



Report on Wilton Park Conference WP1008

NUCLEAR NON-PROLIFERATION AND THE 2010 REVIEW

Monday 14 – Friday 18 December 2009

Every December since 1996, Wilton Park has hosted a conference on international nuclear relations at which non-proliferation policy has been the centre of attention. The conference in 2009 was naturally preoccupied with the Review Conference of the Nuclear Non-Proliferation Treaty (NPT) that will be held in New York between the 3rd and 28th of May 2010. Great international importance is being attached to this event. The gathering at Wilton Park of 90 scholars and practitioners from 27 countries provided evidence of the increasingly intensive preparation for the Review Conference that is occurring around the world.

Background to the 2010 NPT Review Conference

1. 2010 will be the fortieth anniversary of the NPT's entry into force. It remains the international nuclear order's primary vessel of norms, rules and principles. Participants at Wilton Park came to the conference with a broadly shared narrative on the Treaty's origins, development and recent troubles. The Treaty was concluded in 1968 and entered into force in 1970. The next two decades brought a gradual increase in membership and establishment of an extensive system of verification founded upon International Atomic Energy Agency (IAEA) safeguards. The end of the Cold War brought substantial arms reductions and a raft of accessions to the Treaty, including China and France and the new states created out of former Soviet Union. The Extension Conference convened in 1995 gave it an indefinite lifetime. Perceptions of progress were not even upset by discovery in the early 1990s that two Treaty members, Iraq and North Korea, had mounted clandestine weapon programmes. Instead the multilateral initiatives to disarm them, and the

reforms of the systems of IAEA safeguards and export controls that ensued, suggested that NPT States Parties – now acting with the UN Security Council’s support – could respond effectively to these transgressions and the weaknesses that they revealed in the Treaty.

2. This period ended with conclusion of the Comprehensive Nuclear Test-Ban Treaty (CTBT) and Additional Protocol in 1996 and 1997 respectively. There followed a decade of evident regress – ‘the dark years’ as one participant at Wilton Park put it. Among other things, India and Pakistan test exploded nuclear warheads in 1998; the US Senate rejected the CTBT in 1999 and attempts to negotiate of the Fissile Material Cut-Off Treaty (FMCT) were repeatedly thwarted; the US Government under President George W. Bush retreated from arms control and its verification, abrogating the Anti Ballistic Missile (ABM) Treaty and abandoning the Strategic Arms Reduction Treaty (START) process; and disputes developed over policy towards ‘rogue states’, culminating in the trauma of the Iraq War of 2003. Concurrently, the Middle East peace process fell apart, governments became preoccupied with the ‘war on terror’, the Agreed Framework approach to North Korea collapsed, and the Iranian programme to develop a nuclear weapon option (it was widely assumed) proceeded apace in defiance of international efforts to halt it.

3. This upward and downward trajectory of international nuclear relations since the end of the Cold War was reflected in the five-yearly NPT Conferences. In securing the Treaty’s indefinite extension in 1995, States Parties agreed on a set of ‘Principles and Objectives for Nuclear Non-Proliferation and Disarmament’ designed to strengthen the Treaty’s rules, bargains and instruments, and agreed to enhance the NPT Review Process to give the Treaty’s implementation greater collective oversight in years between Conferences. States Parties also supported a Resolution on the Middle East put forward by the NPT’s depositary governments (Russia, the UK and US) that encouraged development of a nuclear weapon-free zone in that region, a development that would entail Israel’s abandonment of its nuclear weapon capabilities.

4. Rather against trend, States Parties agreed by consensus at the 2000 Review Conference on a Final Document that identified, inter alia, ‘thirteen steps’ that should be taken towards achievement of complete nuclear disarmament. Within a year, however, the Final Document was being repudiated in spirit and letter. Furthermore, diminishing regard was shown for the outcomes of the 1995 Extension Conference: the ‘Principles and Objectives’ were only selectively honoured, the NPT Review Process was not enhanced, and the Resolution on the Middle East was largely ignored. The 2005 Review Conference confirmed to many observers the disrespect in Washington and some other capitals for the Treaty, its processes and its Conference decisions. Substantive work began only at the end of the third week after delay in the agenda’s adoption, with some governments appearing not to regret the Conference’s failure.

The hope

5. Reinvigorating the non-proliferation regime and the nuclear arms reduction process, restoring diplomacy and multilateralism to the centre ground of US foreign and security policy, and re-founding US policy on rational deliberation became important goals of the incoming Obama administration. More than that, the administration identified itself with the movement to eliminate all nuclear weapons that had received impetus from the Kissinger-Nunn-Perry-Schultz articles in the *Wall Street Journal* in January 2007 and 2008, a movement that had already been joined by the UK Government. It gained support partly out of fear of a fresh wave of nuclear proliferation, now possibly involving non-state actors and facilitated by the predicted ‘renaissance’ of nuclear power.
6. President Obama’s ambition was made clear in his Prague speech of April 2009 when he stated “clearly and with conviction America’s commitment to seek the peace and security of a world without nuclear weapons”. He went on to assert the NPT’s centrality to the achievement of this ambition and acknowledged that honouring the NPT’s bargain – “countries with nuclear weapons will move towards disarmament, countries without nuclear weapons

will not acquire them, and all countries can access peaceful nuclear energy” – would be required if cooperation needed to strengthen and implement the NPT were to be attained. That this was not only an American ambition was expressed in UN Security Council Resolution 1887 of September 2009 which asserted the Council’s “firm commitment to the NPT and its conviction that the international non-proliferation regime should be maintained and strengthened to ensure its effective implementation”.

7. For many if not all governments, and for NGOs that had long campaigned to reduce the salience of nuclear weapons in international politics, the 2010 NPT Review Conference therefore began to be ascribed a special importance. They hoped that the Conference could reconnect with the decisions taken in 1995 and 2000 and help to reverse the previous decade’s negative trends. That this hope was not unreasonable was suggested by the NPT Preparatory Committee’s (PrepCom’s) agreement on the Conference’s agenda and nearly all significant procedures when it met in New York in May 2009. As one participant observed, the 2010 Review Conference would open “in better shape” in this regard than any of its predecessors.

The apprehension

8. States Parties would therefore be approaching the 2010 Conference buoyed by the PrepCom’s success, by statements of commitment to the NPT and to nuclear disarmament by various political leaders, and by the strong engagement of civil society. Yet the mood at Wilton Park was markedly apprehensive. The outlook had if anything darkened after the Prague speech and PrepCom’s lifting of spirits in Spring 2009. In particular, the problems of Iran and North Korea appeared to have become more intractable than ever, despite US offers of re-engagement with their governments, in mid-December 2009; by then, the early December date on which START I lapsed had passed without Russian and US agreement on a Treaty to replace it; the effort to secure the US Senate’s ratification of the CTBT would not now begin in earnest until later in 2010, if then; obstacles had emerged to the anticipated launch in January 2010 of FMCT negotiations at the Conference on

Disarmament (CD); and there was concern that the US Nuclear Posture Review was taking too much time to complete, perhaps indicating division in Washington, and would not provide much political satisfaction. It was pointed out that the PrepCom, whilst agreeing on procedures and the agenda, had failed to provide recommendations in issues of substance to the Conference (nine areas of significant disagreement were identified).

9. Furthermore, there were fears that developments outside the nuclear context, including the prolonged US argument over health care reform, an unsatisfactory outcome to the Copenhagen conference on climate change, regional conflicts, strains in the world economy and the kindling of North-South disputes might affect the political atmosphere in which the Review Conference was held, lessening the scope for agreement.

10. These anxieties were evident in the discussion at Wilton Park of what would constitute a successful outcome to the forthcoming NPT Review Conference. It was expected that the Conference would strive to produce, as on previous occasions, a consensus document that would look backwards when reviewing progress and forwards when setting out next steps required for the Treaty's development and implementation. States Parties might also be drawn towards the issuing of more than one document, possibly linked together by a strong consensus statement of purpose. However, agreement on such a document or documents, although highly desirable, might not be possible in the event. Furthermore, it was emphasized by various participants that there must be no repetition of what happened after the 2000 NPT Review Conference when some states rapidly dismissed parts of the substantial consensus Final Document, notably the 'thirteen steps' Programme of Action on nuclear disarmament. The credibility of the Treaty and its review processes were damaged and the commitments of certain governments to honour their pledges were called into question. As one participant tellingly asked: "is the desire to ensure the success of the Conference as a conference, or are we trying to advance the Treaty through the Conference?" If the latter is the objective, as few would deny, then States Parties should

beware of producing a document that will be treated with disrespect once the Conference is over. This would neither advance the Treaty nor serve broad security goals.

11. Success should not therefore be judged only upon the Conference's ability to issue an agreed text. It should and would now be judged by States Parties' records in implementing the pledges made in the text. What was being sought above all was momentum, and trust in momentum. States Parties needed to believe that, come 2015 and beyond, solemn promises made in 2010 had indeed been solemn promises and were being acted upon sincerely.

12. There were no illusions, however, about the consequences of failure. To have no agreement of any kind at this Review Conference would be a serious blow to the Treaty, especially as it has been ascribed so much significance as the event that would signal its recovery. This being the case, it was important that States Parties approached the Conference having already decided to cooperate and compromise in the quest for a satisfying outcome. The Conference could also not afford to become hostage, given its consensus rules, to the political machinations of a single state, Iran being the most frequently cited. Ways of ensuring that such a state cannot gain undue influence need to be considered.

The NPT's three pillars

13. The NPT is commonly depicted as resting on three 'pillars': nuclear disarmament, nuclear non-proliferation and the peaceful uses of nuclear energy. NPT Conferences are traditionally structured around them. The pillars are connected through the Article IV and Article VI 'bargains' (civil nuclear development and trade, and nuclear arms control and disarmament, in return for renunciation of rights to acquire nuclear weapons); through verification provided by the IAEA; and by measures that deliver benefits in each regard, prime examples being the CTBT and FMCT.

14. Various participants stressed that the coming Review Conference should conduct a balanced review of all three pillars. What that balance should entail is of course a political question that will have to be addressed through negotiation. Members of the Non-Aligned Movement (NAM) have already expressed dissatisfaction with UN Security Council Resolution 1887, on grounds that there is imbalance between the attention paid to disarmament and to non-proliferation and nuclear security (the latter two dominating). One speaker observed that, for nuclear weapon states, non-proliferation has always to be addressed now whilst disarmament can wait until tomorrow. That is to say, there is a habitual imbalance of urgency that contributes to mistrust.
15. Although each pillar was discussed, there was no special effort in discussion to strike a balance across them, nor to cover every issue that might arise in their connection at the NPT Review Conference. The length of the comments that follow does not indicate the priority attached to the three pillars.

Pillar I: Disarmament

The arms reduction process

16. The conference heard a report on the still current US-Russian negotiations of a new Strategic Arms Reduction Treaty to replace START I which lapsed on December 2009. The Russian and US Governments have stated that numbers of operational warheads will be reduced from the 1700-2200 permitted by the Strategic Offensive Reductions Treaty (SORT) to 1500-1675 under the new Treaty, with a limit of 500-1100 delivery vehicles. The ranges will give some freedom of choice to either side, reflecting differences in the configuration of forces (the aim is to be “equal without being identical”). It was expected that remaining disagreements, evidently on verification, would be resolved shortly. Hopes were also expressed that the Treaty could be ratified by the Russian Duma and US Congress before the Review Conference. There is still no Treaty and new disagreements appear to have emerged, relating notably to missile defence. This delay is not propitious. There was a

strong consensus at Wilton Park that failure to conclude the Treaty by May would send a negative signal to the Review Conference.

17. Given the high stakes, it remains likely that the Russian and US Governments will conclude the Treaty in the early months of 2010. They will need, however, to convince the Review Conference that the Treaty will indeed be ratified; that the terms of ratification in the US Senate does not or will not run counter to the NPT's disarmament objectives (if, as expected, 'modernisation' of the infrastructure for developing and producing nuclear warheads forms part of the deal); and that this rather conservative Treaty is but the prelude to deeper reductions. It was expected that the next START agreement would be tougher to negotiate. Among other things, it would have to address the issues of tactical weapons (counted as a separate category or within aggregate numbers), upload potential, irreversible destruction of warheads and/or delivery vehicles, missile defence, the replacement of nuclear by conventional warheads in ballistic missiles, and transparency and verification. One view was that success in negotiating the new START Treaty will open the way to further reductions and innovations. Another view was that inertia could set in, especially if US-Russian relations and the broader strategic environment do not improve.

18. Attention was also drawn to the arms reductions undertaken unilaterally by France and the UK, and to the need for Russia and the US to begin a dialogue with these and other nuclear-armed states on how and when they might become involved in the formal arms reduction process. The UK's project to develop techniques for verifying warhead dismantlement, recently involving cooperation with Norway, was noted and commended, as was the meeting that it convened in London in September 2009 where these and other issues were discussed with the four other nuclear weapon states.

19. It should be recalled, however, that only four out of the nine nuclear-armed states have been reducing their nuclear forces. North Korea may now be in the process of establishing its nuclear force, India and Pakistan are

consolidating and expanding their nuclear and missile capabilities, China is believed to be modernising and expanding its force, and Israel has made no commitments either way in accordance with its policy of ambiguity or opacity. It will be necessary for these states to be seen to halt the expansion of their nuclear armaments if further deep arms reductions, and especially the elimination of nuclear weapons, are to gain momentum.

The US Nuclear Posture Review

20. The Nuclear Posture Review (NPR) being undertaken by the US Department of Defense in 2009-10 will recommend to Congress and the President the nuclear deterrence policy and force posture that should be adopted by the United States in the next five to ten years. It is expected to report in early March 2010. The uncertainty of its outcome and consequent hesitancy of US nuclear diplomacy are complicating international nuclear relations. How the NPR is received at home and abroad, and whether its recommendations will be perceived to be consistent with the NPT's objectives, will be significant for the Review Conference. The US Government is aware that the NPR's outcome will probably be criticized by some for being too conservative and by others for being too radical. Come what may, it is likely to be contentious. Unfortunately, governments will have rather little time to absorb its messages before the Conference is convened given the delay in its completion.

21. The Obama administration has deliberately opted for a 'whole of government approach' involving several agencies and US Congressional Committees in the preparation of the NPR. It has also consulted widely within the US and with foreign governments. Surprises are always possible, but boldness is unlikely to be a feature of this Review given inertia and the many conflicting pressures on its authors, including the need to balance the Prague goals and the demands for credible deterrence. An implication is that, whatever the rhetoric, the US approach to nuclear arms reduction and disarmament is bound to be cautious and gradualist in the near term. During the NPR, the US has also become more aware of the concerns of allies that their security might be jeopardised by reduced US commitments to and abilities to practice

extended deterrence. We were reminded that 30 countries – 27 NATO members plus Australia, Japan and South Korea - presently benefit from formal US nuclear guarantees. There was discussion on whether any perceived weakening of those guarantees might encourage some of those countries, especially in East Asia, to reassess their stances on nuclear weapons, especially if there were no compensating improvements in their regional security environments.

22. There was broad support at Wilton Park for the view that nuclear weapon states should adopt nuclear doctrines that were less confrontational and reduced the risks of accidental or deliberate use of nuclear weapons. The longstanding Chinese advocacy of a universal no-first-use policy was noted, as were the traditional concerns that observance of this policy could not be assured in times of crisis. In addition, no-first-use would only gain wider acceptance if states were confident that they would not expose themselves to imbalances in conventional forces with their rivals. It was observed that Russia had expressly abandoned its no-first-use policy (which may never have been other than rhetorical) when the conventional balance with NATO moved against it after the Soviet Union's collapse. It was also observed that, whilst resisting calls for a non-first-use policy, the US and NATO did not have a *first-use* policy. Come what may, there was wide support for shifts in doctrine that would limit the use of nuclear weapons to deterrence *in extremis* and reduce the alert in which many are still held.

Universality, the CTBT and FMCT

23. The first of the 1995 Principles and Objectives states that: "Universal adherence to the Treaty on the Non-Proliferation of Nuclear Weapons is an urgent priority. All States not yet party to the Treaty are called upon to accede to the Treaty at the earliest date, particularly those States that operate unsafeguarded nuclear facilities. Every effort should be made by all States Parties to achieve this objective." In 1998 India and Pakistan announced, through explosive tests and accompanying statements, that they had crossed the threshold to the open development and deployment of nuclear weapons.

In effect, they have placed themselves by these and subsequent actions permanently outside the NPT as its rules do not allow them to join as nuclear weapon states. Led by the United States, and approved by the IAEA Board of Governors and the Nuclear Suppliers Group, six states including three non-nuclear weapon states have since indicated their acceptance of this situation by signing nuclear trade agreements with India without requiring full-scope safeguards. More are likely to follow their example. In addition, “every effort” has not been made by all States Parties to achieve Israel’s adherence to the NPT.

24. The objective of universality has therefore not been honoured, for whichever reasons. The damage done to the Treaty was widely acknowledged and regretted at Wilton Park. Achieving universality will nevertheless be a live issue at the NPT Conference. Although probably addressed there as a non-proliferation issue, in reality it has now become a disarmament issue since the three non-NPT states (four if North Korea is included) unquestionably possess nuclear weapons and are practicing nuclear deterrence, Israel being no exception whatever it might claim. India has also stated that it will only consider abandoning its nuclear arms if all other nuclear weapon states do the same.

25. There is concern that none of these nuclear-armed states is bound by the NPT’s legal rules and obligations and by its Conference decisions. (North Korea may be regarded as an exception if its withdrawal in 2004 is considered unlawful due to its prior violation of the Treaty.) The just published International Commission on Nuclear Non-proliferation and Disarmament’s (ICNND’s) report *Eliminating Nuclear Threats* notes: “Recognizing the reality that the three nuclear-armed states now outside the NPT – India, Pakistan and Israel – are not likely to become members any time soon, every effort should be made to achieve their participation in parallel instruments and

arrangements which apply equivalent non-proliferation and disarmament obligations".¹

26. The CTBT and FMCT have particular significance in this regard. Achieving full signature, ratification and entry into force of the CTBT, and negotiating and bringing into force a verified FMCT, would restrain all states' military nuclear ambitions and be necessary steps towards a weapon-free world. It was reported that there were no longer any justifiable grounds for doubting that the CTBT could be verified. The recent multiple detection of North Korea's comparatively weak test explosion bore witness to this. US and Chinese ratification of the Treaty were the vital next steps. Others have pledged to follow suit enabling more effective pressure than to be exerted on intransigent hold-outs, including India, Iran and Pakistan. The Obama administration's success in persuading the US Senate to ratify the Treaty would now depend primarily on arguments about the long-term safety and security of nuclear warheads in the absence of explosive testing, and on the extent to which key Republicans can draw colleagues into endorsing the Treaty. Unlike in 1999, it was considered that the Republican Party would not oppose its ratification *en bloc* for domestic political reasons. Concerns were expressed that India might decide to conduct further explosive tests and discourage Chinese and US ratification of the Treaty.

27. The FMCT is arguably even more important than the CTBT in advancing non-proliferation and disarmament and in drawing the non-NPT states into the international nuclear order, not least because it would require all key fuel-cycle facilities everywhere to be placed under international safeguards or some other form of verification. In addition, it would increase confidence that nuclear electricity production could expand worldwide without facilitating nuclear proliferation. Unfortunately, the FMCT is much further from realization than the CTBT. It was noted that Pakistan was impeding efforts to open negotiation of the Treaty in the Conference on Disarmament, and Israel's

¹ *Eliminating Nuclear Threats: A Practical Agenda for Global Policymakers*, Report of the International Commission on Nuclear Non-proliferation and Disarmament, Canberra/Tokyo, November 2009, p. xxiii.

reluctance to engage with a Treaty that would require it to declare its capabilities and open them to inspection is well known. It was also evident that disagreements remain on whether and how to include stocks of fissile material in the negotiation. No one expected the Treaty's negotiation to be quick or easy. It was nevertheless considered essential to find ways of initiating negotiations before the NPT Review Conference.

28. Among all issues pertaining to universality, the question of the implementation of the Resolution on the Middle East that accompanied the NPT's extension in 1995 is particularly difficult and might be disruptive at the NPT Review Conference. The Resolution called upon "all States in the Middle East to take practical steps in appropriate forums aimed at making, inter alia, the establishment of an effectively verifiable Middle East zone free of weapons of mass destruction". Although addressed to all states in the Middle East, including Iran and Syria, the Resolution is inescapably about Israel's possession of nuclear weapons, the absence in recent years of serious external pressure on Israel to abandon them, and the perceived risks and disadvantages experienced by states in the Middle East that, as NPT members, have renounced rights to possess nuclear weapons under international law. Adoption of the Resolution in 1995 was, in significant part, the condition attached by Middle Eastern states to their support for the NPT's indefinite extension. Further concerns were expressed that UN Security Council Resolution 1887 did not mention the Resolution on the Middle East, despite submissions that it should do so.

29. We heard how Egypt in particular is demanding implementation of the Resolution, and Israel's commitment to the nuclear weapon free zone (NWFZ's) achievement, before it will *inter alia* sign the Chemical Weapons Convention, ratify the CTBT and accept the Additional Protocol. We also heard how Israel cannot believe in the viability of an NWFZ without substantial progress towards the normalisation of political relations and establishment of a transparency culture in the Middle East, and certainly not before Iran and Syria are seen to be in full compliance with their NPT obligations. It is

expected that Egypt will call at the Review Conference for a re-commitment to the Resolution and achievement of an NWFZ, and for various measures assuring that its and other Arab states' concerns are being addressed. An Israeli view was expressed that this would not bring results and that Egypt and Israel should use their political and strategic partnership to seek solutions by other means. There were also questions about the NWFZ's political geography that could not be ducked. Should Pakistan and Turkey be included, for instance?

30. Although there appeared to be no obvious ways of breaking the deadlock, there was broad agreement that the Resolution and related issues could not be sidelined at the Review Conference. Some way forward would have to be identified. ICNND has recently proposed that the UN Secretary General should convene a conference of concerned states and appoint a Special Representative to prepare the ground. It was adapting for a broader audience the League of Arab States' proposal to the NPT Preparatory Committees leading up to the Review Conference. Another suggestion was that states should come together to develop nuclear power for the region, with an interconnecting transmission grid and multinational oversight of the fuel-cycle.

Pillar II: Non-proliferation

31. The situations regarding Iran and North Korea's nuclear programmes worsened in 2009 by common consent. States Parties may enter the NPT Review Conference without any improvement in sight and without persuasive ideas on how to make progress in either case. There is appreciation however that the behaviour of Iran, North Korea and a few other states has exposed deficiencies in the NPT, IAEA safeguards system and UN Security Council. Means of overcoming these deficiencies need to be found inside and outside the NPT's framework if confidence in these institutions is to be increased. There is also awareness of the need for stronger collective measures to prevent non-state actors gaining access to nuclear materials, equipment and expertise.

32. Regarding North Korea, it was noted at Wilton Park that its government had agreed in the Six Party Talks' Joint Statement of September 2005 to abandon its nuclear weapons and return to the NPT and full IAEA safeguards.² Despite conducting a nuclear test explosion in October 2006, further agreement was reached on the Statement's implementation in February 2007, the disablement of facilities began in November 2007 and a 'complete and correct declaration' was submitted to China, the Six-Party Talks' chair, in June 2008. This was followed by the US Government's declaration that North Korea was being removed from its list of state sponsors of terrorism. However, the Six-Party Talks in December 2008 brought no progress. During 2009, North Korea conducted a further nuclear test together with missile tests and announced that it was stepping up production of plutonium and enriched uranium outside safeguards. Trust in the North Korean Government's willingness to honour agreements has reached a low ebb as a result.

33. Attempts will doubtless be made prior to the NPT Review Conference to bring North Korea back into the Six-Party Talks. Unfortunately, the leverage that external powers possess over North Korea has been shown to be limited due, among other things, to its governing regime's ruthless grip on power, its military deterrents, and China's determination to avoid North Korea's political and economic collapse. Collective containment may be the only credible strategy until the North Korean regime decides to adopt a different approach to survival, probably based on a Chinese-style 'open door' policy. North Korea's containment and regional stability will require continued strong American nuclear guarantees to South Korea and Japan.

34. The view that North Korea must not be granted recognition as a *de facto* nuclear power was strongly expressed. South Korea is insisting on denuclearization as a precondition for any peace deal, and is now committed to the two-track approach of dialogue and sanctions. Whether North Korea is still Party to the NPT, despite its announced withdrawal, remains a subject of

² The Six-Party Talks involve China, North Korea, South Korea, Russia and the United States.

legal debate. The Chair of the 2010 NPT Review Conference will surely take custody of North Korea's nameplate, as happened at the 2005 Conference.

35. Regarding Iran, the crisis that has seized the country since the fraudulent elections of June 2009 has greatly complicated relations with its government and agencies. The collapse of the 'LEU deal' in October 2009, whereby Iranian-produced LEU would be enriched to higher levels outside Iran for insertion as fuel rods in its research reactor, is just the latest setback. That this deal was supported by President Ahmedinejad but rejected by an assortment of political rivals in Iran, including reformists, shows the difficulty of negotiating any reliable accord with Tehran in present circumstances.

36. Is Iran seeking to acquire extensive weapon-capable technologies and holdings of materials without committing itself to a warhead development programme? Or is it aiming to become 'a Pakistan pre-1998' that was ready to cross the threshold to nuclear armament at any time? The latter was considered more likely. Would domestic pressures pushing it across the threshold build up, whatever the risks to Iran's international interests? Would the Iranian leadership be able to resist these pressures? Might it instead encourage them? It was even asked whether the international community might face the nightmare of a nuclear-armed Iran that had *not* withdrawn from the NPT.

37. It was apparent to most participants that Iranian policy has had two objectives – to establish the technical foundations of a military nuclear force, and to achieve this goal whilst remaining within the NPT and escaping serious external punishment. It has been skilled at exploiting looseness in the NPT's wording and application when countering assertions of non-compliance, and at dividing opinion within the UN Security Council and garnering support in the Non-Aligned Movement. Concerns were expressed that Iran will hamper consensus at the NPT Review Conference if it is criticized or put under significant pressure. Nevertheless, the Iranian regime's violent suppression of dissent since the June elections, the clear violation of safeguards agreements,

and its generally intemperate behaviour are increasing its isolation, probably easing the task of marginalising its influence in the Conference if they continue. There were warnings that threats of military action against Iran could be counterproductive in this regard, allowing it to gain allies among states opposed to western interventionism.

38. The seriousness of the impasse over Iran was underlined by observations, with which few disagreed, that its acquisition of nuclear weapons could generate a 'cascade' of nuclear proliferation across the Middle East. Whatever their rhetoric, most governments in the region regard a nuclear-armed Iran as a more serious threat to their security and prestige than the nuclear-armed Israel. If such a cascade were set in motion, the NPT would be mortally wounded and one could say goodbye to any project to eliminate nuclear weapons. There was now a self-evident need for strong political and economic action by all states against Iran.

Responding to non-compliance with and withdrawal from the NPT

39. Since the revelation of Iraq and North Korea's nuclear weapon programmes in the early 1990s, the international community has struggled to find and agree upon effective and legitimate responses to violations of the NPT. Besides dealing with the offending states, it has been important to strengthen political practices in order to create expectations that future violations by States Parties will not meet with weak or divided responses. They need to believe that they cannot play political games with the Treaty and win. To the issue of non-compliance North Korea has added the issue of withdrawal from the Treaty.

The NPT contains no rules or guidance on responding to its violation. To an uncomfortable degree, it also leaves open to interpretation the precise acts and activities that constitute non-compliance. It does not help that the NPT lacks an implementing organization such as the CTBT possesses. Instead, the main responsibility for identifying and reporting on safeguards non-compliance (although not strictly on non-compliance with the Treaty itself) has

fallen on the NPT's verification agency, the IAEA, using powers provided by its Statute; and on the UN Security Council which has to decide how to bring the offending state back into compliance.

40. It was noted that hesitation in calling non-compliance non-compliance – in calling a spade a spade – had weakened responses to Iran's violations. A failure or breach of safeguards that is judged by the IAEA to be intentional should be called non-compliance and automatically reported to the IAEA's Board of Governors. The intention need not be known: there is no need to demonstrate that it is the acquisition of nuclear weapons. Whether the non-compliance is serious enough to merit referral to the UN Security Council then rests with the Board of Governors. It was recalled that Iran's non-compliance had been reported "too late" to the UN Security Council in February 2006 after it had taken nearly two years for the IAEA Board of Governors to issue (in September 2005) a Resolution declaring that Iran had been non-compliant in November 2003. The delay happened, however, partly in the possibly false expectation that diplomatic initiatives would stand a better chance of success if the issue were kept out of the Security Council.

41. There was discussion of whether the UN Security Council should adopt a generic resolution determining its response to non-compliance, possibly requiring the offending state to grant extended access rights to the IAEA, to suspend sensitive fuel-cycle activities if it does not fully cooperate, and suspending military cooperation if it is met with continued obstruction. There were concerns, however, that this might be counterproductive if the IAEA Board of Governors became more reluctant to make declarations of non-compliance due to members' desires to tailor responses to circumstances.

42. It is evident that the five nuclear weapon states and permanent members of the UN Security Council's ability to mobilise support for sanctions against proliferators is not helped if they are themselves perceived to be non-compliant with the NPT through disregard of Article VI and pertinent Conference decisions. This inequality of retribution, if it may be so expressed,

was alluded to by various participants. It is not surprising that relatively weak powers will show some solidarity with aberrant states among them if the great powers and their special friends are perceived to be 'getting away with it'. There were also calls for inclusion of a wider range of NPT States Parties in the political handling of non-compliance, so as to spread responsibility and increase leverage. The Six-Party Talks and E3+3 processes with North Korea and Iran respectively implied exclusion.

43. Regarding withdrawal from the NPT, there is little appetite in the US and elsewhere for amending the Treaty to raise the bar, but there is growing concern that States Parties should not escape serious costs (as unfortunately happened in North Korea's case) when withdrawing from the Treaty. It was suggested that States Parties might agree at the Review Conference on the kinds of measures they would take to dissuade any country from withdrawing, including the halting of pertinent trade and assistance in the event of withdrawal. It was also suggested that a generic resolution by the UN Security Council might assert that withdrawal from the NPT would constitute a threat to international peace and security and that all nuclear materials and equipment must be returned to their suppliers, especially if the withdrawing state had abused the Treaty and its safeguards when building its capability. It was understood, however, that states were always keen to preserve their sovereign rights to withdraw from treaties. Resistance to the codification of reactions to withdrawal from the NPT could be anticipated.

Application of IAEA safeguards

44. Following agreement on the Model Additional Protocol in 1997, efforts have been made to persuade all states to accept its strengthened safeguards. Today, 24 non-nuclear weapon States Parties have yet to conclude Additional Protocols with the IAEA and 43 of the 136 approved Protocols have still to enter into force. This is unsatisfactory and further efforts are obviously required. Universalization of the Additional Protocol is essential if the IAEA safeguards system is to retain the confidence of states.

45. Application of the Additional Protocol and 'information-driven safeguards' has been accompanied by technological and other innovations in safeguards. There is scope for considerable further development, for instance in the techniques of remote monitoring that reduce costs and provide the IAEA in Vienna with more immediate access to information.
46. The under-resourcing of the IAEA is a perennial problem. Each year seems to bring extra burdens which have to be shouldered with inadequate funds. The civil nuclear 'renaissance' will increase the pressures, especially if it involves the construction of fuel-cycle facilities that require high frequencies of inspection. Once negotiated, the FMCT could require an even larger commitment of resources to the IAEA, depending on its scope and the type and extent of verification. Greater efficiencies are constantly being sought, but they cannot alone enable the IAEA to escape its financial difficulties. Whether the IAEA should have a role in the peer review of states' nuclear security arrangements is just the latest question to be raised involving the commitment of extra resources.
47. It is also worrying that so many experienced inspectors and other staff are due to retire in the coming few years. Particular mention was made of the need for capital expenditure to modernise the IAEA's Safeguards Analytical Laboratory at Seibersdorf. A strong ability to test samples was required to protect among other things the IAEA's independence in making technical judgements.

Nuclear security

48. States have become all too aware since 9/11 of the dangers that non-state actors might acquire radiological and other materials to construct and use 'dirty bombs' and improvised nuclear devices. Although attacks using such materials might be very infrequent and there might be no mass casualties, governments have to take these dangers very seriously given the fear, disruption and cost of decontamination that would result.

49. There are many challenges that arose from this prospect in a globalised environment: how to establish reliable accounting, regulation and protection of radiological materials wherever and in whichever state they may be located? How to establish a system of peer review that would be effective and acceptable given sensitivities over sovereignty? How to strengthen border controls and extend the monitoring of shipping containers? How to ally counter-terrorism and counter-proliferation? How and when to share intelligence? How to deal with states that fail to meet international standards and may be turning a blind eye to criminal activity? There are also warnings that states might be drawn in perception or reality into a new form of imperialism, or even totalitarianism, if they sought safety from any attack with excessive zeal.

50. The Nuclear Security Summit called by President Obama will meet in Washington in April 2010. Whilst the Summit was broadly welcomed by participants, some worried that its timing was too close to the NPT Review Conference. They were assured that this timing was accidental and was driven by the need to involve all key players. There was also concern that the Summit would be attended by Heads of State when there would probably be much lower levels of representation at the Review Conference. Might this affect the Review Conference's prestige especially in the eyes of the media? Might it also encourage false assessments of dangers and priorities, with the prevention of nuclear terrorism being viewed as more significant than nuclear non-proliferation, arms control and disarmament, despite the latter having the greatest implications for human survival and welfare?

Pillar III: Peaceful uses of nuclear energy

51. There has been much talk recently of a 'nuclear renaissance' as states and utilities invested more heavily in nuclear power to alleviate global warming and insecurities in energy supply. It is reviving longstanding debates about the relationship between nuclear power and nuclear proliferation, about the governance of nuclear energy, and about rights and obligations under Article IV of the NPT.

52. The findings and provisional recommendations of an independent Canadian study of the future development of nuclear electricity production³ encouraged a sceptical view of several recent forecasts of high growth. Most investment would occur in states that already possessed nuclear energy industries and infrastructures (China, India, the UK and US were mentioned) with only a few new entrants (Italy, Jordan, Poland, Turkey and the United Arab Emirates were mentioned as possibilities). Of 33 states identified in a Survey of Emerging Nuclear Energy States (SENES), more than half were considered unlikely to construct nuclear power plants in the foreseeable future, partly because their grids were too small (less than the 10GWe normally required) to accommodate standard reactors, and partly because of economic and technological constraints. The huge investment costs of nuclear power are a strong disincentive. In several countries, extending the lifetimes of existing reactors will be more important in the near term than building new ones.

53. It was also expected that most investment would entail 'Generation III' light-water reactors using a once-through fuel-cycle. Additional enrichment but not reprocessing capacity would be required to ensure fuel supplies. The transition to fast-breeder and other advanced reactors was a less significant issue than in the 1970s, although it might return. It was observed, however, that nearly every country with power reactors was grappling with unresolved problems of nuclear waste storage and disposal. Many decades after spent fuel management was first addressed, there is still no consensus on the best technological path to follow and on the best disposal strategies. This too will inhibit the construction of new power stations in a number of countries.

54. It was agreed that development of a stronger nuclear safety regime is a prerequisite for the sustainable growth of nuclear electricity production. Various elements of a regime have been put in place since the Chernobyl accident in 1986, but they need strengthening especially in regard to states

³ *Nuclear Energy Futures Project*, Canadian Centre for Treaty Compliance at the Centre for International Governance Innovation (CIGI), Ottawa.

with relatively weak regulatory traditions. Confidence will also be required in physical protection and other aspects of nuclear security.

55. Recent debates about the international governance of nuclear energy inside and outside the IAEA did not receive detailed attention. Suffice it to say that there was broad support for bringing, to the greatest possible extent, fuel-cycle activities under multinational control. Sensitivities to the loss of sovereignty that this might entail were acknowledged, and it was discouraging that there remained so little agreement on which among various proposals should be adopted. It was considered important that nuclear weapon states should show willingness to bring their civil fuel-cycles under multinational control, rather than expect such control to apply only to facilities in non-nuclear weapon states. Overall, it was considered that the expansion of nuclear power should be regarded as an opportunity rather than a threat. An atmosphere of denial must be avoided.

Flaws in multilateral processes

56. That multilateral processes had become dysfunctional in significant respects was a refrain that ran through the conference. They were too easily paralysed and their agendas were too prone to distortion. The difficulties arose particularly from the democratization of decision-making and adoption of consensus rules, from the majority's perception that processes were too dominated by a privileged minority of powers, and from group behaviour that discouraged flexibility. These difficulties were affecting the UN Security Council, Conference on Disarmament and various other multilateral forums, including NPT Conferences. Attention was not focused on this issue at Wilton Park despite acknowledgement of its significance. The general view was that fundamental change was unlikely to happen in the near term and that governments would have to work within current processes to the best of their abilities whilst seeking, as in the CD recently, a modicum of reform where it was attainable.

Concluding reflections: the NPT Recovery Conference, 2010?

57. The 1995 Review and Extension Conference was the most notable conference in the NPT's history. Occurring shortly after the end of the Cold War, it granted the Treaty an indefinite lifetime, reaffirmed the Treaty's primary norms, rules and bargains, and looked forward to actions being taken to realise them. Along with the arms reductions, many felt justified in looking forward at last to the marginalisation of nuclear weapons in international politics. Sadly, this did not happen.

58. The 1995 Conference adopted highly significant decisions despite failing to agree on a final document containing its review of the previous five years. The forthcoming Review Conference lacks the compulsion to answer a question posed by the NPT itself – in 1995, whether and for which duration to extend the Treaty's life after its initial 25 years. The 2010 Conference is nevertheless being regarded by many governments as more than just another of the quinquennial events. They would like this Conference to signal the NPT's recovery after a decade of regress – for it to become the NPT Recovery Conference, if it may be so termed. This is the Conference at which the Treaty will be re-invested, they hope, with the authority and purpose that was squandered after 1995, enabling it to guide international behaviour in positive directions in years ahead.

59. To achieve this end, the 2010 Review Conference will have to be predominantly forward looking, like the 1995 Extension Conference. The temptation to turn it mainly into a review of the recent 'dark years', fostering an atmosphere of recrimination, needs to be resisted. The challenge is to identify the paths to be followed and steps to be taken and, as discussions repeatedly indicated, to create trust that the paths *will* be followed and the steps *will* be taken, to the best of governments' abilities. How to create this trust is a central question that governments need to address individually and collectively. As one participant observed, the mistrust that has accumulated since 1995 and 2000 is mutual: it exists between nuclear and non-nuclear weapon states in both directions, and within these groups of states.

60. There is a wish-list of developments that most nuclear diplomats would like to see occur before or soon after the Review Conference in May. It includes agreement by Moscow and Washington on a satisfying new START treaty accompanied by strong commitments to move to deeper cuts; entry into force of the CTBT and launch of the FMCT's negotiations; universalisation of the Additional Protocol; strengthening of nuclear security arrangements; and identification of collective measures that could be adopted to increase confidence that responses to Treaty non-compliance and withdrawal will be tough and timely. At the top of wish-lists would be serious progress in returning Iran and North Korea to full compliance with the NPT, in bringing greater stability to South Asia, and in achieving peace settlements in the Middle East and on the Korean peninsula that will involve their denuclearization.

61. This is a large list. As everyone knows, turning even a few of the wishes into outcomes will be difficult, to put it mildly. This applies especially to Iran and North Korea where the situation seems to be running dangerously out of control. It reminds us that much of the NPT's recovery has to happen outside the Conference framework, and that the NPT is only part albeit a vital part of the international nuclear order, whose fate cannot also be separated from that of regional orders and the overarching global order. But every item on this list is connected in one way or another to the NPT, few will have reliable solutions without a robust Treaty, and the list will become longer if the Treaty weakens further. On this there was little dissent.

62. One senses that the coming Review Conference also marks, in the nuclear domain, the transition from the substantially bipolar and unipolar international orders of the Cold War and post-Cold War periods to an order that is unambiguously multipolar. However sustained America's woes and the rises of China, India and other powers may or may not be, the management of international nuclear relations is bound to become multilateral to an extent that has not been experienced hitherto.

63. Two particular questions arise. Firstly, can the new and old great powers shape their strategic relations around low and diminishing levels of nuclear armament? Can the post-Cold War shrinkage of nuclear armouries be continued, possibly paving the way for eventual elimination? Secondly, notwithstanding the tensions that always accompany power transitions, can these powers cooperate, despite rivalries and differences, on the management of non-proliferation and counter-proliferation policy, rather as the Soviet Union and United States cooperated from the 1960s onwards? Such cooperation will have to entail the development and sustenance of international institutions such as the NPT and the safeguards and export control systems, enhancement of regional stability, and response to the behaviour of state and non-state actors that defy international norms and rules. Each question is complicated by India's recent 'break-in' to the club of nuclear weapon states from a position outside the NPT, and by its lack of the privileges that the NPT nuclear weapon states enjoy contiguously as permanent members of the UN Security Council. It became clear at Wilton Park that the legitimacy of actions and resolutions emanating from the Security Council is increasingly being threatened by its perceived lack of representativeness, which goes beyond India. The international nuclear order will, one fears, be negatively affected if the stalemate over UN reform continues.

64. Come what may, the 2010 NPT Review Conference will test the abilities and willingness of the great powers to work together and find a common narrative on nuclear non-proliferation, arms control and disarmament, just as it will test their abilities and willingness to make common cause with other states. Drawing India towards that narrative is now as important a priority as any. Although India was absent, the consensus agreement on UN Security Council Resolution 1887 bodes well in this regard. Nevertheless, the discussions at Wilton Park showed the distance that still separates the nuclear policies of France and the UK, to cite just two of the nuclear-armed states, especially on the issue of nuclear disarmament. Whether the European Union can issue a persuasive statement prior to the Review Conference will be a significant

indicator of abilities to overcome differences between nuclear weapon states, and between nuclear and non-nuclear weapon states.

65. Will the 2010 NPT Review Conference justify the title of a Recovery Conference? Time will tell. Faced with so many uncertainties and knotty problems, governments may be tempted to lower rather than raise expectations ahead of the Conference, and to keep to modest levels of representation so that they can avoid another Copenhagen. However, everyone understood that the stakes are very high and that States Parties cannot afford to leave the Review Conference empty-handed. Whatever the expectations, governments need to set about making a success of the Conference – a success that will have lasting effect - with great haste and determination.

William Walker
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