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The 2010 NPT Review Conference: Some Breathing Space Gained, But No Breakthrough

Harald Müller

The 8th Review Conference of the Nuclear Non-proliferation Treaty (NPT) started on 5 May 2010. The mood was 'cautiously optimistic'¹ as the parties had experienced a productive last preparatory phase. In contrast to the fatally failed 2005 conference,² the agenda and rules of procedures had been agreed and conference officers designated. The new US–Russian disarmament treaties on strategic nuclear weapons (NSTART) and disposal of weapon plutonium³ contributed to raising optimistic expectations. President Barack Obama's commitment to a nuclear weapons free world had impressed many people.

On the negative side, the crisis over Iran's nuclear program weighed heavily. Iran had, over the years, concealed relevant information from the International Atomic Energy Agency (IAEA) and offered greater transparency only when this breach was revealed by an Iranian opposition group. Thereafter, Teheran played a delaying game, negotiating, conceding and then withdrawing concessions. Some information, notably on the military aspects of its activities, is still not in the hands of the Vienna Agency. In addition, Iran refuses to comply with United Nations Security Council (UNSC) resolutions addressing the situation. The continuous denial of Israel's right to exist gives its nuclear program additional virulence.⁴ Given the regional tensions, the danger in the Middle East must be rated even higher than the one emanating from North Korea's nuclear capabilities: in East Asia, the cooperation of the neighbours of the Democratic People's Republic, as well as the US, gives the region a certain stability that is conducive to containing the North Korean problem. Such stability is not available in the Middle East.

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¹ Johnson, "Laying Substantive Groundwork for 2010", 3–9; Lewis, "Life at 40: Prospects for the NPT", 15–21.

² Müller, "Reflections on the Failed NPT Review Conference", 33–44.

³ Fey et al., "Ein nuklearer Frühling?"

⁴ Müller, *Krieg in Sicht?*

The status of Israel as undeclared nuclear weapon state was an additional burden for the conference. Egypt, whose 1981 accession to the NPT was partially motivated by the expectation that Israel would soon follow under American pressure, has been disappointed by the course of history. The Egyptians succeeded in 1995 in extracting a promise from the NPT's depositary states (the US, the UK and Russia) to work actively towards the creation of a nuclear weapon free zone in the Middle East. When nothing happened afterwards, frustration in the Arab world rose. The Arab states increasingly viewed the NPT as an instrument for freezing nuclear inequality in the region. Egypt grew more defiant and was instrumental in causing the failure of the 2005 Review. The Middle East was expected to be a key stumbling block for the 2010 conference as well.⁵

Then there was the negative legacy of the Bush administration. First, US plans for missile defence and military space policy as well as plans to redesignate submarine-based ballistic missiles and long-range bombers from nuclear to conventional long-strike missions outside of arms control are seen in Beijing and Moscow as potential military threats and thus have constrained their readiness to accept steps for nuclear disarmament. Notwithstanding the more modest plans for missile defence components in Eastern Europe, compared with the intentions of his predecessor, Obama has not been able to break radically with past policies, as this would have diminished his chances of gaining the needed Republican votes in the Senate for ratification of NSTART and for other disarmament treaties in the future.

The legacy of Bush's policy is also hurting Western interests in improving the non-proliferation toolbox, as the former president's actions tremendously reinforced the non-aligned suspicion that the 'toolbox' was meant to deprive them of their right to fully develop the peaceful uses of nuclear energy and to distribute duties under the NPT even more unequally. This encompasses four different aspects.

First, the West would like to declare the 'Additional Protocol', a document envisaging strengthened verification measures and enhanced accession rights for IAEA inspectors, the obligatory verification standard for NPT parties and the condition for nuclear exports to non-nuclear weapons states (NNWS).⁶

Secondly, the West wants to uphold efficient export controls and to persuade additional exporters to adopt the guidelines of the Nuclear Supplier Group (NSG) in which 40 mostly industrialised states coordinate their export policies. This aspect has gained additional salience since 2003, when the world learned about the clandestine, illegal network of the Pakistani bomb builder Abdel Qadeer Khan. UN Security Council resolution 1540 has made export controls an obligation for all UN members with a view to preventing non-state actors from acquiring access to nuclear material and technology. However, the Non-Aligned Movement states

⁵ Kadhim, "Future of Nuclear Weapons in the Middle East", 581–90.

⁶ Hirsch, "The Additional Protocol", 140–66.

(NAM) continue to suspect that export controls are a strategic instrument in the hands of the industrialised countries to prevent their access to advanced technology. South Africa's and Brazil's membership in the NSG has not eliminated this suspicion. That India, not a member of the NPT and a self-declared nuclear weapon state was, upon US insistence, exempted from the NSG rule that no exports will take place to a state in which not all nuclear activities are under the IAEA's comprehensive safeguards did not make the NSG any more popular among the NAM states.⁷

Third, the concept of multilateral nuclear fuel arrangements – fuel supply guarantees and multinational fuel cycle facilities – supported by the West and Russia, is strongly contested.⁸ This issue got off to a bad start: in February 2004, President Bush proposed an embargo on transfers of fuel cycle technology to states that were not already technology holders. At the same time, he suggested offering fuel supply guarantees. This proposal amounted to a re-interpretation of Art. IV of the NPT which grants unlimited rights to develop the peaceful uses of nuclear energy to NNWS party to the NPT in good standing. NAM states, including moderate NPT parties like South Africa and Brazil, and even Italy, now looked with distrust upon all proposals for the Multinational Fuel Cycle Arrangements (MFA). All creative and reasonable MFA proposals met with resistance from the NAM. This deep resentment did not recede even when the linkage with renouncing national fuel cycle activities was abandoned.

Fourth, the West and Russia wanted to develop a joint reaction mechanism of the NPT community to withdrawals from the Treaty. When North Korea, invoking Art. 10 of the NPT, declared its withdrawal in a state of non-compliance, there was no common response from the NPT parties. This was to be corrected. While international law permits withdrawal from a treaty under the *rebus sic stantibus* principle, when the circumstances under which a state had become party to a treaty have drastically changed, the NPT requests additionally that the withdrawing party inform the depositary states, the Security Council and the UN General Assembly of its intention to withdraw, stating the reasons motivating its withdrawal, and that the party remain in the NPT for another 90 days.

According to Western ideas, in a withdrawal crisis, the Review Conference should invite the parties to consult, the UNSC should scrutinize the reasons given for withdrawal, all IAEA verification measures in force at the time of withdrawal should continue perpetually, and nuclear goods imported by the state when it was an NPT party should be repatriated to the country of origin on that country's request. The conference should also reconfirm the pivotal legal principle that leaving a treaty does not heal violations committed before withdrawal.

⁷ Rauch, *Desaster, Durchbruch oder Dilemma?*

⁸ Yudin, *Multilateralization of the Nuclear Fuel Cycle*.

All these controversies erected considerable hurdles on the way to a successful conference. Despite the improved circumstances compared to 2005, no one could be certain that the endeavour would come to a happy end. On top of all these differences dividing the parties, the clock was ticking on another, tougher resolution on sanctions against Iran that the United States was preparing in the UNSC. There were speculations that Iran would block progress at the conference if the UNSC proceeded with that resolution. Opposite bets were thus possible on how this conference would end.

The negotiations

As usual, the conference started with the general debate during which member states can express their (often controversial) points of view. Next, three main committees and three subsidiary bodies worked on the full panoply of issues the NPT involves in an elaborate division of labour: Main Committee 1 and Subsidiary Body 1 addressed nuclear disarmament, Main Committee 2 worked on non-proliferation measures, Subsidiary Body 2 on the Middle East and other regional issues, Main Committee 3 tackled the peaceful uses of nuclear energy, and Subsidiary Body 3 deliberated on withdrawal and proposals for reforming the review process. None of these bodies succeeded in concluding its work with a consensus report.

For that reason, the conference president used the papers supplied by the committee chairs in personal capacity as the basis for a draft conference report.⁹ He let the parties discuss this document in the plenary and open consultations, while a small consultation group of no more than 15 parties started work on the forward-looking part of the document (the ‘action plan’), and another small group under the leadership of Ambassador Kelly (Ireland) tried to find consensus on the Middle East. Quite out of the public eye, Egypt and the US also tackled the Middle East issue bilaterally.

On 28 May, the final day of the conference, the member states adopted, after long and arduous negotiations, a final document consensually.¹⁰ At the very last minute, Iran threatened to prevent consensus. The Iranian delegation, part of the exclusive last-phase consultations that had produced the action plan, tried in despair to persuade headquarters in Teheran to drop their objections. But the radical leadership would not balk. It required the high-level intervention of important NAM states to turn Iran around: the prospect of complete isolation was, eventually, unattractive even for President Mahmoud Ahmadinejad and his entourage.

⁹ NPT/CONF.2010/CERP.2/Rev.1

¹⁰ NPT/CONF.2010/L.2

The final document

The final document consists of a formal report on the proceedings of the conference, the President's reflection about the conference's review activities, and the forward-looking action plan. That the review part is attached to the document only as the personal document of the President shows the degree of dispute within the NPT community. Even though some of the language contained in this part drew agreement, other parts did not. But even so, the review part should not be dismissed. It presents a – however weak – reference for future discussion. For example, the text says that a majority of members wanted a time-bound framework for the final phase of the nuclear disarmament process and, before that, for single disarmament steps. Similarly, it notes the opinion of many states that the Additional Protocol should be the verification standard for the NPT. The role of the UNSC and of the UN Charter in dealing with non-compliance is emphasized, as are Western preferences about reactions to withdrawal from the NPT and a watered-down version of Canada's ideas about reforming and institutionalising the review process. In 2005, a similar attempt to attach the substantial work of the conference as personal paper of the President to a purely formal report failed because of Egypt's objections. This shows that all sides of the main disputes in 2010 (with the possible exception of Iran) had an interest in somehow saving the parts of the text that it supported.

The agreed action plan covers disarmament, non-proliferation and the peaceful uses of nuclear energy. That the fourth section, on the Middle East, stands as an independent part next to these three pillars of the NPT is in itself a strong success for Egypt.¹¹

In the part concerning nuclear disarmament, all previous NAM criticism of alliances, deterrence and doctrines disappeared. All that remains is a weak residual appeal to the nuclear weapon states to further diminish the role of nuclear weapons in their military doctrines. NATO's nuclear sharing is mentioned indirectly and in passing: all nuclear weapons shall be reduced and eventually eliminated "regardless of their type and location". The nuclear weapons convention, a part of the Five-Point Plan put forward in September 2008 by the UN Secretary General and a pet NAM project, is mentioned, but not endorsed. Constraining qualitative improvement of nuclear weapons is noted as a "legitimate interest" of NNWS, as is an end to the development of new types, but there are no operational requirements for the NWS to address this interest. They are, however, called upon not to circumvent the objectives of the Comprehensive Test Ban Treaty (CTBT) through new technology. China failed to prevent calls for more transparency. Moreover, the NWS are encouraged to develop a uniform format for their reporting to the NPT

¹¹ Curiously, a paragraph on North Korea is annexed to the Middle East section which was initially meant to address "regional issues", but in order to satisfy the Egyptians, the title was confined to their region. With no other place to go, North Korea ended up being part of the Middle East!

community on nuclear arsenals and disarmament steps. China succeeded in blocking notions of a moratorium for fissile material production, and the desire of China, Russia and the United States not to ask for the closure of nuclear testing sites was also heeded. To China's chagrin, however, the closing down of facilities for fissile material production for explosive purposes was included in the declaration.

NWS are only "encouraged" to give legally binding security assurances against the use or threat of use of nuclear weapons against NNWS and to "review" their reservations and interpretations attached to the Negative Security Assurance (NSA) protocols to nuclear weapon free zones. Negotiations on an NSA Treaty are not excluded, but also not explicitly recommended. Altogether, the nuclear disarmament part of the document is characterised by weak language: what had appeared in the drafts and working papers as undertakings, commitments, with the conference "urging" or "calling upon", was in the end presented as a mere option, with the use of verbs such as "encourage" and "invite" dominating.

Mention of the role of the UN Security Council in NPT enforcement, as stated in the IAEA Statute and the UN Charter, does not appear in the document (there is just a reference to the IAEA Statute but without any specifics). The conference "encourages" all states to adopt the Additional Protocol, but does not make it the verification standard for all member states. The document confirms the importance of export controls and recommends using existing multilateral guidelines as a model (there is no mention of the Nuclear Supplier Group or even the Zangger Committee¹²) and is silent on the US-Indian deal, apart from requesting that full scope safeguards be considered a condition for supply of all nuclear exports. The document asks for "respect" for national nuclear policies and choices for the fuel cycle and states that the continuing discussion within the IAEA and regional settings must not infringe on this sovereign right.

All this hardly represents a decisive breakthrough for either nuclear disarmament or non-proliferation. It is for this reason that the fourth part of the document, on the Middle East, stands out all the more. Iran does not figure, Israel by contrast is requested, by name, to accede to the NPT. The UN Secretary General is invited to nominate a facilitator for making progress towards a Middle East nuclear weapon-free zone. One of the steps is a 2010 conference of the regional states to consider measures to move this project forward, which the facilitator is requested to prepare. The EU has agreed to hold a seminar in preparation for that event. The US succeeded, to Iran's dismay, to include a positive reference to the Middle East peace process, to confidence-building measures and to a parallel move to ban all types of weapons of mass destruction and their delivery vehicles.

¹²The Zangger Committee is a group of NPT supplier states that has worked out, and regularly amends, a list of items triggering the request for export licenses in the exporting state.

The actors

The EU profile at this conference was modest. But the EU statement, based on the Common Position that the EU had finalised barely more than a month before the conference began, was at least delivered in the general debate by the EU 'foreign minister' Catherine Ashton and not, as used to be the case, by the Presidency.

The Spanish Presidency coordinated EU meetings efficiently throughout the Review Conference. As a result, there was more written EU input into the conference proceedings than ever before. The Common Position was introduced as a working paper and used as a starting point for interventions by the EU in the Main Committees and the Subsidiary Bodies. The EU tabled substantial working papers on some of the most crucial issues before the conference, on the Middle East, IAEA verification, withdrawal from the Treaty, and the CTBT and its verification system. Later on, the EU took excerpts from these statements and proposed them as language for the Committee reports and, during the last week, for the final declaration.

Despite this impressive input, the EU appeared strangely passive. There were four reasons for this.

- First, the Common Position was an expression of the lowest common denominator. In the central dispute of this conference, nuclear disarmament, this denominator was very small indeed. This was due to the attitude of the EU's two nuclear weapon states, the United Kingdom and particularly France, which would not agree to anything that would require concessions regarding their nuclear postures. Even in the field of sub-strategic weapons, on which the EU Common Position contained language (on the insistence of Germany), France and Great Britain refrained from any supportive statements on the floor. As a consequence, a group of EU members joined forces with non-members (Switzerland and Norway) on a proposal to address the issue of sub-strategic nuclear weapons explicitly. This was remarkable, as it brought together countries with quite different starting positions: while Germany, for example, wants the withdrawal of American sub-strategic nuclear weapons from its territory, Poland is strongly interested in maintaining extended deterrence against a residual Russian threat.¹³ It was all the more regrettable that this issue could not be handled through the EU. With its minimalist stance on disarmament, the EU had difficulty in impressing anyone.
- Second, the Spanish Presidency confined itself to reading the respective EU positions or even just announcing that the EU would submit something in writing. Otherwise, the EU remained mute. It did not debate nor react lively to what others were saying and suggesting. When it took the floor as the EU,

¹³ Kulesa, "Nuclear Weapons After the 2010 NPT".

it read. This is no way to gain a high profile in a diplomatic conference – that is only possible by reacting to the statements of other actors.

- Third, the vast majority of EU members stuck to Union discipline. Delegations waited for the Presidency to speak and briefly supported what the Spanish delegate said. National positions were rarely uttered. Ireland, Italy, the Netherlands and Germany entered the debate sporadically. But Ireland wasted political capital by attacking France on an issue (praise for reduction of its arsenal, closure of its test sites and its military fissile material production facilities) actually covered by the EU Common Position.¹⁴ This imprudent break from European solidarity made it difficult for other Union members to openly support Ireland’s occasionally expressed more disarmament-prone positions.
- Fourth, France did not even think of emulating EU discipline as shown by other members. It took the floor often and extensively. After a brief reference to the EU, the French delegation then pursued its national position which had little resemblance to what the EU had been proposing. This happened frequently and the tone was arrogant and provocative, something which was not well received by the NAM. France even defended the modernisation of nuclear weapons and proposed its own nuclear doctrine – use of nuclear weapons “defensively”, only for the protection of “vital interests” (without explaining what “vital interest” means).¹⁵ Without being called upon to do so, the French delegation denied that the “inalienable right to enjoy the peaceful uses of nuclear energy” included the right to develop the fuel cycle, something that even Germany had expressly claimed in its national declarations on the occasion of its signature and ratification of the NPT. France repeatedly asked to be praised for its past disarmament steps and made it clear at the same time that it was not intending to do any more in the foreseeable future. Since the Presidency and the members kept silent while France spoke continuously, the unfortunate impression was that the French delegation represented EU positions. This did not make the EU any more popular; the EU showed its mettle as negotiator and bridge-builder during the small group final negotiations, but only 14 other delegations, including three from the EU, witnessed that performance.

If the EU’s popularity did not rise, France’s definitively sank, and not only among EU partners. France did not deviate essentially from positions taken in 2005, apart from the fact that, unlike its stance at that time, it endorsed the results of the 2000 Review Conference. But in 2005 it had been able to hide behind the

¹⁴ Ireland stated on the floor that this was not much of an achievement.

¹⁵ Former President Jacques Chirac once stated that the supply of vital raw materials was under the French nuclear umbrella!

broad shoulders of the even more unpopular Bush administration. With the greater flexibility and more cooperative attitude of the Obama delegation, this protection fell away, without the French delegation apparently noticing the increasing exposure to criticism. At UN headquarters, France made itself quite unpopular among leading developing countries. This may have consequences beyond the NPT proper. The French delegation, 'happy with itself and the world', seemed not to have noticed the loss of face.

The US left the conference with a mixed balance. It had achieved a final document, which was its main objective, and avoided undesired criticism of controversial aspects of the US nuclear policy, such as the modernisation of the nuclear weapons complex or the US–India nuclear deal. The US also successfully resisted making concessions that would have been interpreted by the Republican opposition at home as a sign of softness on defence. The statements by non-aligned countries during the general debate and during the last two hours of the conference after the final document had been adopted repeatedly recognised the benign influence of the “changed international climate” on the attempt to find consensus; this was a clear recognition of the new American policy. Washington’s flexibility contributed to pushing Iran increasingly into isolation within the non-aligned group, even if this development was not clearly reflected in the final document. The US did not achieve its objective of strengthening the non-proliferation toolbox or condemning Iran in the part on the Middle East. In order to mollify both Israel’s friends on Capitol Hill and Jerusalem, the US delegate felt compelled to “deeply deplore” that Israel was explicitly named in the part on the Middle East – even though the American delegation had negotiated this language with Egypt and had consented to it when the final document was adopted, and even though Israel had been named twice in the Middle East part of the 2000 final declaration. Altogether, though, the US delegation can be assumed to have left New York with moderate satisfaction.

The same applies for Russia, which manoeuvred successfully throughout the negotiations. Sub-strategic nuclear weapons, an issue to which Russia is very sensitive as it possesses by far the world’s largest arsenal of such weapons, were addressed only indirectly; the principle of “undiminished security for all” and “equal security”, which alluded to the destabilising potential of ballistic missile defence, was emphasized; the conference did not request the closure of nuclear testing sites; and the Russian offer of fuel assurances was explicitly welcomed.

By contrast, China’s rather France-like policy of having its record praised but refusing all further efforts towards disarmament did not go over well. China’s no-first-use policy, unique among the NWS, was not appreciated, and China had to accept the request for more transparency and for closure of facilities for fissile material production for explosive purposes. Only the demand for a moratorium on fissile material production fell through due to Chinese opposition.

Among Western NNWS, Switzerland emerged as rather successful. The very active Swiss delegation managed to insert its main concern, the humanitarian aspects of nuclear weapons use and the call to adhere to international humanitarian law into the final document.¹⁶ Switzerland was also part of the ‘de-alerting group’, which struggled successfully to place a request to the NWS to further reduce the operational level of their nuclear weapons into the final document. Thereby, Switzerland fought its agenda through, a remarkable achievement. The small country gained a considerable disarmament profile at this conference.

By contrast, Iran looked rather like a loser. Iran’s strategy to posture itself as speaker for the least realistic and most confrontational NAM positions did not pay off, because the most influential NAM leaders, Egypt, Brazil, South Africa, Indonesia, Mexico and Algeria, strove to reach a compromise and a considerable number of non-aligned states supported them in this effort. Only Cuba and Syria kept close to Iran. As the conference went on, Iran isolated itself with its strategy. Other states (Egypt and Brazil at times) let Iran feel this growing isolation. In the end, Iran stood alone in its failed attempt to unpack the compromise that the Conference President presented. The Iranian delegation leader complained bitterly that the core demands of the NAM were not mirrored in the final document. Iran, he said, assented to the consensus only out of respect for the views of others – a veiled admission that NAM partners had exerted pressure. Iran succeeded however in avoiding explicit criticism or condemnation of its nuclear activities: the final document addresses compliance problems only generally. But this obvious Iranian success was countered by the simultaneous news that the permanent members of the Security Council had agreed on a draft resolution asking for more sanctions against Teheran. The coup of the Turkish–Brazilian–Iranian compromise proposal for dealing with Iran’s nuclear problem cut no ice at the conference and was largely ignored.

The emergence of a flexible, skilled and influential ‘non-aligned centre’, already visible in previous conferences, has been strongly confirmed. In addition to the countries enumerated in the last section, Chile, Colombia, Nigeria, Morocco, the United Arab Emirates, the ASEAN states and even Libya can be counted in these ranks. The impressive leader of this group was Brazil. The Brazilians pursued two important national interests: to preserve freedom of action in fuel cycle policy and to avoid the mandatory adoption of the Additional Protocol as a verification standard. Brazil is developing a national enrichment capacity both for civilian purposes and for a planned fleet of nuclear-powered submarines. And the Brazilian government has expressed fear that the intrusive inspection modalities

¹⁶For the related Swiss position, see the study, commissioned by the Swiss government Berry et al., *Delegitimizing Nuclear Weapons*.

of the Additional Protocol might compromise technical information about its enrichment process that it regards as the country's intellectual property.¹⁷

Brazil gained the support of Egypt for these positions (which were not uniformly shared by all non-aligned countries); in turn, the Brazilians accorded Egypt all necessary assistance concerning the Middle East. Otherwise, Brazil presented itself as an eloquent and compromise-capable speaker in disarmament matters. It is a country to be reckoned with for future non-proliferation policy.

Since 1985, I have participated in all NPT Review Conferences. Never before was it possible or meaningful to name a 'victor'. This time it is different: Egypt has 'won' this conference. The NAM's demands for disarmament and the West's demands for stricter non-proliferation measures have neutralised each other and are contained in the final document only in terms of the lowest common denominator. This fact makes the action programme for a nuclear weapon-free zone in the Middle East the outstanding result of the conference. And that is exactly what Egypt wanted.

Egypt understood better than some more radical NAM states the opportunity offered by the new constellation in Washington. That Egypt starred simultaneously as the coordinator for NAM states and for the New Agenda Coalition (NAC),¹⁸ allowed the delegation to take the floor with unusual frequency. Beyond this, the NAM job gave it the opportunity to utter extreme demands as bargaining chips for compromising later, while the NAC job offered a chance to indicate moderation and the readiness to compromise. The delegation played their cards with virtuosity and did not lose control when the conference split into many parallel forums. The Egyptians had to be present in the open as well as closed consultations (the most important of which, significantly, took place in the Egyptian mission). They mastered this complex task perfectly. Naturally, Egypt benefited from the congenial partnership with Brazil and the pressure on the Obama administration to have a successful conference. But the Egyptians used these favourable conditions very skilfully and with the necessary moderate understanding of the possible. They taught the world a highly professional lesson in multilateral diplomacy.

Conclusions

Another failed review would have deepened the crisis of the NPT, possibly irreversibly. Hence, the agreement buys time to start the necessary repair. As far as substance goes, the result is modest. In disarmament, some hurdles have been put in the way of qualitative improvements, and the development of new types

¹⁷ Some observers go so far as to suspect that Brazil might want to develop a nuclear weapons option, cf. Rühle, "Brasilien und die Bombe".

¹⁸ A group formed in 1998 by mid-size powers Brazil, Egypt, Ireland, Mexico, New Zealand, South Africa and Sweden with the goal of increasing pressure for achieving tangible results in disarmament.

of nuclear warheads has been labelled negatively. The inclusion of *all* nuclear weapons, regardless of their type and location, in the orderly disarmament process beyond unilateral measures also marks some progress. The NPT parties are amicably encouraged to accede to the Additional Protocol and to introduce and apply reliable export controls. That is about it. A closer look at the language of the final document reveals how ‘soft’ it is: there are only very few hard obligations (“commit”, “shall”, “undertake”) and much friendliness (“encourage”, “invite”).

This is no coincidence. The final document is a minimal compromise between NWS and NAM. The NWS wanted to avoid being forced to accept specific disarmament action (notably in a specified timeframe). The NAM refused all measures to strengthen the non-proliferation and enforcement toolbox because they suspected attacks on their sovereignty. The desire of the NWS to develop more effective non-proliferation measures (shared with Western NNWS) was not strong enough to overcome their reservations against risking a diminished nuclear status quo. The interest of the NAM in nuclear disarmament did not suffice, all rhetorical flamboyance notwithstanding, to vanquish their desire to avoid reliable means of enforcement. To the contrary, they provided solidarity for Iran and a shelter against its being condemned for continued lack of cooperation with the IAEA concerning its nuclear program. By negotiating down the other side while throwing more substantial demands of their own out of the window, both sides bear responsibility for the fact that valuable steps were not accepted: no time plans for disarmament, no prompt negotiations on a nuclear weapons convention, no standard of verification that would include the Additional Protocol, no unequivocal endorsement of multilateral fuel arrangements, no rules for reacting to withdrawal from the Treaty, no confirmation of the essential role of the Security Council in ensuring compliance and, if need be, enacting enforcement once serious breaches of NPT norms occur, no criticism of Iran. The action plan of the final document is, in its first three parts on disarmament, non-proliferation, and the peaceful uses of nuclear energy, a model case of minimalism: better than nothing, but not much either.

This sheds an even brighter light on the innovative part on the Middle East. The negative reactions from Israel make that all the clearer. While Prime Minister Benjamin Netanyahu is right in criticising the silence on Iran and Syria as hypocritical (as the nuclear activities of both parties impact heavily on the chances for a nuclear weapon-free zone in the region), Israeli policy is approaching its dead end as well. As in its settlement policy in the West Bank, Israel’s nuclear policy has been cultivating the assumption that all will remain as it is. This is a fallacy. Without some Israeli movement, however cautious and largely symbolic at the beginning, pressure for nuclear proliferation in the region will continue to grow. The beginning made at the Review Conference with US approval is seen as threatening by Israel. Yet, in fact, it might afford the country a political chance.

Altogether, the Review Conference has not solved any problems and has not put an end to the crisis of the non-proliferation regime. It has just opened a window of opportunity to be used in the coming years to dispel the crisis with determination. If the NPT community fails to use that opportunity, the erosion of the regime will return with a revenge.¹⁹ In fact, that both the five nuclear weapon states and the NAM continued to put preservation of their national status quo above the dynamic for strengthening and further developing the NPT regime is not a good starting point.

The minimalist result of the New York conference is better than the verbal war of mutual diplomatic destruction which some parties fought in 2005. Nevertheless, the result does not guarantee a sustainable future for the NPT. This needs the active effort of members from the centre of the Treaty. The EU might be part of such an effort, but only if and when its nuclear weapon states overcome the parochialism which at least one of them displayed in 2010.

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¹⁹ On the underlying problems, see Müller, *Die Stabilität des nuklearen Nichtverbreitungsregimes*.

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