NPT Briefing Book
(2010 Annecy Edition)

MCIS CNS NPT BRIEFING BOOK (2010 Annecy Edition)

Published by the Mountbatten Centre for International Studies (MCIS) at the University of Southampton, UK, in association with the James Martin Center for Nonproliferation Studies (CNS) at the Monterey Institute of International Studies (MIIS), US. Earlier editions were published by the Mountbatten Centre for International Studies on behalf of the Programme for Promoting Nuclear Non-Proliferation.

Compiled and Edited by John Simpson, Jenny Nielsen, and Marion Swinerd.

MCIS and CNS wish to acknowledge with much appreciation the contributions of the Ministry of Foreign Affairs, The Netherlands; the Ministry of Foreign Affairs, Norway; the Foreign and Commonwealth Office, United Kingdom and the Ploughshares Fund towards the cost of producing this Briefing Book.

The Mountbatten Centre for International Studies Politics and International Relations Division
School of Social Sciences University of Southampton
Southampton SO17 1BJ United Kingdom

www.mcis.soton.ac.uk

ISBN 085432 551 4 © 2010The Mountbatten Centre for International Studies All rights reserved
Section 4 The 2000 NPT Review Conference

The Negotiations

The 2000 RC opened positively, despite the failure of its PrepCom to produce the general and subsidiary body’ recommendations mandated by the 1995 RC. Presidential consultations after the PrepCom had produced agreement on creating two subsidiary bodies, SBI on Disarmament within Main Committee I (MCI) and SBII on Regional Issues within Main Committee II (MCII). Initial plenary speeches by the US Secretary of State, the Foreign Minister of the Russian Federation and the Head of Delegation of China stated their national positions on National Missile Defence (NMD), the ABM Treaty and future nuclear policy firmly, but not inflexibly. The three MCs and the two SBs started work in the middle of the first week, after the United States and Egypt agreed that the Resolution on the Middle East would be handled as a regional question in SBII, whose remit also included Israel and Iraq, as well as India, Pakistan and the DPRK.

After private negotiations in the margins of the CD in Geneva, and then in New York, all five NWS agreed the text of a joint statement presented to the RC at the start of the second week. This signalled that the NWS were prepared to shelve their differences on nuclear weapon issues in the interests of a consensus Final Document. The second week of the Conference was spent collecting ideas in the MCs and SBs, and converting them into draft texts. At the end of that week the President convened an informal plenary on possible changes to the implementation of the strengthened review process, proposals ranging from the third PrepCom session alone being required to produce recommendations to its RC, though to the creation of an NPT Management Board to halving the time allocated to PrepCom sessions but convening an additional session in the year following a Review Conference.

Main Committee reports were scheduled for completion at the end of the third week, when the Drafting Committee was scheduled to integrate the texts into one or two integrated documents. As all five reports contained sections of non-agreed text, the chairs of four of the five bodies were asked to continue seeking clean texts, while the President took over the task of producing a clean MCI text. The constructive nature of this meeting encouraged the participants to engage in further private consultations.

Three types of activities then took place in parallel. One was that MCII and III met in open informal session to seek clean texts of their reports. The second was that the President convened a meeting of a group of representative countries to identify agreed language for the text of the MCI report. This process was unsuccessful, and by mid-week had been abandoned. The third was private negotiations. One set of these was convened at the request of the President of the Conference to address disagreements over the text on regional issues being negotiated in SBII. It involved mainly its Canadian chairman, the US, Egypt, Iraq and some other Arab states.

Another set was between the NWS and the NAC, and was initiated by mutual agreement outside the UN building. This concentrated on trying to agree a forward-looking document on disarmament, and upon their existence being discovered was ‘legitimised’ by moving its location into the building. By the Wednesday evening these discussions had become stalemated, though a core document did exist. When they reconvened the next morning, the UK and the US indicated that they were prepared to accept the document as it stood if the NAC would do so.
Russia voiced reservations over the core document, but then indicating that it was prepared to go along with the UK – US proposal. France then followed its lead. China remained unhappy about a paragraph on transparency that had been accepted by the other NWS and the NAC states, but eventually accepted the text.

Events then moved rapidly. Negotiations on a backward-looking text between the NWS and the NAC, now joined by Indonesia, Germany and the Netherlands, continued throughout Thursday. Progress was slow, however, and it was agreed to reconvene early the next morning. When this meeting opened the UK proposed that those involved should agree to accept the text that then existed as the consensus backward-looking document on disarmament, with some balanced amendments and deletions. France indicated its support for this approach and the specific proposals made by the UK. South Africa confirmed that they were in broad agreement with the UK approach, but asked for a brief adjournment while the NAC consulted on the matter. This resulted in a counter-proposal for some modifications to the UK package. This was acceptable to France, Russia, the UK and the US. Both China and Indonesia, representing the NAM in this context, thus found themselves confronted with a fait accompli, which they eventually accepted.

In this way, a consensus text had been created for both the forward- and backward-looking disarmament documents, the area that in the past had been the main stumbling-block to a consensus Final Document.

At this stage, it became clear that another roadblock existed before a consensus Final Document was possible: the inability of the US and Iraq to agree language on Iraq’s non-compliance with the Treaty. Tortuous negotiations between the states involved and others, both in New York and capitals, eventually resulted in agreement on a text by mid-day on Saturday. The Drafting Committee then started its work of gaining agreement on the text of a Final Document, which was circulated to delegations. This included a text on recommended changes to the review process, which up to that point had neither been formally presented nor discussed by delegations. Disagreements still existed over the text of MCII’s report, but the impetus to agree a text placed states under intense pressure to cut-out disputed language. This strategy enabled agreement to be reached on the Final Document late on the Saturday afternoon. It was then left to several states to indicate the areas where they dissented from the text they had formally accepted, and by this device enable a consensus Final Document to be agreed.

Substantive Issues and Products of the Conference

i. Universality

The 2000 RC named for the first time all those states (Cuba, India, Israel and Pakistan) which were non-parties to the Treaty. They were urged to accede to the NPT as NNWS, especially if they had unsafeguarded nuclear facilities. It also ‘deplored’ the Indian and Pakistan nuclear test explosions, declaring that ‘such actions do not in any way confer a nuclear-weapon State status or any special status whatsoever’. India and Pakistan were called upon to implement UN Security Council resolution 1172 (1998), and to strengthen their nuclear export control legislation.

Elsewhere, universality continued to generate difficulties in the areas of technical co-operation with non-parties and the creation of reporting mechanisms. On the former, some NAM states wished to see a total cessation of all nuclear-related assistance to non-parties, even though this appeared contrary to the text of the Treaty. The result was that that full scope (FSS) IAEA
safeguards as a condition of material or equipment supply to such states was absent from the text. Although formal dialogues had been proposed with non-parties, no agreement was possible on this. However, all States Parties were requested to report to the President of the 2005 Review Conference and the Chairpersons of its PrepCom sessions on their efforts to realise the goals and objectives of the 1995 Resolution on the Middle East.

**ii. Non-Proliferation**

Two parties to the Treaty were the subject of allegations of non-compliance with Articles II and III of the NPT: the DPRK and Iraq. As the former was absent, participants had little difficulty in agreeing a text noting that the IAEA had been unable to verify its initial declaration of nuclear material and thus could not conclude that no diversion of this material had occurred. The situation concerning Iraq was considerably more complicated in two respects: its delegates were in attendance and it had been certified by the IAEA to be non-compliant with its safeguards agreement prior to 1991. Agency reports had indicated that all clandestine activities had been accounted for, equipment destroyed and material removed, while a regular IAEA inspection had taken place in Iraq in early 2000 as required by its NPT safeguards agreement. This led Iraq to argue that it had been fully compliant with the Treaty since 1995, and that the UNSC resolutions were irrelevant in this context.

Some states, however, regarded it as unacceptable to either say nothing about Iraq, or to note that it was in possible non-compliance with its Treaty obligations, given its non-compliance with UNSC resolutions, including the non-implementation of the comprehensive system for monitoring WMD activities within Iraq. Their position was reinforced by a statement by an IAEA representative that in all the years between 1991 and 1999, the Agency has not been able to conclude that Iraq complied with its safeguards agreement’. Iraq rejected this statement. The compromise language eventually agreed noted that a regular inspection had been carried out in January 2000 of the material subject to safeguards and reaffirmed the importance of Iraq’s full continuous cooperation with IAEA and compliance with its obligations’.

**iii. Disarmament**

The debate over disarmament centred upon whether the NWS should make an unconditional commitment to disarm, and the practical steps that should be taken in the next five years to further this objective. On the first issue, two statements were agreed. One was an unequivocal undertaking by the nuclear weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, to which all States parties are committed under Article VI’. The second was a reaffirmation that the ultimate objective of the efforts of States in the disarmament process is general and complete disarmament under effective international control’. Those arguing that the statement was unconditional pointed to it being number six in a list of thirteen points, with the second statement at number eleven. Those arguing it was conditional upon general and complete disarmament pointed to the wording of Article VI, which talks about pursuing negotiations on nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control’. Their argument was that the latter was legally binding whereas the 2000 document was only politically binding. On the second issue, negotiations focused on how to enhance the action plan’ contained in paragraphs 3 and 4 of the 1995 Principles and Objectives document. The forward-looking document that eventually emerged, usually termed the 13 steps’, was much more comprehensive and wide ranging than that agreed in 1995. In particular, under the chapeau of steps leading to nuclear
disarmament in a way that promotes international stability’, it was agreed that the following should be implemented:

- further efforts by the NWS to reduce their nuclear arsenals unilaterally;
- Increased transparency by the NWS with regard to nuclear weapon capabilities and as a voluntary confidence building measure;
- the further reduction of non-strategic nuclear weapons;
- concrete agreed measures to further reduce the operational status of nuclear weapons systems;
- giving a diminishing role for nuclear weapons in security policies; and
- engaging "as soon as appropriate" all the NWS in the process leading to the total elimination of nuclear weapons.

What the RC did was to agree a practical and comprehensive nuclear disarmament agenda for its parties, containing a mixture of unilateral, bilateral and multilateral activities, in contrast to the Treaty’s focus upon engaging in multilateral negotiations and agreements. It also implied a much less radical and more incremental vision of how to move towards nuclear disarmament than the ‘time-bound framework’ proposals which had been prominent before 2000. However, this action plan’ often did not specify in detail the precise commitments that states parties had agreed to or what would be involved in their implementation.

The backward-looking element of the debate on the disarmament process concentrated on whether its pace had been satisfactory. In particular disagreement centred on how to characterise the numbers of nuclear weapons remaining; on the proposal by the UN Secretary General for the convening of a major international conference on ways of eliminating nuclear dangers; on the significance of the 1996 ICJ advisory opinion on Legality of the threat or use of nuclear weapons; on the inability of the CD to initiate negotiations on an FMCT; and on the significance of the de-targeting declaration contained in the joint statement by the NWS.

iv. Nuclear-Weapon-Free Zones (NWFZ) and Security Assurances

The states parties found little difficulty agreeing language on the general desirability of additional NWFZ; on the need for relevant ratifications to bring existing treaties into full operation; and on welcoming and supporting efforts to set up a NWFZ in Central Asia. Difficulties did emerge, however, over Central Europe and the Middle East. Belarus wished to see positive language in the Final Document concerning their initiative on the establishment of a ‘nuclear-weapon free space’ in the former area, despite opposition to this from relevant states in the region. It continued to press this issue until the end of the Conference. Arab states wanted Israel to be urged by name to take the steps needed to implement a NWFZ in the Middle East, and this was resolved by restricting the naming of Israel in this context to the regional issues part of the Final Document.

Given that global security assurances to NPT parties had been one of the subjects allocated special time at the 1997-9 PrepCom sessions, and that both Myanmar in 1997 and South Africa in 1999 had made detailed proposals for Protocols to the NPT on this, it had been anticipated that it would be a major issue at the RC. However, the Final Document limited itself to calling upon the Preparatory Committee to make recommendations to the 2005 Review Conference on this issue.'
v. IAEA Safeguards

IAEA safeguards generated considerable controversy, both in their own right and because of their links to regional issues. The number of specific disagreements were in double figures, but were concentrated in a limited number of areas. One was the Additional Protocol to national safeguards agreements, which gave expanded powers to the IAEA safeguards system. Some states indicated that in future they wanted to make this Protocol an integral part of Agency safeguards, in particular in the context of exports to non-parties. Other wanted to continue to conduct trade with non-parties on the basis of safeguards being applied only to the exported items and materials. A further element in these debates was language directed at Israel by NAM countries calling for ‘the total and complete prohibition’ of the transfer of nuclear related equipment and materials, and of technical assistance, to non-parties. Other states argued that such acts would be contrary to the language of the Treaty. None of these differences were resolved.

Another set of disagreements concerned export guidelines. Language on both the work of the Zangger Committee and on the transparency seminars organised by the Nuclear Suppliers Group (NSG), was opposed by some NAM states as these bodies were regarded as barriers to economic development. Iran also sought to contest the right of the United States and others to refuse nuclear-related transfers to states if non-compliance with the Treaty had not been verified by the IAEA. Other contentious issues included proposals that all the NWS should cease the production of fissile material for nuclear explosive devices, and a favourable reference to the Convention on the Suppression of Acts of Nuclear Terrorism. The contested language on almost all of these issues was deleted in the final hours of the Conference.

vi. Peaceful Uses

Debates on this topic centred upon the implementation of the ‘inalienable right’ of states to enjoy the peaceful benefits of nuclear energy. Issues here included whether all states, not just States parties to the Treaty, should enjoy these benefits and the role of nuclear energy in sustainable development.

The Implications of the Conference

The successful conclusion of the 2000 RC was an extraordinary achievement. The fact that the NWS were prepared to put aside their differences in order to facilitate this result was interpreted by some as driven by their common interest in sending out a signal that they were united in sustaining the Treaty, the regime and global nuclear stability. For their part, the middle powers in the NAC also wanted positive signals to emerge from the Conference, and sought to concentrate on the areas where agreement, and thus momentum, was possible. As the products of the meeting started to be examined, however, questions emerged about what had actually been agreed; what the commitments in the ‘programme of action’ contained in the Final Document actually meant; and how they could be implemented.

i. The Treaty and the Review Process

The messages for the Treaty and its review process contained in the Final Document of the 2000 RC were at best confusing. On the one hand, the outcome suggested that among the elements that assisted success were effective chairmanship of the MCs and SBs; a President
who pursued a non-interventionist policy and left the resolution of key issues to the parties to the Treaty; and one who held his nerve in the end game and was not panicked into accepting a suboptimal result. On the other hand, the problems encountered over the issue of Iraq's non-compliance with the Treaty pointed to an inherent flaw in the nature of the rules of procedure for RCs: those accused of non-compliance with the Treaty cannot be denied their voting rights.

Only the absence of both the DPRK and Yugoslavia from the 2000 Conference may have prevented issues related to them playing a similar role to those concerning Iraq.

On a more specific level, some of the changes introduced into the review process in 1995 seemed to have been vindicated. The two SBs did focus attention on key issues at the Conference. What did not occur, however, was any conscious and visible updating of the 1995 Principles and Objectives document.

While the contents of this 1995 document were reaffirmed, the amendments to it were spread throughout the text. In addition, the contents of the 1995 Document were not used in any conscious way as yardsticks for assessing performance over the previous five years. As a result, the ties binding the ongoing review process to the 1995 document were partially cut, making it more open to change at future Review Conferences.

Perhaps more significantly, the PrepCom process was given little further guidance by the Final Document. While it appeared to signal acceptance of the failure of the modalities implemented in 1997, in particular the creation of a rolling text, it did little to replace them. Although the concept of the PrepComs preparing the ground for the RCs, other than in a very general way of educating participants about the issues, had not worked in 1997–99, the 2000 amendments offered little hope that this would occur in future.

They did not require the parties to arrive at any consensus recommendations for transmission from the first two PrepCom sessions to the third (their product was to be a factual summary of the discussions). However, the third was still expected to provide draft recommendations to a Review Conference, though some new reporting commitments on states parties in areas such as disarmament and the Resolution on the Middle East were created.

ii. The Regime Context

Four main challenges confronted the nuclear non-proliferation regime at the 2000 RC: its responses to the South Asian tests; its responses to the allegations of DPRK and Iraqi non-compliance; the Egyptian–US differences over the Middle East; and the more general issues of enhancing IAEA safeguards, implementing export controls on exports to non-parties, and environmental concerns. The Conference took a stand on the first of these issues. It deplored the test explosions; urged the two states to enter the NPT as NNWS; and called upon them to implement UNSC resolution 1172, including ratifying the CTBT and strengthening their nuclear export control legislation.

The challenge of non-compliance was one which could be met without undue difficulty in the case of the DPRK due to its absence from the proceedings. In the case of Iraq, the contentious nature of claims of Iraqi non-compliance after 1995, plus the presence of Iraqi representatives at the conference, made it much more difficult to craft a robust response.
The Egyptian–US differences over Israel and the Resolution on the Middle East proved a complex problem to resolve, but both states eventually succeeded in doing so through some astute diplomacy. For the first time in an NPT context, Israel was named in the Final Document, but not condemned, while all parties were requested to Report to the 2005 RC on the implementation of the Resolution.

The enhancement of IAEA safeguards was a subject that generated disappointment for some states, especially its failure to take a stronger stand on the need for parties to sign and implement Additional Protocols. Resistance was also encountered over the proposal that such Protocols might be regarded as part of the safeguards required for trade with non-parties. The Agency was thus given little help in moving towards an integrated safeguards system incorporating the rights it had gained through the Additional Protocol. In addition, it said little about strengthening export controls on transfers to non-NPT parties, as they were based on two informal ‘coalitions of the willing’ bodies, the Zangger Committee and the NSG.

During the conference, it also became apparent that concerns over the safety of maritime nuclear transport and the effects of climate change were becoming the prime interests of many of the small island states that are parties to the Treaty. Their interests in the increase in CO2 emissions, which if uncontrolled might submerge their territories, interacted with the debate between the NAM pro-nuclear power and Western European anti-nuclear power interests in a way not seen at previous RCs.

iii. The Wider Disarmament and International Security Context

On the one hand the NWS were prepared to sideline their differences over START, NATO expansion, Iraq, Yugoslavia and NMD and TMD in order to achieve consensus on both a joint statement and a Final Document. This may have indicated the high priority they assigned to their collective interest in sustaining the NPT regime. They also agreed a much more extensive programme of action to implement nuclear disarmament than that drawn-up in 1995. Indeed, some might argue that the Final Document acted as a preparation, or even a substitute, for the long-heralded fourth UN Special Session on Disarmament, given its range of unilateral, bilateral and multilateral actions, and in the priority it gave to confidence building measures, arms reductions, verification and the irreversibility of disarmament activities.

iv. The Caucus Groups

The 2000 RC demonstrated that the politics of nuclear disarmament and non-proliferation had changed. While the three Cold-War caucus groups (NAM, Western and others and Eastern) appeared indispensable for allocating conference offices, one was a hollow shell and the others had predominantly information, rather than policy co-ordination, functions. As a consequence, regional and interest based groupings played a more significant role than before. In the case of the NAM, Arab and other regional groupings sought to pursue their specific interests through its consultative mechanisms, but agreed NAM positions were often coupled with contradictory regional and interest based ones.

Interest based regional and global groupings also abounded: the NATO-5; Finland and Sweden; the Vienna-based G-10; Australia and Japan; the South Pacific States (SOPAC) and the Caribbean Island States (CARICOM). It was the seven states of the NAC, however, which stood out as the completely new and highly significant player in this context. They formed an interest
based coalition, seeking agreement on an expanded range of commitments on disarmament, while also pulling together the traditional groupings over this issue on language they had negotiated. To do this they had to negotiate with the loosely-linked grouping of the five NWS. It was in this context that the key issues of the forward-and backward-looking language on disarmament were resolved.