



Middle Powers Initiative

Report

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The Vienna NPT PrepCom: Report on a Loosened Deadlock

By Jim Wurst, Program Director

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The first of three Preparatory Committee (PrepCom) meetings for the 2010 Nuclear Non-Proliferation Treaty (NPT) Review Conference was held in Vienna, April 30 to May 11, 2007. Weighted with the memory of the deadlocked 2005 Review Conference, the PrepCom put its best foot forward with a substantive and rancor-free general debate. States Parties putting forward their national positions in generally constructive and rancor-free speeches and working papers and at the end of the proceedings, the Chairman was able to place a substantive paper into the record of the meeting.¹ While little new was proposed, the atmosphere was clearly serious and focused on the fundamental issue: the continued viability of the NPT regime.

Two of the most positive developments were the re-emergence of the New Agenda Coalition as an active, cohesive actor in the debate and the return of the 13 Practical Steps from the 2000 Review Conference to the agenda. Acknowledging the existence of the decisions from 1995 and 2000 was central to the US opposition to the 2005 agenda. Although the United States insisted on referring to the decisions of the 2000 Review as “suggestions,” the delegation never raised objections to the including them in the draft agenda. This fact was an example of another distinguishing feature of the PrepCom: the changing tactics of the United States. The belligerence of past meetings was gone, replaced by a reasonable and communicative attitude. On the other hand, there were no substantive changes in its positions.

The session was chaired by Ambassador Yukiya Amano of Japan and attended by 106 States Parties to the NPT. In addition, the International Atomic Energy Agency provided secretarial support; other international agencies, including the Comprehensive Test Ban Organization, attended, as did representatives from 66 non-governmental organizations (NGOs).

The substantive work that opened the PrepCom gave way to several days of procedural wrangling that recalled uncomfortable memories of the problems that scuttled the 2005 Review Conference. Iran objected to some of the language in the provisional agenda that was proposed by Amb. Amano, therefore blocking adoption of the agenda. Western states defended Amb. Amano’s text. States of the Non-Aligned Movement (NAM), while not giving Iran enthusiastic backing, refused to allow the committee to go forward without a consensus agenda. The simple

¹ All speeches and papers referred to in this report are available in full at the Reaching Critical Will website: <http://www.reachingcriticalwill.org/legal/npt/2007/index.html>

compromise – a clarifying footnote to the agenda – cost the PrepCom more than three days of its schedule. The tension between the Chairman and Iran (and to a lesser extent, the NAM) resurfaced at the end when Amb. Amano’s summary was blocked from being annexed to the final report and ended up as only a working paper.

This first session of the PrepCom reinforced how fragile any NPT consensus is, how the political will and policy positions of the vast majority of states can be held hostage by an extremely small number of states. While the immediate issue of the agenda was settled for this PrepCom cycle, the fundamental political and strategic differences that threaten the NPT regime remain. Between now and the Review Conference, most relevant events will take place outside of the NPT process, most notably how the Iranian issue evolves. It is therefore vital for governments and civil society to focus on the issues most likely to sink the Review Conference – failure of the nuclear powers to take meaningful disarmament steps, Iran, and the Middle East WMD resolution – and redouble the efforts in all venues to promote lasting solutions rooted in international law.

The Opening Session

After Amb. Amano’s election to the chairmanship by acclamation, the packed hall heard welcoming addresses from Austrian Foreign Minister Ursula Plassnik and Secretary-General Ban Ki-moon.

Plassnik invoked the “Vienna Spirit” of “consensus, dialogue and openness,” and called on the committee to “revise and revive” the NPT debate. “It is only timely to do so at the beginning of a new review cycle and we should not spend the PrepCom on tactics and technicalities alone,” she said, “Let us be ambitious and find approaches – no matter if old or new – to allay suspicions and diffuse tensions.”

For the first time in the history of the NPT review process, the UN Secretary-General sent a message to a PrepCom. Noting the crisis in nuclear disarmament and non-proliferation, Ban wrote, “The NPT review process offers an appropriate forum for creative responses to these developments. By looking both backward and forward, the process can help States Parties to keep the treaty in step with changing times.”

The PrepCom began its general debate on a positive note, with substantive, engaging statements. The broad outlines of the debate remain the same: the nuclear weapon states (NWS) maintain they are fulfilling their Article VI responsibilities; the non-nuclear weapon states (NNWS) say not enough is being done by the NWS, and that more progress is needed not only to fulfill the disarmament commitments but also to stem proliferation; the NNWS were also wary of further restrictions on their Article IV right to peaceful uses of nuclear technology; the Middle East states keeping the Middle East resolution to the forefront; and the US and Iran were at loggerheads over each other’s “bad behavior.”

The Substantive Agenda

Across the board, national and regional positions on strengthening the NPT have changed little since 2005. This is not surprising since so little of the States Parties' agendas from previous Review Conferences had been fulfilled. The most notable feature was the change in tone; except for the predictable mutual condemnations between the United States and Iran, countries strove for the high road of substantive proposals presented in reasonable tones.

The fundamental bargain of the NPT – the three pillars of disarmament, non-proliferation and peaceful uses – was endorsed as crucial to the health of the Treaty. As always, the variations came up when discussing the relative value of each pillar. The **Non-Aligned Movement** (NAM), with Cuba speaking on its behalf, maintained its traditional positions, focusing on the responsibilities of the NWS to disarm while advocating strengthened rights for the NNWS that play by the rules. “If we, the States Parties, want to curtail the proliferation of nuclear weapons, we must also be prepared to accept that the total elimination of nuclear weapons is the only absolute guarantee against the use or threat of use of nuclear weapons,” the NAM said in its opening statement.

Commenting on efforts to strengthen non-proliferation, the NAM said, “It must be recognized that any effort to stem proliferation should be transparent and open to participation by all states. Access to material, equipment and technology for civilian purposes should not be unduly restricted.” At the same time, “there should be total and complete prohibition of the transfer of all nuclear-related” equipment and technology to non-NPT states “without exception.”

The most conspicuous role of the NAM was not its program but its role as a broker between Iran and Amb. Amano (backed by the Western Group) in the debate over the agenda.

Like the NAM, there was nothing strikingly new in the presentations of the **European Union**. The EU, with Germany acting on its behalf, continued its balancing act of maintaining strong support for the NPT's disarmament and non-proliferation obligations while counting two NWS among its numbers. For example, the EU called for “appropriate follow-on processes” for START and the Strategic Offensive Reductions Treaty (SORT), but (unlike the NAM and NGOs) did not call for more verifiable and irreversible cuts; its statements were silent on the 13 Practical Steps; the EU noted the importance of negative security assurances, but offered nothing beyond the existing arrangements. On the expansive conceptual landscape, the EU took an inclusive view: “The EU will play its part in addressing the problems of regional insecurity and the situations of conflict, which lie behind many weapons programs. We recognize that instability does not occur in a vacuum and we are committed to fostering regional security arrangements and regional disarmament and arms control processes.”

A positive development was the re-emergence of the **New Agenda Coalition** (NAC). After having little role during the 2005 Review Conference and subsequent General Assembly sessions, the NAC reverted to its original form with a substantive joint statement in the plenary, as well as in the cluster debates and working papers. The NAC serves as a bridge – both politically and geographically – between the NAM and EU/Western Group. Drawing from both groupings, the NAC also draws from the best of each group’s political agendas - the absolutist position of the NAM combined with the practicality of the EU. “Attempts to secure advances on non-proliferation, while at the same time diminishing the significance of nuclear disarmament, are therefore counterproductive,” the NAC stated in its plenary speech. While acknowledging that priorities change as the security environment changes, the “validity and legitimacy of commitments jointly agreed at earlier conferences, in particular those in 1995 and 2000” remain constant. Drawing on those commitments, including the 13 Practical Steps of 2000, the NAC called for legally-binding negative security assurances, inclusion of transparency and verification measures with regard to SORT, a “follow-up” treaty to START that implements “further reductions” and opposition to the modernizing of nuclear forces.

The **United States** broke no new ground in its extensive speeches and working papers, but did go into great detail on its vision for the future of the NPT regime. While the positions were not new, what was striking was the change in tone – the absence of the acrimonious, even insulting, attitude that has characterized much of the tenure of the Bush administration. The pillars of the US argument were: non-compliance with non-disarmament obligations (Iran) was the greatest danger facing the NPT; transfers of nuclear technology have to be more tightly linked to NNWS adopting the Additional Protocol; and the US was fulfilling its disarmament obligations. The 13 Practical Steps continue to be referred to as “suggestions;” by one light, this could be seen as an improvement over the 2005 position of trying to write the decisions out of the record entirely.

The speech in the general debate included a list of 30 recommendations, which many saw as the US’s first draft of a final document for 2010. Those recommendations included:

- Reaffirming the role of the IAEA in assuring full compliance with the NPT;
- Affirmation that, should a state party withdraw from the Treaty, safeguards on facilities constructed while party to the NPT should remain in force;
- The affirmation of “the benefits of a robust, reliable, and internationally-backed fuel-service regime”;
- The need for universal adherence to the IAEA’s Additional Protocol for safeguards;
- An affirmation of the need for “practical thinking and diligent efforts by all States Parties in order to create the environment in which it will be possible not merely to achieve but also to sustain over time the total elimination of nuclear weapons”;

- An affirmation of the need for non-proliferation compliance “in order to prevent the emergence or worsening of nuclear arms races”;
- The importance of universality;
- An affirmation by the NWS to reduce their nuclear stockpiles and to improve transparency and confidence-building measures; and
- The importance of a Middle East free of weapons of mass destruction.

On the linchpin issue of nuclear disarmament, the US maintained it was fulfilling its obligations, pointing out that the US is “working very hard to reduce the role of nuclear weapons in US defense postures,” reducing the number of deployed weapons (down nearly 80% since 1991) and accelerating the dismantlement of warheads.

One area of international relations where the situation has deteriorated since 2005 has been compliance concerns. The manner in which North Korean and Iranian issues have evolved since the Review Conference had resulted in some Western countries placing greater emphasis on linking the Article IV rights to nuclear technology to the tightening of export controls and linking Article IV rights to Articles I, II and III – in other words, access to nuclear technology is dependent on NNWS not using the technology for military purposes, not transferring that technology and submitting to safeguards. Some Western states also raised the possibility of introducing new penalties for countries withdrawing from the Treaty. The rebuttal from many of the NNWS was that before any new restrictions are placed on NNWS, more had to come from the NWS on their Article VI disarmament commitments. In addition, NNWS pointed – either explicitly or implicitly – to the US-India nuclear deal as inconsistent with rhetoric on strengthening the NPT’s technology control requirements.

While not explicitly a reaction to these Western proposals, several NNWS pushed for more accountability from the NWS. Specifically, they asked for better accounting of the stocks of nuclear weapons; data that would be useful for transparency, for measuring disarmament commitments and for serving as a starting point for inventories that will have to be declared under a Fissile Materials Cut-Off Treaty. For example, the NAC wrote, “In the interest of greater transparency and confidence-building, and as a baseline for future disarmament measures” the NWS should “publish their aggregate holdings of nuclear weapons on active and reserve status.”

Control over the nuclear fuel cycle was another issue that split the meeting. While few states (Austria and New Zealand) favored IAEA-style multilateral controls over the fuel cycle, more industrialized states did raise proposals calling for more restrictions on nuclear fuel and technology as means to counter proliferation. NAM states flatly rejected proposals they saw as infringing on their Article IV rights to nuclear technology.

There was at least rhetorical support for the implementation of the 1995 resolution on the Middle East, although there was little discussion as to how that would be done. The West looked at the creation of a WMD-free zone in the Middle East as part of a

comprehensive peace package, while the NAM saw Israel's ratification of the NPT as a non-nuclear weapon state party as an essential first step.

Deadlock Over the Agenda

The first sign of trouble was when Amb. Amano skipped item 3 on the provisional agenda (Adoption of the agenda) and moved directly into the general debate during the first session on April 30. He simply said more time was needed before the agenda could be adopted. The general debate continued through five sessions before the full impact of the problem was clear.

The crux of the issue was item 6 on the provisional agenda that dealt with the substantive work to be undertaken by the PrepCom. This item used the same language as the 2002 agenda on "full implementation" of the NPT, including "specific matters of substance" such as the decisions of the 1995 Review and Extension Conference (including the Middle East resolution) and the "outcomes" of all previous review conferences. However, during his consultations that began in September, Amb. Amano added these lines: "... including developments affecting the operation and purpose of the Treaty, and thereby considering approaches and measures to realize its purpose, reaffirming the need for full compliance with the Treaty." This last phrase was a red flag to Iran. While charging that Amb. Amano had never consulted the government on this addition (a charge Amb. Amano vigorously refuted), Iran was concerned that "full compliance" would be used as a club against Iran over its nuclear program. Nearly all delegates took the logical position that "full compliance with the Treaty" meant full compliance with *all provisions* of the Treaty (including Article VI disarmament provisions).

While Iran did not get full-throated support from the NAM for its position, the NAM did take the position that the substantive work (in other words, the cluster debate) could not proceed until the agenda was settled. Therefore the NGO presentations on May 2 were the last substantive discussions in the PrepCom until the afternoon of May 8.

Seeking a way out of the impasse, Amb. Amano read a statement from the chair on the morning of May 4 saying that it was his understanding that "compliance with the Treaty means compliance with all provisions of the Treaty," a statement that would be a part of the official record of the PrepCom. At the same time, he said it was "not a viable option" to reopen the debate over the language of the agenda. He did not open the floor for comments.

At the next meeting, which did not begin until a few minutes before 6pm, Iran said there were still "serious shortcomings" in the agenda and renewed its call that "all provisions" be added to the sentence in item 6. Iran then attempted to shift the focus by asking who was opposing this "constructive" compromise – obviously the intent was to draw out the United States as the obstructionist (the US was silent throughout this

debate). South Africa then proposed a new variation: putting Amb. Amano's language into a statement that would reflect the views of the entire committee. The one sentence proposal was: "The committee decides that it understands the reference in the agenda to 'reaffirming the need for full compliance with the Treaty' to mean that it will consider compliance with all provisions of the Treaty." Germany, on behalf of the European Union, called this "a viable option." Several NAM countries, including Algeria and Syria, were supportive but said – as did Iran – that no commitment could be made without consultations with the capitols.

All of Monday, May 7, passed without any announced agreement. By now, there were serious discussions as to whether the PrepCom should just fold up rather than sit around waiting for one country to allow the committee to go forward. Finally, shortly after 11am on Tuesday, Iran took the floor to once again state its good intentions and complain about being the target of "unfair propaganda." While the room was clearly bracing for a rejection of the South African proposal, Iran surprised the room and said that "in a display of good will and flexibility, my Government can accept the proposal by South Africa," provided that the text be inserted as a footnote to item 6 on the agenda. The Iranian ambassador repeated the statement two more times before Amb. Amano was convinced that Iran was saying yes. No one raised any objection to Iran's formatting conditions, so the agenda was unanimously approved and the PrepCom moved forward.

Before closing the session, Amb. Amano took aim at Iran's charges about being blindsided by the changes in the provision agenda. He said he began consultations in September 2006, including four meetings since January, to discuss the agenda with States Parties. When he proposed the language for item 6 on April 13, there was "no indication of negative reaction" from those in attendance, he said.

The Cluster debate began on Tuesday afternoon, with a clear sense of relief and a business as usual attitude.

The Role of NGOs

As has become a tradition, non-governmental organizations were given one meeting to present their views. In a session well-attended by delegates on May 2, 17 NGO representatives outlined priorities on a wide range of NPT-related issues.

- The nuclear weapon states are not doing enough to fulfill their Article VI obligations, specifically in pursuing weapons programs and doctrines that envision the possession of nuclear weapons for decades into the future. The US is undertaking multiple programs for developing new nuclear warheads and for its strategic doctrines involving first use of nuclear weapons.
- The United States and Russia should make the reductions agreed to under the SORT verifiable and irreversible.
- All nuclear weapons should be taken off high alert status.

- Efforts must be made to establish new NWFZ and a Middle East WMD-free zone.
- Solutions to horizontal proliferation lay in the promotion of disarmament and security arrangements that do not rely on nuclear weapons.
- The “inalienable right” to nuclear energy under Article IV is not absolute, but needs to be seen in the context of the NPT bargain.
- The creation of an International Sustainable Energy Agency should be promoted.
- All States Parties should oppose the US-India nuclear as inconsistent with the NPT and Security Council Resolution 1172.
- Diplomatic solutions are the only way to resolve the controversy over Iran’s nuclear program.
- A global moratorium on uranium mining and milling should be instituted.
- A Nuclear Weapons Convention is viable and should be considered.
- There is support for the “P6” plan in the Conference on Disarmament for establishing an agenda and timetable for work; failure to advance the agenda is likely to lead to calls for a sub-committee on nuclear disarmament in the GA’s First Committee.
- Endorsement of the Mayors for Peace initiative “Cities are not Targets.”

Beyond this formal session, there was also a noticeable improvement in governmental/non-governmental relations. Regardless of whether the NGO specialized in diplomatic work (MPI, Acronym Institute) or grassroots activism (Greenpeace, WILPF), NGOs clearly felt the delegates were treating them as partners, rather than as observers. This maturing relationship gives NGOs an opportunity – if handled correctly – of having a substantive influence on the NPT process. This could be exactly what some delegations want.

Final Session

Amb. Amano’s factual summary was distributed to the meeting shortly after 2pm on Friday, May 11 – the final day of the meeting. The 51-paragraph document touched on every issue raised during the PrepCom, constantly referring to the fact that these were the views of States Parties, with the caveat that the paper did not intend “to imply unanimity.” The paper raised the importance of compliance with all provisions of the NPT, recalled the relevance of the 13 Practical Steps from the 2000 Review Conference and the 1995 Middle East resolution, the importance of a legally-binding instrument for negative security assurances and the universalization of the IAEA additional protocol, endorsed the CTBT and FMCT, and reaffirmed the right to peaceful uses of nuclear energy “in conformity” with the other articles of the Treaty. The paper cited by name concerns over Iran’s nuclear program and North Korea’s nuclear test. Criticism of the nuclear weapons states was more oblique, noting states’ “concern and disappointment” over modernization plans and calling for deeper reductions in

stockpiles and greater “transparency and accountability” in discussions over nuclear arsenals.

The final session did not begin as scheduled at 3pm. Instead, delegates were holding private consultations over the document. It became clear early on that Amb. Amano’s preference – that his paper be annexed to the final report as his “factual summary” of the meeting – was not going to happen due to the strong objections of NAM states over various parts of the report. One report was that Iran was going to object to including the paper in any form under any title, but NAM was not willing to go that far. Amb. Amano agreed that his text be considered as the chairman’s working paper and would be listed as one of the 70-plus working papers; it would not be annexed to the final report. Shortly before the scheduled closing time of 6pm, the final session began with Amb. Amano simply reading out the paragraphs for the final report, which were approved without debate.

Practical Matters

There was agreement on several technical matters. The PrepCom unanimously endorsed the candidacy of Ambassador Volodymyr Yelchenko of Ukraine as the Chairman of the next session of the Committee. The second session of the PrepCom will be held in Geneva from April 28 to May 9, 2008. However, there was no decision on the third session or the Review Conference itself, although a document was circulated proposing the third PrepCom be held in New York May 4 -15, 2009 and the Review Conference be held in New York April 26 – May 21, 2010.

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