
The NPT and Its 2003 PrepCom Session: A Regime in Need of Intensive Care

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Hidden agendas are one of the characteristics of most diplomatic and political discourse. The result is that debates over procedures often overlap with those on substance, and what may seem to be a procedural dispute is in fact a substantive one conducted in a coded language. One area where this type of overlap has been prevalent is in the review process for the Treaty on the Non-Proliferation of Nuclear Weapons (NPT). As a consequence of these coded disputes, among other issues, some observers have begun to question the ability of the NPT review process to address the pressing problems confronting the nuclear nonproliferation regime.¹

From 2000 onward one of these hidden agendas has involved the degree to which the United States and other nuclear-weapon states (NWS) can be trusted to implement commitments made at the 2000 NPT Review Conference (RevCon). Another issue, which has been present from the start of the review process in the 1970s, has been whether its purpose is to achieve a smooth and harmonious outcome of meetings, or to engage in a frank exchange of views on the shortcomings of the regime. This debate has been closely linked to a number of other issues. One

is the yardsticks that should be used to measure the health of the regime. Possible benchmarks for health are the comprehensiveness of NPT membership, whether consensus exists among members on the objectives of the NPT, whether they can engage in meaningful debates on the steps that need to be taken to achieve those objectives, and the degree to which the objectives have been achieved.

All benchmarks have in the past been subsumed within the wider issue of the link between NPT meetings and the strength or fragility of the regime. The core of this debate has been whether consensus outcomes of review process meetings signal a strong regime and failures to agree, a weakened one. In the latter context, much of course depends on the substance of the agreement. But the core issue may be that while anodyne but consensual outcomes may achieve the short-term objective of signaling that the regime is strong, or at least not showing weaknesses worthy of media attention, they offer little or no assistance to the process of equipping it to face future challenges. These problems are compounded by the NPT itself, which contains a wide range of not entirely com-

patible elements arising from the diplomatic bargaining context that generated it. The NPT is thus a multipurpose treaty, and as such has been subject to inevitable conflicts over the priorities to be assigned to its various objectives, and the interpretation and implementation of its text.

More recently, the issue of the health of the treaty has been the subject of an authoritative analysis by United Nations Under-Secretary General for Disarmament Affairs Jayantha Dhanapala.² He has compared the international nonproliferation regimes to living organisms with their own life cycles: not static and inanimate, but prone to phases of growth or deterioration, and vulnerable to illness and total collapse. On the basis of this analogy, he has identified several signs of strain within the current nuclear nonproliferation regimes, including the harmful effects of new doctrines that call for the first use of nuclear weapons, the potential damage that investments in new nuclear weapons could do to nonproliferation norms, and the dangers of policies that are premised on the assumption that disarmament and nonproliferation efforts will fail. Such behavior, he contends, is in direct conflict with the fundamental norms of the regime, and places the NPT—if not on the critical list—at least in the seriously ill category, and thus in need of active attention.

Given this challenging context, this article will start by describing the past operations of the NPT review process and the issues, both substantive and procedural, that have dominated it. It will then move on to the more speculative question of how the states parties will react to the changed context in which the 2003 session of the Preparatory Committee (PrepCom) for the 2005 NPT RevCon will operate. The first part of the article will therefore briefly survey the development of the NPT review process up to and including the 2000 NPT RevCon. It will then proceed to examine what happened at the first meeting of the current review cycle in 2002. A third section will consider the prospects for the 2003 PrepCom session. The final section will draw some conclusions about the current health of the regime, and evaluate the ability of the NPT review process to handle the challenges that now confront it.

THE NPT REVIEW PROCESS, 1968-2000

The NPT, which entered into force in March 1970, specified in Article VIII.3 that its parties could request every five years a conference of its parties to “review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are

being realised.” The first such conference was convened in Geneva in 1975, preceded by the convening of a PrepCom dealing solely with procedural issues. Two main committees were created at the 1975 RevCom to review in detail specific aspects of the working of the treaty. A short, Final Declaration was agreed upon, owing mainly to the forceful leadership of the Swedish President.³ The 1980 RevCon was organized in a similar manner, but was unable to produce a Final Declaration.⁴ In 1985, three Main Committees were created in order to give a chairmanship to each of the main caucus groups (Eastern, Western, and Non-Aligned), and a Final Declaration was agreed by the device of using “some say this, some say that” wording in the passage dealing with nuclear disarmament and a Comprehensive Test Ban Treaty (CTBT).⁵ By contrast, the 1990 RevCon was unable to agree on a Final Declaration.⁶

One common feature of all these meetings was that lack of progress by the NWS on nuclear disarmament was a key point of disagreement among the delegations, the touchstone for this dispute being a CTBT. Other points of friction included the provision of multilateral negative and positive nuclear security assurances to non-nuclear weapon states (NNWS); export controls, as a consequence of the creation of the Nuclear Suppliers Group (NSG) and its guidelines for national legislation; and what were termed “regional problems,” including the attempts of African states to isolate South Africa and address its nuclear weapon program, and those of Arab states to do the same to Israel. In addition, there was a persistent concern that the importance attached to a consensus Final Declaration at NPT Review Conferences masked the inherent strength of the treaty, by making it appear that failure to achieve a consensus declaration could be equated with an increasing weakness in the regime.⁷

The year 1995 was regarded as a key date for the NPT, for in that year a decision had to be taken on the duration of the treaty. Since there had been no agreement on this question when the treaty had been negotiated, it was given an initial term of 25 years. The decision on the extension of the treaty was to be taken at the 1995 Review Conference, which consequently became known as the 1995 NPT Review and Extension Conference (NPTREC). This conference took place in a radically changed international context from its predecessors: The USSR had collapsed and the division of Europe had dissolved, along with most of the military antagonisms within it; China and France had become parties to the NPT; South Africa had dismantled its nuclear weapons and become a party to the

NPT; Iraq, an NPT party, had been proved to have undertaken a clandestine nuclear weapon program; the DPRK (North Korea) had similarly been alleged to have done so; and the number of NPT non-parties was approaching single figures.

The objective of achieving agreement on an indefinite duration for the treaty was the subject of intensive and systematic lobbying by the United States, the European Union (EU) states, and other members of the Western Group and their associates. By contrast, members of the Non-Aligned Movement (NAM) advocated a more limited duration, in the belief that this would generate periodic opportunities to force the NWS into political concessions over disarmament in exchange for further extensions of the treaty.⁸ At the same time, South Africa had been developing ideas on how to move debates over disarmament away from political rhetoric and toward gaining commitments from the NWS to a more incremental process of nuclear disarmament, while Canada had been working on plans for making all the parties more accountable for their actions.

The consequence of these activities was a lengthy process of negotiations at the 1995 NPTREC aimed at producing an outcome that would offer gains to most parties.⁹ These negotiations resulted in an informal package deal supported by the majority of the parties to the NPT. This deal included indefinite extension of the treaty,¹⁰ the adoption and implementation of "Principles and Objectives for Nuclear Non-Proliferation and Disarmament,"¹¹ and the implementation of a strengthened review process for the treaty.¹² The overall objective of this unspoken bargain was viewed by some of the NNWS as "permanence with accountability."¹³

The Arab group of states, however, indicated that they were dissatisfied with this package, which appeared to have deprived them of the ability to terminate the treaty if states parties failed to take collective action against Israel's alleged nuclear capabilities. This issue was eventually resolved by the three depository states (the Russian Federation, the United Kingdom, and the United States) agreeing to sponsor a separate Resolution on the Middle East.¹⁴ This resolution advocated *inter alia* that the Middle East be converted into a zone free of all weapons of mass destruction, and that all states in the region should be NPT parties and accept full-scope International Atomic Energy Agency (IAEA) safeguards. Implicitly, the

three depositories could be argued to have committed themselves to implement this resolution.

In parallel with negotiations on the duration of the treaty, the normal review proceedings had also been taking place. No Final Declaration was issued by the 1995 NPTREC, however, despite the DPRK and Iraq having breached their safeguards agreements with the IAEA during the review period. This result came about in part because the focus upon the issue of extending the treaty had left little time for heads of delegations to address the outcome of the review process.

While the 1995 documents provided a set of general guidelines for the "strengthened" review process, its detailed modalities remained to be addressed. One key change was that sessions of the PrepCom for a Review Conference were now to discuss issues of substance, not just procedure. PrepCom sessions were now to be held in each of the three years preceding a RevCom. More specifically, these sessions were to address "principles, objectives, and ways to promote the full implementation of the Treaty, as well as its universality,"¹⁵ including "the determined pursuit by the nuclear-weapon states of systematic and progressive efforts to reduce nuclear weapons globally."¹⁶ The PrepCom was also instructed to take into account the Resolution on the Middle East.¹⁷

The chairman of the 1997 PrepCom session modeled its structure on that of the review conferences, with a plenary and then three "cluster" discussions, whose focus closely resembled that of the three Main Committees.¹⁸ An attempt was made at this first meeting to develop two documents: a consensus "rolling text," which some parties believed could form the basis for recommendations to the 2000 RevCon, and a compendium of proposals made by states parties during the session.¹⁹ Some states also proposed that "special time" should be allocated to three specific topics at the 1998 PrepCom session.²⁰ Ultimately, a report was agreed on all these issues for transmission to the next session.

The 1998 PrepCom session implemented the proposal for "special time," though this time was allocated within the clusters rather than separate from them. This session was beset by conflicts over the implementation of the Resolution on the Middle East and the powers of the PrepCom, in particular whether its discussions and recommendations had to be directly relevant to the activities of the Review Conference or could also address transitory events. One consequence was that the parties were unable to agree on a consensus report on this and all other matters to the next session.²¹

Consequently, the chairman of the 1999 PrepCom had no guidelines on how to proceed. Despite this difficulty, the parties rapidly agreed on an agenda and structure for the meeting, and also decided that discussions would be based upon an amended version of the 1997/98 rolling text.²² No recommendations could be agreed upon, either on substantive issues or on the establishment of subsidiary bodies at the Review Conference, as had been mandated by the 1995 document.²³ One consequence was that the PrepCom did not comment formally on the May 1998 nuclear tests of India and Pakistan. Although the PrepCom sessions may have facilitated regular monitoring of the regime, they failed to achieve many of the objectives set for them in the 1995 documents, or to produce consensus recommendations on urgent nonproliferation issues. This situation generated low expectations that a consensus Final Declaration would emerge from the 2000 NPT Review Conference.

Developments in the run-up to the 2000 RevCon transformed these low expectations into a surprisingly positive outcome. Key among these were the activities of the New Agenda Coalition (NAC),²⁴ which promoted a pragmatic approach to progress in nuclear disarmament based on practical, realizable steps.²⁵ By the time the conference convened, there was growing support in the UN General Assembly for the NAC agenda, including its call for the NWS to make an “unequivocal undertaking” to eliminate their nuclear arsenals. In addition to this development, Russia gave the nonproliferation regime an important political boost with its ratification of the CTBT and the Strategic Arms Reduction Treaty II (START II) just weeks before the meeting opened. These moves put the United States under pressure to make concessions at the RevCon, particularly in light of both the October 1999 rejection of the CTBT by the U.S. Senate and Clinton administration decisions regarding missile defense development that many critics felt undermined the Anti-Ballistic Missile (ABM) Treaty.²⁶

These developments, among others, helped to promote constructive negotiations between the states parties, leading to a surprise achievement: the adoption by consensus of a Final Document.²⁷ Most observers regarded the elements concerning nuclear disarmament, subsequently labeled the “13 Steps,” as the core of this document. These steps set out specific short-term objectives for unilateral, bilateral, and multilateral nuclear disarmament over the next five years, as well as some general principles to guide this process.²⁸ Also, at the rhetorical level, the document contained the “unequivocal undertaking”

by the NWS to accomplish the total elimination of their nuclear arsenals.²⁹ This achievement provided the impetus for other contested issues to be either resolved or eliminated from the document in order to achieve the consensus text.³⁰

Despite the unexpected result of the 2000 RevCon, and the support offered for a subsequent UN General Assembly resolution endorsing its outcome,³¹ it soon became clear that agreement on the Final Document had been possible only because many of the provisions were capable of differing interpretations, and thus unlikely to be implemented in full.³² More specifically, the outcome appeared to make little impact on the stalemate within the Conference on Disarmament (CD) in Geneva that blocked any progress on multilateral disarmament negotiations in that body. In addition, France indicated that it regarded the “unequivocal commitment” to nuclear disarmament as still conditional upon the realization of general and complete disarmament (GCD).³³

The 2000 RevCon Final Document also contained a section outlining changes to be made to the PrepCom process. The key change was that the first two sessions of the PrepCom for any future Review process cycle were to consider “specific matters of substance relating to the implementation of the Treaty” and the contents of the three collateral documents agreed in 1995, as well as “the outcomes of subsequent Review Conferences, including developments affecting the operation and purpose of the Treaty.”³⁴ However, these sessions were not to seek to negotiate any “rolling text” of recommendations or a consensus substantive report.³⁵ Rather, a “factual report” was to be produced for transfer to the next session. Only at the third or, if necessary, fourth session, was the PrepCom to attempt to produce consensus recommendations to the Review Conference.³⁶ In addition, the ability of a session to allocate “specific time” to address particular issues was confirmed.³⁷

THE 2002 PREP COM

The international political and strategic environment changed drastically in the interval between the close of the 2000 NPT RevCon and the opening of the first PrepCom session for the 2005 NPT RevCon on April 8, 2002. These changes influenced prospects for the implementation of specific commitments contained in the 2000 Final Document. The Bush administration, which took office in January 2001, rapidly made clear it was not going to ask the U.S. Senate to ratify the CTBT. On

December 13, 2001, the United States announced its intention to withdraw from the ABM Treaty, rendering defunct the commitment in the 2000 Final Document to “preserving and strengthening the [ABM Treaty] as a cornerstone of strategic stability and as a basis for further reductions of strategic offensive systems.”³⁸

These actions were a reflection of the general skepticism that Bush administration officials had been expressing over formal arms control and disarmament treaties, manifested initially in their reluctance to proceed further with negotiations on a verification protocol for the Biological Weapons Convention (BWC). In the strategic weapons area, by leapfrogging over the amended START II Treaty that was unlikely to obtain ratification in the U.S. Senate, it seemed possible that constraints could be placed on both Russian and U.S. strategic and tactical nuclear weapons in a START III agreement. However, the Bush administration increasingly regarded Russian nuclear forces as no longer constituting a major threat, rendering formal arms control agreements with Russia an anachronism. By April 2002, it had become clear that, at Russia’s insistence, a formal agreement would probably be signed between the two states in Moscow in late May, but it would rely on the existing START I verification arrangements. Moreover, unlike the detailed agreements of the past, it would contain a set of parallel statements of intent, and would probably enable the United States to maintain a large reserve arsenal of deactivated nuclear warheads. In this context, the value placed by the United States on the NPT to address global proliferation concerns, as against undertaking alternative military counterproliferation policies, appeared to be diminishing.

Several regional conflicts tied to proliferation concerns also worsened from 2000 to 2002. The Middle East situation deteriorated owing to the collapse of the Israeli-Palestinian peace process, and although no regional states attempted to provide direct military support for the Palestinian cause, it reinforced the insistence of Arab states that Israel should accept full-scope IAEA safeguards. At the same time, India and Pakistan appeared to be in imminent danger of war over Kashmir, while the process of dismantling Iraq’s WMD capabilities was suspended following the end of the United Nations Special Commission (UNSCOM)³⁹ inspections in 1998 and the inability of its successor, the United Nations Monitoring, Verification and Inspection Commission (UNMOVIC),⁴⁰ to institute new ones. Efforts to dismantle the DPRK nuclear-weapon program also appeared to be moving toward a potential crisis point. The implementation of

the 1994 Agreed Framework was stalled by a dispute over the need to restart full IAEA inspections in North Korea before key components of two new internationally funded and safeguarded reactors could be installed there.

The events of September 11, 2001, generated concerns over a new form of security threat: that of international terrorist groups gaining access to nuclear materials or weapons. This placed the vulnerability of nuclear facilities to attack and the weaknesses in security around stockpiles of plutonium and highly enriched uranium high on the international agenda, thus enhancing existing concerns over the physical security of such materials in the Newly Independent States of the former Soviet Union. The events also led to something of a diplomatic revolution, however, with the United States and the Russian Federation viewing the threat of global terrorism as common ground. More generally, there existed a mutual recognition among NPT state parties that no country could hope to be immune from the terrorist threat; all understood that a collective response was required.

It was against this background of a positive desire of states parties to close ranks against the threat of international terrorism—and to take no action that might jeopardize advances in bilateral nuclear disarmament by the Russian Federation and the United States—that the first session of the PrepCom to the 2005 NPT Review Conference was convened. Set against these considerations was a perceived U.S. desire to loosen its existing arms control ties, along with worsening security situations in several key regions of the world. The session took place at the United Nations in New York from April 8-19, 2002, under the chairmanship of Ambassador Henrik Salander, the Swedish Ambassador to the CD in Geneva.

Salander’s position in Geneva enabled him to consult extensively on both the substantive and procedural issues that he was likely to face during the session.⁴¹ He was thus able to evaluate the degree to which specific concerns held by individual states might dominate the meeting. For example, he was able to assess whether opposition to U.S. arms control policies was likely to generate heated exchanges and how the mandate to produce a Chairman’s Factual Summary was to be implemented. Despite these advance preparations, one major difficulty he faced arose from an unexpected quarter—the requirements on reporting inserted into the 2000 Final Document. The focus on procedures and the limited nature of exchanges on substance that characterized the 2002 PrepCom led many observers to regard the meeting as taking place on two levels: 1) that of events taking place in the world and

policies relating to them, and 2) that of an internal NPT debate over how the review process was to operate. The perceived dominance of the latter led to frustration over delegations' apparent unwillingness to address the proliferation and disarmament challenges confronting the parties, although to some extent this frustration was partly moderated by a general awareness of the need to avoid overt conflicts that would be interpreted as indicating a weakening of the treaty. This reasoning suggested that the session should be confined to an exchange of information and views, rather than an interaction process that could have a problem-solving function.

Substantive Issues in 2002

At the substantive level, the 2002 PrepCom session focused on providing information on the policies and attitudes of states parties toward a well-established and familiar range of topics. These included:

- Nuclear disarmament (including nonstrategic nuclear weapons)
- Compliance with nuclear nonproliferation commitments
- The universality of the NPT
- Regional issues
- IAEA safeguards
- Nuclear security assurances
- Nuclear weapon-free zones
- Export controls
- Peaceful uses of nuclear energy, including transport of nuclear materials.

What was new at this meeting was the decision, heavily influenced by the events of September 11, to schedule "special time" for a discussion on the safety and security of the nuclear fuel cycle. In addition, reference was made to the work of the UN Experts Group on Disarmament and Nonproliferation Education, both in national statements and in the Chairman's Factual Summary.⁴²

The 66 statements delivered during the general debate, including those of the EU, the NAM, and the NAC, mainly concentrated on restating familiar positions rather than offering new ideas. The NATO-5⁴³ struggled to come up with a common position paper but eventually gave up, with Germany finally deciding to put forward its own paper focusing on issues related to nonstrategic nuclear weapons.⁴⁴

Backtracking by the NWS

Although spokespersons for the United States tried to reassure delegations that the Bush administration was committed to proceeding down the disarmament path, they had to contend with a widespread perception that U.S. actions suggested otherwise, as did its leaked, but still classified, Nuclear Posture Review (NPR). The U.S. Information Paper on Article VI outlined the disarmament steps that had been taken since 1988, and asserted that "the United States is not developing new nuclear weapons" and had no plans to undertake such activities.⁴⁵ However, these and other NWS statements were perceived by some delegations to be somewhat selective in their mode of reporting, as they addressed only those of the 13 Steps that supported their contention that they were complying with their commitments under Article VI, and ignored the rest.

A statement by a U.S. delegate that the Bush administration only "generally" agreed with the conclusions of the 2000 NPT Review Conference reinforced this skepticism. This statement was widely interpreted as meaning that the United States did not consider itself to be bound by some of the commitments to disarmament contained in the 2000 RevCon Final Document.⁴⁶ Any doubts over this interpretation evaporated when the U.S. delegation stated that the United States "no longer support[s] some of the Article VI conclusions in the Final Document"⁴⁷ that had been included in the 13 Steps at the behest of the NWS. The CTBT, for example, was referred to by the U.S. delegation as "another example of a treaty we no longer support."⁴⁸ This example of backtracking by the United States was paralleled by the French insistence that nuclear disarmament remain inseparable from general and complete disarmament, despite the apparent delinking of these two objectives in the 2000 Final Document.⁴⁹

Surprisingly, the U.S. backsliding on these, and arguably other, commitments to implement the 2000 "plan of action" was greeted by most delegations with resignation and quiet cynicism, rather than forthright and persistent criticism. The lack of direct conflict generated by this reversal was striking, though it may have had an indirect impact on the procedural arguments surrounding the reporting issue. Why the usually vocal and active groups of NNWS, such as the NAC, failed to mount a serious, united critique of U.S. backtracking remains uncertain. One interesting interpretation identifies three types of

attitudes that led to the relative passivity of the meeting.⁵⁰ The first of these was, the “why bother, the Americans aren’t listening” attitude. Second was the “America is our ally and we don’t want them to think we’re being disloyal” attitude (shared by most of the NATO states). Lastly, there was the “in this climate we don’t want to be tarred with the terrorist brush” attitude, which was prevalent among countries not allied with the United States, and which may have been linked to President Bush’s public statements on terrorism that used rhetoric to the effect that “those who are not for us are against us.”

It is also possible that some states decided it was pointless to become fully engaged in such a high-profile critique at this stage in the review process and were “keeping their powder dry” for the third session in 2004, when recommendations to the 2005 RevCon would have to be negotiated. Others may have been constrained by a desire not to make life difficult for the Swedish chairman; by a decision not to antagonize the United States, the global superpower, unnecessarily; or by an inability to agree on a common position with others. Finally, there may have been a desire to wait for the result of the May 2002 Russian-U.S. summit meeting in Moscow and see what decisions emerged from future bilateral nuclear arms control agreements before deciding to take a definitive stance on the matter.

Security Assurances

The Final Document of the 2000 NPT Review Conference had called upon the PrepCom to make recommendations to the 2005 Review on the provision of legally binding security assurances by the five NWS, but no discussion occurred on such recommendations. Even South Africa, which had been the leading advocate of such a development, was silent on the matter. However, the issue did generate some discussion from another angle. Concerns were expressed over alleged backtracking by some of the NWS on existing unilateral nuclear security assurances given to NPT NNWS and to members of the regional nuclear weapon-free zone (NWFZ) treaties. These concerns were triggered by statements from U.S. and U.K. government ministers and officials that appeared to conflict with their existing national negative security assurance commitments. Specifically, these statements were interpreted as implying that there were circumstances in which existing commitments not to use nuclear weapons

against NNWS made through UN Security Council Resolutions and NWFZ treaties might be inoperative. Concerns over this situation prompted some pointed comments from the NNWS.

Noncompliance and Universality

Vigorous statements about Iraqi noncompliance drew equally combative responses from Iraq but, in the absence of a DPRK delegation, there were no similar interchanges regarding North Korea. Israel was also discussed, but given the unstable situation between Israel, Palestine, and some of the other Arab League states, and Egypt’s role as the spokesman for the NAC, it was perhaps not surprising that this situation was handled carefully, and overt disagreements were avoided. Similarly, concern was expressed over the delicate nuclear relationship between India and Pakistan, and the impact of the “war on terrorism” upon it.

IAEA Safeguards

Statements on IAEA safeguards mainly focused on the need for those parties that had not done so to sign and implement an INFCIRC/153 safeguards agreement, and for those that had done so to sign and implement its Additional Protocol. Particular concern was expressed over the slow pace of adoption of the latter, though it was also clear that some states in the Middle East regarded Israeli signature of an INFCIRC/153 type safeguards agreement as having a greater priority than the acceptance of the Additional Protocol by other states in the region. The discussions on peaceful uses of nuclear energy, while covering traditional issues such as technical assistance, the alleged detrimental effects of nuclear export controls upon economic development, and the dangers of the sea transportation of nuclear waste, also covered several new issues, not least those relating to nuclear and radiological terrorism and theft. These issues gave a new dimension to discussions on physical protection and the sea transportation of nuclear waste, as well as raising the profile of proposals for a Convention on Nuclear Terrorism.⁵¹

Procedural and Organizational Issues in 2002

The main surprise in 2002 was that the first week of the session saw no agreement on the indicative timetable, owing to refusal by France and the United States to accept any wording in it referring to the commitments on reporting made in the disarmament and regional

issues sections of the 2000 RevCon Final Document. This dispute threatened to derail the session before it had started, but the chairman gained informal agreement that the meeting could move forward on his proposed schedule, thus avoiding time being wasted while the issue of the formal timetable was resolved. However, he also warned delegations that he would adjourn the PrepCom indefinitely if no agreement had been reached on this matter by the morning of the second Monday of the session. A compromise was reached before this deadline, allowing the meeting to continue. The dispute nevertheless reinforced perceptions that some of the NWS were attempting to open the door to a more extensive repudiation of the commitments on disarmament and the Middle East made in 2000.

The reporting issue remained a source of friction throughout the meeting. It cloaked significant differences over how the disarmament provisions of the 2000 Final Document should be implemented and disagreement regarding the idea that in 1995 the “permanence” of the treaty had been exchanged for “accountability.” Some states, such as those in the NAC and Canada, clearly regarded reporting to a common format at every NPT PrepCom session or Review Conference as a core NWS commitment, and thus considered it to be a substantive, rather than purely procedural, issue. For their part, the NWS understood their reporting obligations in much less specific terms, with no standard format and the word *regular* not necessarily meaning “at each meeting.” In addition, Canada and New Zealand regarded reporting as something that all states should undertake on all elements of the treaty. This dispute was made even more peculiar when all five NWS actually offered reports on their disarmament activities, but used their own frameworks and did not commit to reporting again at the next session.

Despite the carefully crafted compromise that enabled the session to adopt the indicative timetable, the issue of what constituted “accountability” remained unresolved. There were several aspects to this debate, which involved differences not only between the NWS and the NNWS, but also within these two groups. Some concerned alternative methods of implementation. Others were more profound, as they involved the inherent nature of the concept of “accountability” and the linked one of “transparency.” Whereas many of the states familiar with these western concepts of intra-state democratic governance accepted them in an unquestioning manner—and focused their attention largely on the issues of implementation—

others found them alien to their modes of thinking, and thus had difficulty understanding their significance both to those states advocating them and to themselves.

Throughout the 2002 PrepCom session, a matter that caused substantial uncertainty was how the consideration of the issues was to be factually summarized. A summary was clearly the responsibility of the chairman, but both before and during the session considerable informal debate occurred on who was going to draft the text, the degree to which the chairman would and should consult delegations on its wording, and whether there should be an attempt to have it accepted as a consensus document. Ambassador Salander made it clear late in the session that he was proposing to issue the text as an annex to the formal report on the session on the basis of his authority as chairman alone, and while he might discuss some elements of a possible text privately with specific delegations in order to anchor it, the definitive text would not be open to negotiation or amendment. This course of action was arguably in line with one interpretation of the intention of the drafters of the revised process, which was to avoid some of the unproductive conflict over consensus wording that had afflicted the 1998 and 1999 PrepCom sessions.⁵²

The Chairman’s Factual Summary was issued to delegations late on the penultimate evening of the session, too late for many delegations to consult capitals on the matter, and then placed before the session late on the Friday morning, giving delegations limited time to respond before the end of the morning meeting. Although most of the NWS complained that the text was unbalanced in that it devoted too much space to disarmament issues, and Iraq found the characterization of its behavior unacceptable, there was general acceptance that the chairman had made a reasonable effort to produce a factual summary, and all were prepared to accept its transmission “to the next session for further discussion.” However, doubts arose over whether the next chairperson would be able to repeat the process in the way it had been managed by Ambassador Salander, and whether his unique experience of having an NPT meeting finish half a day early would be equalled.

Some Final Thoughts on 2002

Although superficially the smooth and (relatively) harmonious outcome to the 2002 PrepCom appeared to vindicate some of the changes made in 2000 to the review process, considerable frustration appears to have been felt by many delegations, particularly by the Canadians and

South Africans. Both these delegations expressed their dissatisfaction over the session's emphasis on exchanging information about detailed national positions, rather than engaging in a dialogue about the challenges facing the regime and attempting to offer solutions to the problems confronting it. However, some others argued that South Africa had itself contributed to this outcome by not participating in the debate and reserving its position until later sessions.

Before the session, there had been discussions about whether "information sessions" should be allowed within the framework of the meeting, but no consensus emerged on implementing this idea.⁵³ However, an opening was made to enable such activities to take place in the future through the chairman's allowing a presentation to be made on behalf of the IAEA within the safeguards cluster. This presentation was open to both delegates of states and representatives of NGOs.

Throughout the session, it remained unclear whether the inability of the states parties to engage in the interactive exchanges on key issues that some of them sought was a product of deficiencies in the procedural arrangements for the session, or their own unwillingness to engage in such a process in the first place.⁵⁴ However, the states that expressed their frustration over the lack of a meaningful dialogue and interaction at the session gave notice that they would return to this issue, and the linked matter of reporting, at the next session. In addition, the Canadians proposed the convening of an intersessional meeting to discuss this matter.

This analysis might lead one to conclude that the decision taken in 2000 not to attempt to negotiate a consensus document at the first two sessions was partly responsible for the strangely subdued nature of the 2002 meeting. The lack of pressure on delegations to try to reach agreement meant that statements of the positions of individual states and groups of states went unchallenged, other than through a limited number of requests for rights to reply. This situation gave the session its superficially harmonious atmosphere, but led some participants to question whether the review process could remain relevant if it was to become a long and drawn out two-week routine of simply repeating government positions.

The lack of transparency in the drafting of the 2002 Chairman's Factual Summary also provoked questions over the role of the review process. Ambassador Salander's draft document was not circulated until late on the final Thursday evening, with its official consideration scheduled for

Friday morning, leaving no time to debate its contents or revise the text. From the perspective of conference management, this procedure had advantages, as it put the onus on the heads of delegations either to accept the language or take responsibility for torpedoing the PrepCom in its final hours.

Looking beyond the obvious organizational benefits of this strategy, it is possible to foresee problems for the future: one practical, and the other more philosophical. First, is this opaque drafting procedure feasible a second time and, if not, how will the factual summary be produced by the chair of the 2003 session of the PrepCom? Second, is such a strategy desirable in terms of the overall objectives of the review process? It could be argued that this lack of transparency in the drafting of the chairman's report is symptomatic of a wider problem with all the disarmament and nonproliferation regimes. Taking Dhanapala's medical analogy further, there is a sense that the NPT review process is under such severe strain that it has been sedated: Interaction over the difficult issues has been put on hold. But the wisdom of this approach has to be questioned: How will it affect the long-term health of the regime? It could be argued that there are benefits to keeping the review process ticking over, especially if this translates into superficial perceptions of the continued strength of the treaty and its associated regime. However, there is also a danger that the failure to acknowledge strategic and political realities and to grapple with the fundamental difficulties inherent in the regime could undermine its value and long-term credibility.

PROSPECTS FOR THE 2003 SESSION

The second session of the PrepCom for the 2005 NPT Review Conference will meet at the UN in Geneva from April 28 to May 9, 2003. The substantive context in which it will meet, as Ambassador Dhanapala has indicated, will be one of enhanced skepticism over U.S. commitments to nuclear disarmament. It will also be conditioned by the mode of any enforced disarmament and/or regime change in Iraq, by the withdrawal of the DPRK from the regime, whether further terrorist outrages have occurred, and developments in the Middle East and South Asia. The session is also likely to be influenced by two nonsubstantive matters: whether states will regard the 2004 session as the only one they should focus on, as this will be the one where they will negotiate recommendations to the 2005 Review Conference, and the significance they will attach to the

linked issues of reporting and dialogue on key issues, as against information exchanges.

Substantive Issues

Noncompliance

Iraq and the DPRK are the two obvious targets in debates on noncompliance at the PrepCom though others, such as the third partner in the “Axis of Evil” declared by U.S. President Bush, Iran, may also be named. In the Iraq case, three issues are likely to dominate. The first is whether inspections by UNMOVIC and the IAEA or actions by the UN or its member states lead to evidence that Iraq has breached its IAEA safeguards and NPT nonproliferation commitments since UNSCOM activities in Iraq ceased in 1998. A second is the implications of the discovery of undeclared capabilities in the chemical, biological and missiles fields that indicate breaches of other nonproliferation treaties and UN resolutions. A third issue is the nuclear monitoring and inspection arrangements for the long-term nuclear disarmament of Iraq and their credibility. Although the latter issue is more likely to emerge in 2004 than in 2003, it would enable Iraq and other Arab states to argue that other aspects of UN Security Council resolution 687 of 1991 should be addressed, in particular paragraph 14 on “the goal of establishing in the Middle East a zone free from weapons of mass destruction.”

Much will therefore hinge on the actions of Saddam Hussein’s regime in relation to Security Council resolution 1441,⁵⁶ and whether states parties will judge that Iraq is in the process of providing “an accurate, full and complete declaration” of its WMD activities. Verifying Iraq’s declaration may take considerable time, though the nuclear aspects of it may be more rapidly addressed than the others. In 1998 no evidence was available to suggest that Iraq’s nuclear program had not been dismantled and its components destroyed by UNSCOM, unlike its other WMD capabilities.

One aspect of this process is how long key members of the UN Security Council, and in particular the United States, will continue to allow the IAEA and UNMOVIC to discharge their UN Security Council mandate before choosing to take the matter into their own hands. There is also the question of how Security Council members will respond to either of the two obvious potential outcomes of the inspection process: a declaration by UNMOVIC and the IAEA that Iraq is in full and verified compliance

with its obligations under relevant Security Council resolutions, including its NPT obligations, or confirmation that Iraq is in serious material breach of its treaty commitments. It is doubtful whether the former will occur before the PrepCom session convenes, but in the event of the latter, much will depend on the ability of the United States and United Kingdom to secure Security Council backing for military action against Iraq. In the event of military action by the United States and its allies without Security Council backing, the consequences of this first “proliferation war” for any debate on noncompliance at the PrepCom can only be regarded as unpredictable. Its collateral impact on the attitudes of states parties to other issues related to nonproliferation is also uncertain.

The noncompliance debate has also moved on since the first PrepCom session with respect to developments in the DPRK. Reports in mid-October 2002 suggested that Pyongyang had been engaged in an undeclared uranium enrichment program, using imported technology.⁵⁷ The IAEA asked the DPRK to confirm these reports and provide all relevant information, including material on other longstanding issues relevant to the DPRK’s compliance with its obligations under the NPT safeguards agreement, but was rebuffed. The DPRK then stated that, as a consequence of U.S. actions, it regarded itself as freed from all commitments not to restart its indigenous power reactor program, which had been frozen after 1994.⁵⁸ This statement—followed by further acts of defiance on the part of Pyongyang, which impeded the operation of the surveillance cameras in place in its nuclear facilities—requested the immediate departure of all IAEA staff. Agency inspectors were therefore forced to leave at a time when their presence had become more critical than ever. Finally, the DPRK announced its withdrawal from the NPT on January 10, 2003, which it argued would come into effect the next day, as it had suspended its 1994 withdrawal on the last day of the required notice period and thus did not need to give a further three months’ period of notice to other NPT states parties and the UN Security Council. Other NPT parties have not accepted this interpretation of the treaty. It remains unclear how this situation will further evolve, though all parties appear to favor a negotiated, rather than military, solution.

Article VI and the 13 Steps

Whereas the 2002 PrepCom was underlain with concerns over U.S. backtracking on the “13 Steps” and leaked revelations from the U.S. Nuclear Posture Review, the main

concerns surrounding nuclear disarmament issues during the 2003 session are likely to be assertive U.S. external policies in general and the Bush administration's new National Security Strategy in particular.⁵⁹ This strategy relies heavily on counterproliferation and preemptive action to "deter, dissuade, and defeat" adversaries armed with WMD; appears to minimize the role of diplomacy and arms control in dealing with security threats; and seems to seek to maintain, and perhaps even expand, U.S. nuclear capabilities.

In adopting this strategy, and openly pursuing it, the Bush administration has been perceived as sending two unsettling messages to the rest of the world. One is that the United States, as the world's only superpower, is not bound by all its treaty commitments and thus can itself determine what are the current rules of the international game. More specifically, it may be prepared to support only those treaties that limit the capabilities of other states, not its own. The second is that norms and agreed international rules of arms control and nonproliferation are unable to prevent proliferation and thus do not necessarily serve U.S. international security interests.⁶⁰ In short, the internationalist and cooperative philosophy which guided U.S. leadership of the nuclear nonproliferation enterprise since the late 1950s appears to have been supplanted by a narrower, more self-centered set of policy guidelines.

This new strategy is unlikely to have a positive impact on multilateral arms control and non-proliferation activities. Indeed, it is possible that U.S. backtracking on its commitments to the 2000 NPT Final Document, the BWC, and elsewhere could create such a powerful backlash from states committed to multilateral arms control that it could generate a desire to make certain that the 2003 PrepCom is regarded as a failure whatever other more positive events surround it. Although the United States has tried to defend its NPT credentials by claiming that the May 2002 Strategic Offensive Reductions Treaty (SORT) helps meet U.S. disarmament commitments, nothing can conceal the fact that this agreement does not mandate the dismantlement of a single warhead or missile, that it does not constrain the numbers of reserve warheads, or that it lacks new verification measures. Nor does it help the U.S. case that a majority of the items listed in the program of action for disarmament in 2000 are now unlikely to be achieved in 2005, and several have been purposefully abandoned by the United States on the basis that the current disarmament agenda is largely irrelevant in the post-Cold War political and strategic context.

The question that is likely to concern many states in the lead-up to the 2003 session, therefore, is whether the NPT and the other WMD regimes can survive if the most powerful states appear to "cherry pick" the obligations they wish to follow and exempt themselves from those commitments they wish to disregard. In these circumstances what is the point in making the agreements in the first place, and in supporting the NPT? And to what extent will such behavior encourage similar actions by those states parties who may also wish to depart from long-standing commitments that no longer appear to serve their immediate security interests, leading to actions that erode non-proliferation norms and withdrawals from the treaty?⁶¹

Of more profound significance, however, may be the sense that nuclear disarmament has fallen off both the U.S. national and international agendas as the visible focus on its nonproliferation efforts has moved to defensive and pre-emptive measures, rather than diplomatic arrangements to discourage states from proliferating in the first place. The desire not to be bound by existing ties in order to be free to take advantage of new technological developments is a luxury the powerful can afford, but not the rest of the world. One specific area where this applies is non-strategic nuclear weapons where no frameworks of formal control exist, and over which many European states have specific concerns. Moreover, talk of usable nuclear weapons, however remote they may be from the minds of policy makers, has the effect of undermining the balance of interests and pressures upon which the NPT text was based, as well as stimulating interest in military use by the United States and other NWS and proliferation by some NNWS.

It was apparent in 2000 that the period through 2010 would be critical to the existence of the NPT as the NWS, but more particularly the United States, would have to make decisions about whether or not to start new nuclear weapon system programs in order to replace capabilities acquired during the Cold War. These choices now seem likely to come sooner, rather than later, and threaten to create a crisis of confidence among leading NPT supporters over both the treaty's ability to deliver on the disarmament and nonproliferation products they have sought through it, and the relevance of its associated disarmament and other agendas in the current strategic and political contexts. Although it may be argued that ultimately the positive benefits of the treaty will always prove stronger than the effects of such disappointments, such an outcome is not guaranteed.

Universality and Withdrawals from the Treaty

With the decision by Cuba to accede to the NPT in September 2002, it is now unclear what further practical progress is possible toward universality of the treaty.⁶² As India, Israel, and Pakistan, the remaining nonparties, are all de facto nuclear weapons states, they would have to disarm before acceding to the treaty. Despite international pressure from some quarters, it seems increasingly unlikely that any of the three will decide to forego their nuclear option in the foreseeable future. The most serious obstacle to this is clearly the regional instability affecting both the Middle East and South Asia.⁶³ Added to this, the lifting of sanctions on India and Pakistan, Russian nuclear trade negotiations with India, and undiminished U.S. support for Israel have given all three de facto NWS a degree of informal recognition as nuclear weapon states that is unlikely to act as an incentive toward nuclear disarmament.

This has left the NPT parties with no easy criteria of "progress" in strengthening the regime, such as recruiting additional parties, and a situation where the only room for movement in this area is that of states leaving the treaty. Indeed this is what happened in January 2003, when the DPRK announced its withdrawal from the treaty (or will happen on April 11, 2003, if it is regarded as having given its notice of withdrawal in January). The parties will thus need to decide how to respond to this event. Procedurally, there is the question of whether this response should be contained in the 2003 Chairman's Factual Summary, or in a separate document, or a resolution or statement annexed to the formal report of the meeting. The latter, however, might raise some of the issues over the powers of the PrepCom that emerged in 1998, unless these powers are now regarded as being inherent in the wording of the relevant section of the 2000 Final Document.

Substantively, it can be presumed that the response will depend on actions taken by the Security Council in response to the DPRK's actions, but would probably include demands that it should not manufacture, test, or deploy nuclear weapons; should accept IAEA full-scope safeguards; and should rejoin the treaty as a NNWS. Another possibility would be for the states parties to assert that membership of the NPT implies an irrevocable commitment to both its nuclear nonproliferation and disarmament commitments, and thus implicitly refuse to accept the finality of the DPRK withdrawal.

The chairman's factual summary in 2002 noted that, during the PrepCom, "States parties called upon Israel to accede to the Treaty as soon as possible," and "expressed concern at the increased tension in South Asia and the

continuing retention of nuclear weapons programmes and options by India and Pakistan."⁶⁴ Although this reflects long-standing unease among states parties over the proliferation of WMD in both regions, no new ideas were presented as to how the universality of the NPT could be achieved. The call for the implementation of the 1995 Resolution on the Middle East, including the establishment of a Middle East zone free of nuclear weapons, simply repeated the unfulfilled recommendations of 1995 and 2000, as did the call for India and Pakistan to implement Security Council Resolution 1172.

The question that will confront the 2003 session is whether there is any point in states parties simply restating the same rhetoric from one year to the next. More specifically, is a more constructive approach possible that reflects current realities without conceding issues of principle? In an interview published in the Summer 2002 edition of the *Nonproliferation Review*, Ambassador Salander admitted that there is a "lack of good ideas about this critical issue."⁶⁵ He pointed to the fact that it is not possible, under the provisions of the treaty, to give the remaining nonparties status as nuclear weapons states, but acknowledged the need for a significant exchange between them and the NPT parties. Should states parties, therefore, accept that these de facto NWS are unlikely to accede to the NPT in the near future and, rather than excluding the states in question from discussions, seek ways to engage them?

Under existing arrangements for the attendance of non-NPT states at NPT conferences, India, Israel, and Pakistan have the right to "appoint officials to attend meetings of the plenary and of the Main Committees, other than those designated closed meetings," and also to "submit documents to the participants in the Conference."⁶⁶ One way to engage the de facto NWS more effectively could be to adapt these arrangements, and allow limited speaker's rights to these three holdouts. Previously, such speaker's rights were granted to the states that had signed the NPT but had not ratified it. No states currently fall into this category. This might be implemented at the chairman's discretion, or in the form of a specific period of time within the conference set aside for such a dialogue. It would allow a limited formal interaction where none currently exists and may provide the opportunity for new thinking and for achieving greater consensus between states parties and nonparties on nonproliferation and arms control issues. Whether the three nonparties would wish to take up such an offer, as against holding out for full legal recognition as NWS, would be a matter for consultations and possibly negotia-

tions, as too would the question of existing parties agreeing to such an arrangement. However, as no voting rights are involved, it arguably offers no recognition of nonparties as nuclear weapon states. One possible focus of such an exchange could be the issue of whether all three states are prepared to abide by relevant export control guidelines. In addition, issues of nuclear safety and fissile material security might also be addressed. A parallel proposal related to the NSG was made recently by the director general of the IAEA.⁶⁷

Security Assurances and NWFZ

Security assurances and NWFZs have always been closely interlinked. Conditional unilateral negative security assurances and very limited positive ones have been offered to states parties by the NWS in the context of the NPT, whereas unconditional multilateral negative ones have been a feature of NWFZ treaties. On the latter, significant progress toward the conclusion of a NWFZ treaty in Central Asia was heralded by the announcement on September 27, 2002, that Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan have reached agreement on a treaty text.⁶⁸ However, despite this development, concerns are likely to persist over the credibility of NWFZ assurances, and those given to NPT parties generally, due to the effect of antiterrorism policies on deterrent doctrines, and in particular the move to policies of studied ambiguity in both the use of pre-emptive attacks and the availability of all weapons in a state's armory to fight international terrorism. Thus, while legal commitments may remain, the move on a doctrinal level from clear statements of what states will not do to assertions that no options are excluded has generated perceptions that the assurances have been degraded.⁶⁹

In 2004 and 2005, the issue of legally binding security assurances will be on the agenda, as the PrepCom has to make recommendations on this to the Review Conference. It thus appears probable that this issue will have a more significant role to play in the 2003 session than in that of 2002, and may even attract proposals for draft protocols on the subject, as in the 1997-2000 PrepCom cycle.⁷⁰

Terrorism

Although outrage over the brutality of the 9/11 terrorist attacks on the United States was clearly expressed by states parties at the 2002 PrepCom, fears that responses to global terrorism could undermine multilateral arms control and the nonproliferation regimes were implied, rather

than openly discussed. An undercurrent of fear and unease over this issue was apparent in the statement by Norway, in which its representative acknowledged that "the 11th of September 2001 dramatically changed the international agenda," and went on to caution states parties to adopt a "balanced approach" to combat international terrorism—one that includes the "strengthening of multilateral arms control and non-proliferation regimes and further steps toward nuclear disarmament."⁷¹ This reflected two clear concerns: that the multilateral regimes, being state-to-state entities, would be regarded as irrelevant to dealing with the new threats from international terrorism; and that as a consequence, the regimes would be neglected, if not ignored, as direct action was taken against such terrorist organizations.

Concerns that the threat of global terrorism is being used to justify the nonfulfilment of existing commitments, particularly those adopted by consensus in the Final Document of 2000, are likely to surface again in 2003. One particular area of difficulty is that of transparency. Denying information to terrorists about national nuclear capabilities on the one hand, and demanding transparency and accountability over national nuclear arsenals and fissile material stocks on the other, may sometimes conflict. Another is the change in attitudes toward India, but more particularly Pakistan, as a consequence of the events of September 11, 2001. However, criticism over the slow progress, and even backtracking, over nuclear disarmament measures may be tempered by praise for steps that have been taken since the last session to improve nuclear safety and security.

Discussion of the terrorism issue is therefore likely to fall into two broad categories: on the one hand, concern that the terrorist threat must be kept in perspective, must not be allowed to derail progress in multilateral disarmament, and must not be used to justify national doctrines and security policies that undermine the nonproliferation regime; on the other hand, awareness that, while in some respects the future of the NPT is threatened by responses to terrorism, in other respects it may assist in strengthening it.

The risk of nuclear terrorism has lent an unprecedented sense of urgency to the nuclear safety debate, which could well be harnessed at the 2003 PrepCom to raise the barriers to misuse of nuclear material by both state and nonstate actors. Recognition of the crucial role that the strengthened review process is playing and can continue to play in this regard, and its direct relevance in denying capabilities to nonstate organizations intent on implementing acts of terrorism, is not lost on national

delegations. Although they may view progress on multi-lateral nuclear disarmament as unrealistic at present, they can see opportunities for progress in the application of safeguards and the implementation of nuclear safety and physical protection measures. Positive statements on these issues are therefore likely to play an important role at the next PrepCom.

Safeguards and Peaceful Uses

Significant efforts have been made since the first PrepCom session to encourage NPT parties to accept and implement the Additional Protocol to the standard IAEA safeguards agreement. Such protocols have been signed by Japan and other states, though the number of states involved is still not climbing rapidly. However, many of the Middle Eastern states seem likely to continue to regard the implementation of the Additional Protocol as a lesser priority than having Israel accept a standard full-scope safeguards agreement. The IAEA will also have significant activity to report in the field of physical security following the impetus provided by the enhanced perceptions of the threat of global terrorism. In addition, the role of export controls and national fissile accountancy may also be emphasized. Both are areas where the non-proliferation regime can claim to be of direct relevance to the "war on terrorism," by preventing nuclear and radiological material from reaching terrorist groups and, if this fails, to limit the damage.

Procedural and Organizational Issues

Reporting

It seems inevitable that the issue of reporting will return to play a significant role at the 2003 PrepCom session, if only because several key states regard the reporting commitments made in 2000 as their main tool for pressuring the NWS to implement the commitments they made in the disarmament area in 2000, and also those associated with the Middle East. It is both a practical and a symbolic issue, and thus one that they are unlikely to ignore. There exists a deadlock at the moment between those NWS that take a minimalist view of the reporting commitments and those NNWS who take a maximalist position. These positions apply to five issue areas: the frequency of reporting, the form of the reports, the structure of the reports, the breadth of the reporting, and the methods of encouraging a dialogue over the reports.

The original text proposed in the 2000 Final Document for the frequency of reporting stated that there should

be "annual" reports, which appears to have been modified to "regular" when it was pointed out that in the year after a review conference there would be no forum to receive the report.⁷² Thus the text offers no indication as to the precise regularity of the reports. In 2002, the predominant view among the NWS was that the text left it to their discretion to decide whether to report at a particular session, while the NNWS believed that the negotiating history indicated it should be at each PrepCom session. In practice, however, it appears likely that the NWS will be prepared to report at each session, but not commit themselves to this formally, and thus this dispute should be resolvable on an ad hoc basis. Nonetheless, the lack of commitment will probably continue to be seen by many NNWS as an example of the NWS retreating from a previously agreed position.

The issue of the form of the report concerns whether it should be presented orally or as an informal or conference paper. The 2000 text said nothing about the form of reports in the disarmament area, but it did indicate that those on the implementation of the Resolution on the Middle East were to go to the UN Secretariat. The secretariat was to prepare a compilation of them for consideration at the meeting, and this wording appeared to imply that they should be circulated by the secretariat in paper form. In practice, all the NWS made reports on their disarmament activities in 2002, but not all circulated official paper copies of them, and only one did so in the form of a session working paper.⁷³ Since the NWS reports were presented in the closed cluster discussions, they ranged from those that were available in paper form in all UN languages to all participants, including NGOs, to those that were presented only in verbal form, and thus were not easily available for later examination by everybody.

The matter of the structure of the reporting revolved around a desire to have the reports in a standard format that would facilitate comparison between the disarmament activities of the five NWS. This approach would have implied agreement on what was to be reported and what content was expected in each area, thus generating a de facto nuclear weapon register as well as highlighting commitments that had not been met. However, no headway was made on this issue in 2002 and no detailed dialogue took place on the type of information desired. Moreover, the NWS were clearly not inclined to report in any format other than one they individually chose to use, and nothing thus far indicates that their position will change significantly in 2003.

The fourth issue was whether reports should be confined to the commitments made in the 2000 Final Docu-

ment alone, or whether they should also include all articles of the NPT. This proposition was linked to a second procedural matter, namely the desirability of structuring the PrepCom around the treaty articles rather than the main committee structure of the Review Conferences. Although two NNWS reported in this manner in 2002,⁷⁴ this issue appears likely to have a lesser salience in 2003 than the other three—largely because of the perceived relationship between these three issues and that of the “permanence with accountability” seen by some as underpinning the 1995 agreement on the duration of the treaty.

Finally, there is the matter of facilitating a dialogue between the NWS and the NNWS on the basis of the reporting activities, and how this might be achieved. Attempts were made to stimulate such unstructured exchanges at the 1997 PrepCom session, but failed to generate active participation, and since that date no satisfactory method of implementing this idea has been found.

The Factual Summary

In 2002 the chairman chose to take responsibility for creating the factual summary and engineered the endgame of the session in a manner that made it both difficult not to accept his document and also rather pointless, as it was a nonconsensus document of limited authority. Little consultation took place over it with states parties, and what did occur involved very specific elements and took place late in the session. While this strategy made for effective conference management, it also generated concern over both the lack of transparency with the process and the prospect that some delegation would reject totally a chairman’s text, rather than just criticize it. Although the 2003 chairperson will have the advantage of having the 2002 chairman as part of the chair’s bureau, whether all delegations will be prepared to continue to accept the process used in 2003 cannot be taken for granted, especially if events surrounding the disarmament of Iraq prove highly contentious. Much will also depend on the significance that delegations attach to the factual summary, which this time will go to the PrepCom, which will then make recommendations to the Review Conference.

Dialogue or Information Session

One issue that emerged clearly from the 2002 PrepCom, and will no doubt remain prominent in 2003, is whether the exercise should be restricted to an exchange of information on state policies in the areas covered by the PrepCom agenda. As the 2002 chairman has indicated, the current arrangements do not appear to encour-

age states to engage in interchanges on policy statements, other than between Iraq and others over its policies, or to embark on a problem-solving dialogue on the challenges facing the regime in future.⁷⁵ Although there was considerable frustration in 2002 over the inability of the conference to engage effectively in such activities, whether it will ever be achievable is open to question, especially given the lack of flexibility assigned to some heads of delegation and the limited objectives now set for the first two PrepComs in the revised review cycle. Achieving such dialogue would probably require a rather more formal process than currently exists, possibly with time set aside for comments and responses to individual states reports, and possibly stretching over several sessions. Alternatively, it might be done in the more informal format used for the IAEA presentation in 2002, with an audio-visual presentation followed by questions and answers.

SOME CONCLUSIONS

In the last 35 years the international community has striven to control weapons of mass destruction through the creation of international regimes. The oldest of these is that associated with the NPT. Through to the end of the Cold War, the one area of arms control where there was a near-guaranteed consensus between the United States and the Soviet Union was in the need to support the nuclear nonproliferation regime, even if they differed greatly over other aspects of nuclear arms control. Some would argue that this was because it was in their self-interest to do so, as they did not want to be dragged into a nuclear exchange by the uncontrollable actions of a nuclear-armed ally. And despite the differences between them, both continued to pay lip service to the basic proposition that they were seeking to achieve nuclear disarmament, and did not challenge the international norm of nonpossession underlying the NPT.

In the Cold War context, the review process of the NPT served as a safety valve for the frustration generated by the knowledge that the multilateral nuclear disarmament negotiations were not likely to produce much in the way of practical results. As a consequence of the large numbers of states that were nonparties to the NPT and of parties not being prepared to act energetically against proliferation so long as it was not overt, the regime succeeded in sustaining an appearance of health despite its true, rather problematic condition, marred only by failure to reach agreement on a Final Declaration at the 1980 and 1990 Review Conferences.

After 1991, the international nonproliferation situation can be argued to have changed drastically in several respects. The most significant was probably that nuclear disarmament appeared to be a practical possibility due to the cessation of the Cold War divisions and animosities fueling the nuclear arms race. The expectations this change created were initially sustained by agreement on the Chemical Weapons Convention and the creation of the Organisation for the Prohibition of Chemical Weapons; the signing of a CTBT and the setting up of the Comprehensive Test Ban Treaty Organization; agreement on nuclear weapon free zones in Africa and South East Asia, and the signature of all relevant states on the Treaty of Tlatelolco (establishing the Latin American Nuclear Weapon-Free Zone); the large-scale reduction in nuclear weapon stockpiles by the Russian Federation and the United States; and the reduction in readiness levels of U.S. and Russian forces. One consequence was that the type of incremental process of reductions foreshadowed by the 1995 *Principles and Objectives* and fleshed out in the 2000 Final Document, appeared achievable and generated expectations that through its implementation, a long-term process of disarmament could be implemented to resolve the cataclysmic nuclear weapon threat.

It is ironic that this review process has been made increasingly problematic by the U.S. decision no longer to regard Russia as a significant security threat. This position appeared to some states to render largely irrelevant the bilateral adversary arms control agreements and mechanisms that had been laboriously constructed after the NPT entered into force. As a result, the prime threat to the strength of the long-standing nonproliferation regime now appears to emanate from the consequences of the collapse of the Cold War global security structure, as well as the need to focus its security concerns more on national than international means to combat nuclear proliferation and on ensuring compliance with existing non-proliferation commitments. For although the NPT is now near universal, it appears that key *Principles and Objectives* agreed in 1995 are perceived by the United States and others as having only limited value in confronting the new threat matrix. It is not that nuclear disarmament by the NWS is seen to be unacceptable as a policy objective, so much as it is viewed as ineffective in addressing current threats.

In parallel, the value of the NPT as a nonproliferation mechanism has also been undergoing change. Ironically, one reason is that, since only three states are now nonparties and realistic ideas for bringing them within

the NPT ambit are sparse, if not nonexistent, one previous method of strengthening the treaty, increasing its membership, is no longer available. Equally, Iraq and the DPRK have been able to defy international opinion and backslide from their nonproliferation commitments, with the latter withdrawing from them altogether. Indeed, the actions of Iraq have exposed a serious weakness in the treaty: Its procedures do not allow for states that breach its rules while remaining in the treaty to lose any of the privileges of membership.⁷⁶ This includes the ability to threaten to deny consensus to a document if it criticizes their actions, thus seemingly rendering the review process impotent in this context.

The multilateral nuclear nonproliferation regime's foundations thus appear to be eroding. On the one hand, the vitality appears to have gone out of the disarmament negotiating process in both the multilateral and bilateral areas, and it is now drifting rudderless and without power within the international system. On the other hand, the legally binding nuclear nonproliferation regime, in contrast to forceful U.S. leadership over nonproliferation policy within the UN Security Council, appears impotent to handle renegades, though it remains significant as a means of providing guidelines and reassurance to the overwhelming majority of compliant states. Thus the 2003 PrepCom session will be challenged by two core issues. One is how to respond to states walking away from the commitments they made in 1995 and 2000, and whether the response should take a procedural form as well as a substantive one, for example by insisting that reporting on these commitments be included in the indicative agenda. A second is whether the nonproliferation and disarmament agendas now need to be rethought and reformulated if they are to remain relevant in contemporary circumstances. And can this reevaluation be done in the NPT context only by abandoning the traditional search for displaying strength through consensus, even if that consensus is based on the lowest level of agreement? Indeed, should the key function of the review process now be to facilitate "modernization" of the regime through dialogue and debate, even if this generates the visible disagreements that have in the past been regarded as a sign of regime weakness?

It may be significant that the 2003 PrepCom is the last of the two under the revised procedures where there is no requirement to negotiate on agreed recommendations to the 2005 Review Conference. It could be the last occasion for some years when delegations will be free to engage in a wide-ranging interactive debate on the rel-

evance of the existing regime foundations and structures in the evolving international security context.⁷⁷ To hold this debate may require alterations to the procedures through which the review process operates, though some have argued it could be done within the existing ones if sufficient political will existed.⁷⁸ Such a debate may enable tentative conclusions to be reached about how these foundations and structures might be amended without necessarily changing the text of the treaty.

The danger is that if States Parties to the NPT do not take this opportunity, but play safe by indulging in another "information session" on current national positions, they may be consigning the regime to a slow, quiet death from perceived irrelevance. The problem, however, is that if they do choose to tackle the profound problems facing the regime and engage in frank, vigorous debate, they risk creating the impression that the regime is collapsing. In practice, of course, disagreements in the Security Council over how to handle Iraqi disarmament and DPRK withdrawal from the treaty may generate such a debate of their own accord. But to return to Ambassador Dhanapala's medical analogy, it is only by recognizing that the patient is ill and discussing what medication or surgery best suits its ailments that its long-term survival, and that of the important international norms it embodies, will be ensured. The choice is a difficult one, but it is one that all delegations ought now to address.

¹ See, for example, Rebecca Johnson, "The NPT PrepCom: Papering Over The Cracks?" *Disarmament Diplomacy*, No. 64 (May/June 2002), <<http://www.acronym.org.uk/dd/dd64/64npt.htm>>.

² Jayantha Dhanapala, "The Relevance of the Regimes," Plenary Address, Carnegie International Non-Proliferation Conference, Ronald Reagan International Trade Center, Washington D.C., November 15, 2002, <<http://www.ceip.org/files/projects/npp/resources/2002conference/speeches.htm>>. Ambassador Dhanapala presided over the 1995 NPT Review and Extension Conference (NPTREC).

³ See Stockholm Peace Research Institute (SIPRI), "The Implementation of Agreements Related to Disarmament," *World Armaments and Disarmament: SIPRI Yearbook 1976* (London: Taylor & Francis, 1976), pp. 363-92; Final Declaration of the Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, May 30, 1975, Appendix 9A, pp. 403-13.

⁴ SIPRI, "The Second NPT Review Conference," *World Armaments and Disarmament: SIPRI Yearbook 1981* (London: Taylor & Francis, 1981), pp. 297-338.

⁵ Jozef Goldblat, "The Third Review of the NPT Treaty," *World Armaments and Disarmament: SIPRI Yearbook 1986* (Oxford: Oxford University Press, 1986), pp. 469-80; Final Declaration of the Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Appendix 20A, pp. 481-94.

⁶ David Fischer and Harald Müller, "The fourth review of the Non-Proliferation Treaty," *World Armaments and Disarmament: SIPRI Yearbook 1991* (Oxford: Oxford University Press, 1991), pp. 555-584; John Simpson, "The 1990 Review Conference of the Nuclear Non-Proliferation Treaty: Pointer to the Future or Diplomatic Accident," *Round Table*, No. 318 (April 1991), pp. 139-154.

⁷ For a comprehensive discussion of these concerns and some contemporary ideas on alternative ways of conducting these conferences see Ben Sanders, "NPT

Review Conferences and the Role of Consensus," *PPNN Issue Review*, No.4 (April 1995), Mountbatten Centre for International Studies for the Programme for Promoting Nuclear Non-Proliferation.

⁸ For an analysis of the issues in the lead-up to the 1995 Review and Extension Conference, see John Simpson and Darryl Howlett, "The NPT Renewal Conference: Stumbling Toward 1995," *International Security* 19 (Summer 1994), pp. 41-71; John Simpson, "The 1995 NPT Conference: Substantive Issues Will Shape the Outcome," *Security Dialogue* 25 (1994), pp. 223-236.

⁹ John Simpson, "The Nuclear Non-Proliferation Regime after the NPT Review and Extension Conference," *World Armaments and Disarmament: SIPRI Yearbook 1996* (Oxford: Oxford University Press, 1996), pp. 561-589.

¹⁰ *Ibid.*, p.590; The Conference of the States Party to the Treaty on the Non-Proliferation of Nuclear Weapons, Extension of the Treaty on the Non-Proliferation of Nuclear Weapons, NPT/CONF.1995/32/Dec.3, May 11, 1995.

¹¹ Simpson, "The Nuclear Non-Proliferation Regime after the NPT Review and Extension Conference," pp. 591-93; Conference of the States Party to the Treaty on the Non-Proliferation of Nuclear Weapons, Principles and Objectives for Nuclear Non-Proliferation and Disarmament, NPT/CONF.1995/32/Dec.2, May 11, 1995.

¹² Simpson, "The Nuclear Non-Proliferation Regime after the NPT Review and Extension Conference," pp. 590-91; Conference of the States Party to the Treaty on the Non-Proliferation of Nuclear Weapons, Strengthening the Review Process for the Treaty, NPT/CONF.1995/32/Dec.1, May 11, 1995.

¹³ Tariq Rauf and Rebecca Johnson, "After the NPT's Indefinite Extension: The Future of the Global Non-Proliferation Regime," *Nonproliferation Review* 3 (Fall 1995), pp. 28-42; John Simpson, "The 1995 NPT Review Conference: Procedural and Substantive Issues," in Theodore A. Coulombis and Thanos P. Dokos, eds., *Arms Control and Security in the Middle East and the CIS Republics* (Athens: Hellenic Foundation for European and Foreign Policy, 1995).

¹⁴ Conference of the States Party to the Treaty on the Non-Proliferation of Nuclear Weapons, Resolution on the Middle East, NPT/CONF.1995/32/Res/1, May 11, 1995.

¹⁵ Simpson, "The Nuclear Non-Proliferation Regime after the NPT Review and Extension Conference," pp. 590-91; NPT/CONF.1995/32/Dec.1.

¹⁶ Simpson, "The Nuclear Non-Proliferation Regime after the NPT Review and Extension Conference," pp 591-3; NPT/CONF.1995/32/Dec.2.

¹⁷ This item was the fourth and final one adopted by the NPTREC. For an overview of these decision documents and their significance, see Tariq Rauf, "The 2000 NPT Review Conference," *Nonproliferation Review* 7 (Spring 2000), pp. 146-162, <<http://cns.miis.edu/pubs/npr/vol07/71/rauf71.pdf>>.

¹⁸ For organizational purposes, NPT issues are dealt with in three groups: disarmament (Main Committee I/cluster one); safeguards and regional issues (Main Committee II/cluster two); and peaceful uses of nuclear energy (Main Committee III/cluster three).

¹⁹ John Simpson and Emily Bailey, "The 1998 PrepCom for the 2000 NPT Review Conference: Issues and Options," *PPNN Issue Review*, No. 14 (April 1998), Mountbatten Centre for International Studies for the Programme for Promoting Nuclear Non-Proliferation, pp. 3-5; Tariq Rauf, "The April 1998 PrepCom," *Nonproliferation Review* 5 (Winter 1998), pp. 123-126.

²⁰ The three specific topics were: The 1995 Resolution on the Middle East, Security Assurances, and a Fissile Material Cut-off Treaty (FMCT).

²¹ John Simpson and Emily Bailey, The 1998 PrepCom for the 2000 NPT Review Conference: Issues and Options.

²² See Tariq Rauf and John Simpson, "The 1999 NPT PrepCom," *Nonproliferation Review* 6 (Winter 1999), pp. 118-134, <<http://cns.miis.edu/pubs/npr/vol06/62/prep62.pdf>>.

²³ Tanya Ogilvie-White, Ben Sanders and John Simpson, *Putting the Final Document into Practice: Possible Ways to Implement the Results of the 2000 Review Conference*, A PPNN Study (Southampton, U.K.: Mountbatten Centre for International Studies for the Programme for Promoting Nuclear Non-Proliferation, 2002), p. 3.

²⁴ The NAC is a group of seven non-nuclear countries committed to promoting progress in nuclear disarmament and nonproliferation. Its members include: Brazil, Egypt, Ireland, Mexico, New Zealand, South Africa, and Sweden.

²⁵ Many of the steps included in NAC proposals were based on the 1996 Report of the Canberra Commission and the 1996 advisory opinion of the International Court of Justice (ICJ). See Rebecca Johnson, "The 2000 NPT Review Conference: A Delicate, Hard-Won Compromise," *Disarmament Diplomacy*, No. 46 (May 2000), p. 4, <<http://www.acronym.org.uk/dd/dd46/46npt.htm>>.

²⁶ Ibid.

²⁷ The EU, G-10, NAM, and NATO-5 also prepared strategies and ideas in advance of the meeting.

²⁸ See Ogilvie-White, Sanders, and Simpson, *Putting the Final Document into Practice*. See also Tariq Rauf, *Towards NPT 2005: An Action Plan for the "13 Steps" Toward Nuclear Disarmament Agreed at NPT 2000*. (Monterey, CA: Monterey Institute of International Studies, 2001), <<http://cns.miis.edu/pubs/reports/npt2005.htm>>.

²⁹ Final Document of the 2000 NPT Review Conference, Article VI and preambular paragraphs 8-12, paragraph 15, subparagraph 6. See PPNN Newsbrief No. 50 (2nd Quarter 2000).

³⁰ Export controls proved to be one of the most controversial issues of the 2000 Review Conference, which is reflected in the number of paragraphs related to the Nuclear Suppliers Group (NSG) and the Zangger Committee that had to be deleted from the draft Final Document before a consensus could be reached. Underlying the debate was the perception by some NAM states, most visibly Egypt, Iran, and Malaysia, that inclusion of a reference in the Final Document to the Zangger Committee, but more particularly the NSG, would have begun a process of giving these informal bodies recognition and formal status. This subject is covered in Ogilvie-White, Sanders, and Simpson, *Putting the Final Document into Practice*, p. 25.

³¹ UN General Assembly resolution 55/33D, November 20, 2000, <<http://ods-dds-ny.un.org/doc/UNDOC/GEN/N00/561/37/PDF/N0056137.pdf?OpenElement>>.

³² For a discussion of some of the different interpretations of the language adopted in the Final Document, see Ogilvie-White, Sanders, and Simpson, *Putting the Final Document into Practice*. See also Tariq Rauf, "An Unequivocal Success? Implications of the NPT Review Conference," *Arms Control Today* 30 (July/August 2000), pp. 9-16, <http://www.armscontrol.org/act/2000_07-08/raufjulaug.asp>; Norman A. Wulf, "Observations from the 2000 NPT Review Conference," *Arms Control Today* 30 (November 2000), <http://www.armscontrol.org/act/2000_11/wulf.asp>.

³³ See Johnson, "The 2000 NPT Review Conference," p.9. For an overview of the issue of general and complete disarmament and how it was dealt with in the Final Document, see Ogilvie-White, Sanders, and Simpson, *Putting the Final Document into Practice*, p. 18.

³⁴ 2000 NPT Review Conference, Final Document NPT/CONF.2000/28, "Improving the Effectiveness of the Strengthened Review Process for the Treaty," May 24, 2000, paragraph 5.

³⁵ Ibid, paragraph 7.

³⁶ Ibid.

³⁷ Ibid, paragraph 3.

³⁸ Ibid, paragraph 15, subparagraph 7.

³⁹ The UN Special Commission (UNSCOM) was set up to implement the non-nuclear provisions of UN Security Council resolution 687 and to assist the IAEA in the nuclear areas. For the precise terms of the resolution, see UN Security Council resolution 687, April 3, 1991, paragraphs 7-13.

⁴⁰ The United Nations Monitoring, Verification, and Inspection Commission (UNMOVIC) came into being in December 1999. It replaced UNSCOM.

⁴¹ Between January and April 2002, Salander attended some 75 meetings in New York and Geneva and in several capitals. The discussions focused on the changes in the review process decided in 2000, and how to implement them most effectively. See William C. Potter, Mary Beth Nikitin, and Tariq Rauf, "Ambassador Henrik Salander on the 2002 NPT Preparatory Committee," *Nonproliferation Review* 9 (Summer 2002), p. 3.

⁴² The UN Experts Group was tasked to consider ways to promote disarmament and nonproliferation at all levels of formal and informal education, in particular the training of educators, parliamentarians, civic leaders, military officers, and government officials. During the 2002 session of the PrepCom, Japan, Kyrgyzstan, Mexico, and Uzbekistan all mentioned the work of this group and its relevance to the NPT process in their statements during the general debate. See Mary Beth Nikitin, "NPT 2002 Preparatory Committee Concludes," *Research Story of the Week*, April 29, 2002, Center for Nonproliferation Studies, <<http://cns.miis.edu/pubs/week/020429.htm>>. The group reported on its work to the UN General Assembly in September 2002 and the latter adopted without a vote Resolution A/57/124, which asked the Secretary General to prepare a report on the implementation of the report's recommendations.

⁴³ Belgium, Germany, Italy, Netherlands, and Norway.

⁴⁴ German Foreign Ministry, "Non-Strategic Nuclear Weapons," 2002 PrepCom conference paper, NPT/CONF/PC.I/WP.5, April 11, 2002, <<http://www.basicint.org/nuclear/NPT/2002prepcom/C1-Germany.htm>>.

⁴⁵ U.S. Department of State, "Information Paper by the United States Concerning Article VI of the NPT," 2002 PrepCom, April 11, 2002, <<http://www.basicint.org/nuclear/NPT/2002prepcom/C1-USA-ArtVI.htm>>.

⁴⁶ Statement by U.S. Ambassador Norman Wulf to the First Session of the 2002 PrepCom, April 8, 2002, <<http://www.basicint.org/nuclear/NPT/2002prepcom/usa.htm>>.

⁴⁷ Ibid.

⁴⁸ Ibid.

⁴⁹ See Ogilvie-White, Sanders and Simpson, *Putting the Final Document into Practice*, p. 18.

⁵⁰ Johnson, "The 2000 NPT Review Conference," p. 9.

⁵¹ The Russian-sponsored Draft Convention on the Suppression of Acts of Nuclear Terrorism covers the use and storage of nuclear material, as well as its transport, and includes nonsafeguarded material. However, it contains no measures to monitor compliance and, consequently, some states have argued that it does not go far enough. For an overview of how this issue relates to the existing Convention on the Physical Protection of Nuclear Material, see Ogilvie-White, Sanders and Simpson, *Putting the Final Document into Practice*, p. 36.

⁵² Potter, Nikitin, and Rauf, "Ambassador Henrik Salander on the 2002 NPT Preparatory Committee," p. 5.

⁵³ The idea of holding information sessions related to the actions of the United States making presentations (followed by question and answer sessions) to the CD and the 2000 NPT Review Conference on their nuclear forces, doctrines and policies. These sessions had been seen by some as a practical means to engage the United States and other NWS in a useful dialogue over nuclear disarmament outside of formal meetings.

⁵⁴ In an interview in July 2002, Henrik Salander stated that procedural weaknesses did not account for the lack of meaningful interaction between delegations at the 2002 PrepCom. He argued that the success or failure of each session, and of the review process in general, is primarily dependent upon the political will, or lack of it, of governments. He did, however, accept that the format of the strengthened review process, agreed to in 1995 and 2000, has some inherent problems built into it. He stated that "the preparatory meetings shall not be and cannot be mini review conferences," and that "the five yearly conferences therefore take on enormous importance and generate lots of tension and conflict." Potter, Nikitin, and Rauf, "Ambassador Henrik Salander on the 2002 NPT Preparatory Committee," p. 8.

⁵⁵ Whereas the IAEA Iraq Action Team is responsible for the nuclear file, UNMOVIC handles the chemical, biological and missile files. The two organizations have separate inspections teams, but work closely together.

⁵⁶ This resolution was adopted on November 8, 2002, and accepted by Iraq in a letter to the UN on November 13, 2002. It provides a clear mandate in Iraq, with full and explicit authority for unrestricted inspections. It demands that Iraq "co-operate immediately, unconditionally and actively" with IAEA and UNMOVIC. Inspectors are to be granted "immediate, unimpeded, unconditional, and unrestricted access" to any and all sites they wish to inspect, as well as "immediate, unimpeded, unrestricted, and private access" to all officials and other persons they wish to interview. The IAEA are then to report to the council on any evidence of serious transgressions, at which point it will convene to decide what action should be taken. See UN Security Council resolution 1441, November 8, 2002, <<http://www.iaea.org/worldatom/Press/Focus/laealraq/iraqres.pdf>>.

⁵⁷ Details of events related to the DPRK nuclear program since October 2002 can be found in the NAPSNet Daily Reports at <<http://nautilus.org/napsnet/>>.

⁵⁸ Ted Galen Carpenter, "A Nuclear Reaction to North Korea," *Financial Times*, December 13, 2002, p. 21; Jon Wolfsthal, "Time to Deal with North Korea," *Proliferation News and Resources: Carnegie Analysis*, December 12, 2002, <<http://www.ceip.org/files/nonprolif/templates/article.asp?NewsID=4083>>.

⁵⁹ Daryl G. Kimball, "National Insecurity Strategy," *Arms Control Today* 32 (December 2002), p. 2.

⁶⁰ Ibid. The Bush strategy calls for improving U.S. nuclear warhead capabilities intended for pre-emptive strikes on underground facilities suspected of producing chemical or biological weapons. Congress has approved funding for new research on a "robust nuclear earth penetrator" warhead.

⁶¹ These fears were expressed at the 2002 PrepCom by Monsignor Francis

Chullikatt, Deputy Head of the delegation from the Holy See. He stated that “even more serious than the lack of progress [on the 13 Steps] is the overt determination by some nuclear weapon states to maintain nuclear weapons in a critical role in their nuclear doctrines” and to contemplate their use. He went on to argue that “there can be no moral acceptance of military doctrines that embody the permanence of nuclear weapons.” Statement by Monsignor Francis Chullikatt, Deputy Head of the Delegation of the Holy See, to the 2002 PrepCom, April 8, 2002, <<http://www.basicint.org/nuclear/NPT/2002prepcom/holysee.htm>>.

⁶² On September 14, 2002, Cuban Foreign Minister Felipe Perez Roque announced to the UN General Assembly that his government would accede to the NPT and ratify the Treaty for the Prohibition of Nuclear Weapons in Latin America and the Caribbean (Treaty of Tlatelolco). Statement by Felipe Perez Roque, Minister of Foreign Affairs of the Republic of Cuba to the UN General Assembly, September 14, 2002, <<http://www.un.org/webcast/ga/57/statements/020914cubaE.htm>>

⁶³ Violent conflict in Israel and the Palestinian territories has been escalating over the past year, with no sign of moving toward a peaceful resolution. In South Asia, the nuclear confrontation between India and Pakistan that heightened tensions in May-June 2002 has been temporarily defused, although the key flash point over Kashmir remains unresolved and both sides remain committed to nuclear deterrence. These issues are discussed in “That Terrible Pinnacle: Efforts to Move Beyond Nuclear Crisis Management in South Asia,” *Disarmament Diplomacy*, No. 66 (September 2002), p. 19.

⁶⁴ 2002 NPT PrepCom, “Chairman’s Factual Summary,” April 18, 2002, <<http://www.basicint.org/nuclear/NPT/2002prepcom/ChairSummary.htm>>.

⁶⁵ Potter, Nikitin, and Rauf, “Ambassador Henrik Salander on the 2002 NPT Preparatory Committee,” p. 8.

⁶⁶ Final Report of the Preparatory Committee for the 2000 Review Conference of the Parties to the Treaty on the Non-proliferation of Nuclear Weapons, NPT/CONF.2000/1, May 21, 1999, Annex VI on Draft Rules of Procedure, Article X, paragraph 1, Rule 44, “Observers,” <<http://disarmament.un.org/wmd/npt/2000REPT.doc>>.

⁶⁷ Proposal by IAEA Director General, Mohamed ElBaradei, in his keynote address at the 2002 Carnegie International Non-Proliferation Conference, November 14, 2002, Ronald Reagan Conference Center, Washington DC, <<http://www.ceip.org/files/projects/npp/resources/2002conference/speeches3.htm>>.

⁶⁸ The treaty may be signed by the relevant states at the former Soviet nuclear weapons test site at Semipalatinsk, Kazakhstan, during a visit to the region by UN Secretary General Kofi Annan in mid-October 2003. For further details, see Scott Parrish, “Central Asian States Achieve Breakthrough on Nuclear Weapon-Free Treaty,” Research Story of the Week, September 30, 2002, Center for Nonproliferation Studies, <<http://cns.miis.edu/pubs/week/020930.htm>>.

⁶⁹ Perceptions that security assurances have been downgraded have been generated by recent modifications to the nuclear doctrines of some NWS. For ex-

ample, in July 2002, the UK Ministry of Defence released *The Strategic Defence Review: A New Chapter* in response to the heightened threat from global terrorism. Point 22, on Deterrence, begins by stating that “We have made clear that our responses will be proportionate and in accordance with our international legal obligations,” but goes on to say that “we will not let the less scrupulous think we do not mean business, or simplify an aggressor’s calculations by announcing how we would respond in particular circumstances. The only certainty we should offer is that we shall respond appropriately if we need to, using any wide range of options open to us.” UK Ministry of Defence, *The Strategic Defence Review: A New Chapter*, document Cm 5566, Vol. 1, July 2002, p. 12.

⁷⁰ South Africa submitted a working paper to the PrepCom for the 2000 NPT Review Conference on this subject in April 1998, entitled “Security Assurances: A South African Perspective” (NPT/CONF.2000/PC.II/2). This was followed up with a draft protocol the following year. See the “Draft Protocol on the Prohibition of the Use or Threat of Use of Nuclear Weapons Against Non-Nuclear-Weapon States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons,” NPT/CONF.2000/PC.III/9, <<http://www.nuclearfiles.org/prolif/npt99/99-npt-pc3-9.html>>.

⁷¹ Statement by Ambassador Sverre Bergh Johansen of Norway to the 2002 NPT PrepCom, April 8, 2002, <<http://www.basicint.org/nuclear/NPT/2002prepcom/norway.htm>>.

⁷² Final Document of the 2000 NPT Review Conference, Article VI, paragraph 15, subparagraph 12.

⁷³ Chinese Delegation, “Nuclear Disarmament and Reduction of the Danger of Nuclear War,” NPT/CONF.2005/PC.I/WP.6, working paper submitted to the 2002 PrepCom by China, April 19, 2002.

⁷⁴ See the Canadian report on the implementation of the NPT, NPT/CONF.2005/PC.1/11, <<http://www.basicint.org/nuclear/NPT/2002prepcom/Rpt-Canada.htm>>. See also the New Zealand report, NPT/CONF.2005/PC.1/7, <<http://www.basicint.org/nuclear/NPT/2002prepcom/Rpt-NewZealand.htm>>.

⁷⁵ Potter, Nikitin, and Rauf, “Ambassador Henrik Salander on the 2002 NPT Preparatory Committee,” p. 8.

⁷⁶ This issue arose at the 2000 Review Conference in relation to noncompliance by the DPRK and Iraq. See Ogilvie-White, Sanders and Simpson, *Putting the Final Document into Practice*, p. 28.

⁷⁷ Both the UK (in 2000) and Germany (in 2002) have offered documents that could have formed the basis for such a debate, but their efforts were largely ignored. See United Kingdom of Great Britain and Northern Ireland, “Systematic and Progressive Efforts to Reduce Nuclear Weapons Globally: a Food for Thought Paper,” NPT/CONF.2000/23, May 4, 2000; Germany, “Attaining a Nuclear-Weapon-Free World”, NPT/CONF.2005/PC.1/WP.4, April 11, 2002.

⁷⁸ Potter, Nikitin, and Rauf, “Ambassador Henrik Salander on the 2002 NPT Preparatory Committee,” p. 8.