on a framework of separate mutually reinforcing instruments.

Fourth, a step by step approach, which has been traditionally argued for mainly by the nuclear-weapon states, and a building blocks approach proposed by 20 non-nuclear-weapon states in 2014 that supplements a step by step approach and takes

plural measures at the same time are now treated as almost one and the same idea. They reject the first three options and argue for taking concrete measures for nuclear disarmament one by one through multilateral, plurilateral, bilateral, or unilateral measures.

The first option, a nuclear weapons convention, has been proposed for a long time and would be the best option for the abolition of nuclear weapons. However, the possibility of its negotiation commencing seems to be almost non-existent now.

The second option, which is proposed because the first option is virtually impossible to start, emphasized the commencement to negotiation even without the participation of the nuclear-weapon states. In this point, it seems to be easier to start negotiation of a treaty that at first would prohibit only the use and possession of nuclear weapons because the participants could be all non-nuclear-weapon states. From a logical point of view, the proposal at first seems to have a high chance of success. However, in the real world, the possibility of the negotiations commencing is not very high, because nuclear weapons have political and strategic significance quite different from weapons covered by the Anti-Personnel Land Mine Treaty and the Convention on Cluster Munitions, so the logic behind these two treaties would not apply in the case of nuclear weapons. In addition, so far no single state has formally declared support for the treaty.

The third option also seems difficult to realize soon, but it seems easier than the first and second options. The fourth option, which is mainly supported by the nuclear-weapon states and the non-nuclear-weapon states under their extended nuclear umbrellas, is currently the most influential option because they are most directly connected with nuclear weapons states.

From these reasons, I would like to recommend taking a course that combines options three and four. A framework agreement would consist of a framework treaty and protocols. The framework treaty should stipulate a fundamental and central obligation, and the protocols should include obligations on concrete disarmament measures. The 2000 NPT Review Conference agreed “an unequivocal undertaking by the nuclear-weapon states to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament.” This is a political undertaking by the nuclear-weapons states. Under a new framework treaty, the five nuclear-weapon states should undertake a legal obligation to accomplish the total elimination of nuclear weapons. That would be a fundamental and central obligation under the framework treaty, but it would not include the timeframe for the total elimination. On the other hand, protocols should take into account the measures proposed by the building blocks approach.