

2010 Review Conference of the nuclear Non Proliferation Treaty Analysis of the Outcome

The outcome of the 2010 Review Conference of the nuclear Non Proliferation Treaty (NPT) was balanced, and the action plan was a consensus document. For the first time ever, an action plan on non proliferation and peaceful uses was also developed. There was also a suggested plan of action to implement the 1995 Resolution on the Middle East Weapons of Mass Destruction Free Zone.

The final document is divided into two parts a review and an action plan. The review section of the final document was not a consensus document, instead it was *“the responsibility of the President, and reflects to the best of his knowledge what transpired with regard to matters of review.”*¹ Delegations insisted that there was no time to do a thorough paragraph-by-paragraph review of the report section in the same way that they did on the action plan. The part of the document titled *“Conclusions and recommendations for follow-on actions”* was adopted by consensus, and provides a mild time-bound framework for reporting on some of the actions contained therein.

The Action Plan presents sixty-four (64) points of action, described as achievable before the next Review Conference in 2015. Some actions request reports on progress sooner than that, and the actions related to the implementation of the 1995 Resolution on the Middle East have a shorter time-frame attached (a Conference in 2012 of all states in the region).

This paper analyses the outcome document- NPT/Conf.2010/50 (Vol. I). It is divided into four sections- Disarmament, Non Proliferation, Peaceful Uses, and the Middle East Weapons of Mass Destruction Free Zone. Nuclear Weapon State in this document refers to the Permanent Five (P5)² members of the United Nations Security Council, or those States recognized under the NPT as nuclear weapons States.

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IKV Pax Christi is the joint peace organization of the Dutch Interchurch Peace Council (IKV) and Pax Christi Netherlands. IKV Pax Christi works for peace, reconciliation and justice in the world. We join with people in conflict areas to work on a peaceful and democratic society. We enlist the aid of people in the Netherlands who, like IKV Pax Christi, want to work for political solutions to crises and armed conflicts. IKV Pax Christi combines knowledge, energy and people to attain its objectives. More information about IKV Pax Christi can be found at www.nonukes.nl.

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¹ NPT/CONF.2010/50 (Vol. I), Footnote, Part I.

² The Permanent Five members of the UN Security Council are: China, France, the Russian Federation, the United Kingdom and the United States.

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Disarmament

The Review Conference achieved consensus on 22 Actions on disarmament. Though, overall, the language is not exceptionally strong, the actions themselves are more specific and concrete than practical steps agreed in 2000 (often referred to as the 13 steps), while reaffirming the importance of those steps and recommitting to them.

There is no specific time bound framework for action, but a request to report on actions taken by the 2014 NPT Preparatory Committee meeting, so that the “2015 Review Conference will take stock and consider the next steps for the full implementation of article VI.”³

Unequivocal Undertaking

States parties recommitted to the “*unequivocal undertaking of the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals, leading to nuclear disarmament*”⁴ in both the Principles and Objectives of the nuclear disarmament section and specifically in Action 3 of that section. The European Union was not able, in its Council Decision in preparation for the Review Conference, to recommit to the unequivocal undertaking.

Action 3: In implementing the unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals the nuclear-weapon States commit to undertake further efforts to reduce and ultimately eliminate all types of nuclear weapons, deployed and non-deployed, including through unilateral, bilateral, regional and multilateral measures.

This provides an opening to further pursue the 1991/2 Presidential Nuclear Initiatives. Although it does contain the diplomatic equivalent of ‘at some point, eventually’ (ultimately) in regards to eliminating all types of nuclear weapons, the specific reference to all types, as opposed to simply nuclear weapons is an opening to address tactical weapons. Unfortunately the action does not call on these reductions to be specifically verifiable, or irreversible, although Action 2 reaffirmed these principles.

International Humanitarian Law

For the first time, NPT State parties “*express[ed] [their] deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons and reaffirm[ed] the need for all States at all times to comply with applicable international law, including international humanitarian law.*”⁵

This provides an opportunity to address the issue of the use of nuclear weapons as a violation of international humanitarian law, as well as to, potentially, negotiate a ban on the use of nuclear weapons. Taking lessons from negotiations on the Biological and Toxicological Weapons Convention, where the use was banned before the disarmament process was negotiated.

Modernisation

The language on modernization was weakened considerably, now stating “*the Conference recognizes the legitimate interests of non-nuclear weapon States in the constraining by the nuclear weapon States of the development and qualitative improvement of nuclear weapons and ending the development of advanced new types of nuclear weapons*”⁶. This language in an earlier version of the document stated “*ceasing the development*”, and the weakening is the result of the nuclear weapons states. US NGOs note that the life-extension plans for the B61 free-fall gravity bomb will increase its capabilities and that this could be interpreted as the qualitative improvement of the weapon. The

³ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 5

⁴ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section I, A, ii.

⁵ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section I, A, v.

⁶ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section I, B, iv.

capability changes envisaged include the ability to drop the weapon from different heights, to further enhance its dial-a-yield capabilities and to change the weapon from an analogue to a digital system. This last change might require a new configuration of the nuclear parts of the weapon, and some have stated that this is, in effect, creating a new weapon. Concerns have been expressed that the new combination of nuclear parts of this weapon could prove disastrous. (Further information from Alliance for Nuclear Accountability, www.ananuclear.org).

The Russian Federation and the United States

Russia and the US are encouraged to ratify the new START agreement and are “*encouraged to continue discussions on follow-on measures in order to achieve deeper reductions in their nuclear arsenals.*”⁷ This is helpful, as the NPT did not encourage them to negotiate the next round. We know that actual negotiations are a long way off, and won’t take place until there is further action on, inter alia, the Conventional Forces in Europe treaty, withdrawal of forward deployed US nuclear tactical (or sub-strategic) weapons, removing to centralized storage of Russian tactical nukes. The key element is that the action does not call on further *negotiations*, but further *discussions*. This also allows for other types of reductions, on a mutually reinforcing unilateral basis, similar to the 1991/2 Presidential Nuclear Initiatives.

In a press briefing on 6 June 2010, US negotiator Rose Gottemoeller said “*When we go on to the next stage of negotiations we will be looking to begin constraints for the first time in history on non-deployed warheads.*” She also indicated that these negotiations would include verification mechanisms beyond the already negotiated national technical means of verification.⁸

Security Policies

“*The Conference notes the need for further progress in diminishing the role of nuclear weapons in security policies.*”⁹ Earlier language on this paragraph included reference to regional security strategies as well as bilateral security arrangements. The President’s first draft said “*further diminish the role and significance of nuclear weapons in all military and security concepts, doctrines and policies*”¹⁰ It was an opportunity to indicate to both NATO countries as well as those non-nuclear-weapon States under nuclear umbrellas (including Japan) to call for the reduction of the role of nuclear weapons in their security strategies.

Transparency

Two nuclear-weapon States, the US and the UK released the number of nuclear warheads in their nuclear arsenals during the Review Conference. The UK released information about both their deployed and non-deployed holdings, while the U.S. released information that their stockpile¹¹, as of 30 September 2009, consists of 5,113 warheads. In both cases, this is the first time that this information has been publicly available directly from the governments concerned, rather than through the compilation of open source information by independent nuclear investigators. All States

⁷ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 4

⁸ Press Briefing, Geneva Switzerland 6 June 2010

⁹ NPT/CONF.2010/50 (Vol. I), Review of the operation of the Treaty, as provided for in its article VIII (3), taking into account the decisions and the resolution adopted by the 1995 Review and Extension Conference and the Final Document of the 2000 Review Conference, paragraph 87.

¹⁰ NPT/CONF.2010/CRP.2/Rev.1

¹¹ “The **nuclear stockpile** includes both active and inactive warheads. Active warheads include strategic and nonstrategic weapons maintained in an operational, ready-for-use configuration, warheads that must be ready for possible deployment within a short timeframe, and logistics spares. They have tritium bottles and other Limited Life Components installed. Inactive warheads are maintained at a depot in a non-operational status, and have their tritium bottles removed.”- http://www.defense.gov/npr/docs/10-05-03_Fact_Sheet_US_Nuclear_Transparency_FINAL_w_Date.pdf, viewed 11 June 2010

parties committed “to apply the principles of irreversibility, verifiability and transparency in relation to the implementation of their treaty obligations.”¹²

Non-Strategic (Tactical, sub-strategic) Nuclear Weapons

Germany, in their opening statement to the Review Conference called “for the role of nuclear weapons to be further scaled down in NATO’s Strategic Concept” as these weapons “no longer serve a military purpose and do not create security.”¹³ On behalf of a group of 10 states, Germany also delivered a statement which called for strong action by the Review Conference calling for dealing with both forward deployed U.S. nuclear weapons, as well as their related infrastructure.

The Report section contains some items that relate to this issue.

*“The Conference reaffirms that the strict observance of all the provisions of the Treaty remain central to achieving the shared objectives of the total elimination of nuclear weapons preventing, under any circumstances, the further proliferation of nuclear weapons and preserving the Treaty’s vital contribution to peace and security.”*¹⁴ The key language in this paragraph are the words “under any circumstances”, as it is often cited that the treaty does not apply during times of war, when, for example NATO’s Article 5¹⁵ would be implemented.

Section B titled “Disarmament of Nuclear Weapons”, in its second paragraph says: “The Conference affirms the need for the nuclear-weapon States to reduce and eliminate all types of their nuclear weapons and encourages in particular those States with the largest nuclear arsenals to lead efforts in this regard.”¹⁶

In Step 9 of the 2000 NPT Final Document, a similar action was agreed, but with more specific language related to non-strategic weapons. The 2000 Final Document agreed on “The further reduction of non-strategic nuclear weapons, based on unilateral initiatives and as an integral part of the nuclear arms reduction and disarmament process”¹⁷. This reference to “all types” of nuclear weapons was the compromise made between the US/Russia and the Non Aligned Movement. Earlier drafts included specific reference to strategic and sub-strategic weapons. The US and the Russian Federation would not accept that delineation, and instead insisted that “all types” was as far as they would go. This provides an opportunity to shift away from defining types of nuclear weapons into future discussions and negotiations that can consider all types of warheads, regardless of their previous classifications. It was also indicated that during this Review Conference a number of states who are protected by the US nuclear umbrella (including some NATO states) did move further away

¹² NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 2

¹³ http://www.reachingcriticalwill.org/legal/npt/revcon2010/statements/4May_Germany.pdf

¹⁴ NPT/CONF.2010/50 (Vol. I), Review of the operation of the Treaty, as provided for in its article VIII (3), taking into account the decisions and the resolution adopted by the 1995 Review and Extension Conference and the Final Document of the 2000 Review Conference, paragraph 6.

¹⁵ Article 5 of the North Atlantic Treaty states:

The Parties agree that an armed attack against one or more of them in Europe or North America shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence recognised by Article 51 of the Charter of the United Nations, will assist the Party or Parties so attacked by taking forthwith, individually and in concert with the other Parties, such action as it deems necessary, including the use of armed force, to restore and maintain the security of the North Atlantic area. Any such armed attack and all measures taken as a result thereof shall immediately be reported to the Security Council. Such measures shall be terminated when the Security Council has taken the measures necessary to restore and maintain international peace and security .

¹⁶ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section B, paragraph ii.

¹⁷ NPT/CONF.2000/28

from the US in their positions and advocated for the inclusion of specific language on sub-strategic or tactical nuclear weapons.

In Action 5, the *“nuclear-weapon States commit to accelerate concrete progress on the steps leading to nuclear disarmament, contained in the Final Document of the 2000 Review Conference, in a way that promotes international stability, peace and undiminished and increased security.”*¹⁸. Of special relevance to the question of sub-strategic or tactical nuclear weapons, they commit to engage with a view to *“Address the question of all nuclear weapons regardless of their type or their location as an integral part of the general nuclear disarmament process;”*¹⁹

The original text in this particular action was weakened considerably through the negotiations process. The Non-Aligned Movement suggested that the nuclear weapon States *“withdraw nuclear weapons stationed on the territories of non-nuclear-weapon States in accordance with article I and II of the Treaty”*²⁰. An earlier version of the outcome document also included more specific language, calling on the nuclear weapons states to convene timely consultations which should *“address the question of all types of nuclear weapons and related infrastructure stationed on the territories of non-nuclear weapon States”*.²¹ So while the language was considerably weakened here, the final document does indirectly reference the problem of non-nuclear-weapon States hosting nuclear weapons by saying *“regardless of their type or their location”*.

Deadlines

The deadline included here, to report on the way that the nuclear-weapon States have *“engaged”* on these issues provides an opportunity to further address these actions at the next Review Conference. While the actions themselves are not very strong (nuclear-weapon States are called on to engage on these issues, not specifically to act on them), this does provide for a time-bound assessment of how that engagement has taken place. It also sets an agenda for the 2015 Review Conference to *“take stock and consider the next steps for the full implementation of article VI.”*²²

Comprehensive Test Ban Treaty (CTBT)

There were five actions in the outcome document related to the issue of nuclear testing. In Action 10, all nuclear-weapon States *“undertake to ratify the CTBT with all expediency”*. In Action 11, States reaffirmed their moratorium pending the entry into force of the CTBT, and also committed to refrain from *“the use of new nuclear weapons technologies and from any action that would defeat the object and purpose of the CTBT”*.

The Preparatory Commission of the CTBTO was encouraged, in Action 14, to *“fully develop the CTBT verification regime, including early completion and provisional operationalisation of the International Monitoring System”*.

Security Assurances

Security Assurances were addressed throughout Section C of the outcome document which recognizes *“the legitimate interest of non-nuclear weapon States in receiving unequivocal and legally binding security assurances”* and that these could strengthen the nuclear non-proliferation regime.

¹⁸ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 5

¹⁹ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 5, b

²⁰ NPT/CONF.2010/MC.1/CRP.2* (NAM Position as of 18 May 2010)

²¹ NPT/CONF.2010/CRP.2/Rev.1

²² NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 5

States parties agreed that the Conference on Disarmament should begin discussions on *“effective international arrangements to assure non-nuclear weapon States against the use or threat of use of nuclear weapons.... Not excluding an internationally legally binding instrument.”*²³

The US Nuclear Posture Review, in changing the conditions in which the U.S. would be willing to use nuclear weapons, does issue a new declaratory policy on negative security assurances. The Nuclear Posture Review says that *“the United States will not use or threaten to use nuclear weapons against non-nuclear weapons states that are party to the NPT and in compliance with their nuclear non-proliferation obligations.”*²⁴ This is also understood to apply to U.S. nuclear weapons potentially used on behalf of U.S. allies.

Nuclear weapon States also committed to *“fully respect their existing commitments with regard to security assurances.”*²⁵ And those *“nuclear-weapon States that have not yet done so are encouraged to extend security assurances to non-nuclear-weapon States parties to the Treaty”*²⁶. This does not commit nuclear weapons states to go much further than the positive security assurances²⁷ they provided in 1995 with UNSCR 984, but it does provide an opportunity for unilateral declarations, bilateral arrangements, and regional assurances through nuclear weapon free zones.

Nuclear Weapon Free Zones

Nuclear Weapons Free Zones are discussed in relation to security assurances. States concerned were encouraged to ratify the relevant nuclear weapons free zone treaties, and concerned states *“are encouraged to review any related reservations.”*²⁸ In the joint statement by the nuclear-weapon States, the P-5 said they would *“welcome dialogue to resolve the outstanding issues related to nuclear-weapon-free zones.”*²⁹ It is unfortunate that the concerned states were not encouraged to *withdraw* related reservations, and it is unfortunate that nothing was said about unilateral interpretative declarations. These interpretive declarations or reservations place conditions on the security assurances that are provided for in the Protocols to Nuclear Weapon Free Zone agreements.

Fissile Materials

It has long been understood that a concrete disarmament and non proliferation action would be the negotiation and entry into force of a legally binding international instrument dealing with the question of fissile materials. The President’s first draft said that *“If negotiations do not commence before the end of the 2011 session of the Conference on Disarmament, the 66th Session of the United Nations General Assembly is encouraged to examine how negotiations should be pursued”*³⁰. This is an urgent issue, as the Conference on Disarmament has not been able to agree on a programme of work in over a year (and for over a decade before that). Alternatives to addressing the fissile materials question must be examined. The European Union and the Non Aligned Movement both called for a moratorium on the production of fissile materials. China remains the only nuclear-weapon State that has not declared such a moratorium.

In the 2000 Final Document, the Conference agreed on *“Arrangements by all nuclear-weapon States to place, as soon as practicable, fissile material designated by each of them as no longer required*

²³ NPT/CONF.2010/50 (Vol. I), Section C, Action 7

²⁴ <http://www.defense.gov/npr/docs/2010%20nuclear%20posture%20review%20report.pdf>

²⁵ NPT/CONF.2010/50 (Vol. I), Section C, Action 8

²⁶ NPT/CONF.2010/50 (Vol. I), Section C, Action 8

²⁷ Positive Security Assurances are a guarantee that nuclear weapons will be used in retaliation for a nuclear weapons attack, whereas Negative Security Assurances are a guarantee that nuclear weapons will not be used against a non-nuclear attack.

²⁸ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 9

²⁹ http://www.reachingcriticalwill.org/legal/npt/revcon2010/statements/5May_P5-full.pdf

³⁰ NPT/CONF.2010/CRP.2/Rev.1

for military purposes under IAEA or other relevant international verification and arrangements for the disposition of such material for peaceful purposes, to ensure that such material remains permanently outside military programmes.”³¹ The 2010 agreement is weaker than this, where the “nuclear-weapon States are encouraged to commit to declare, as appropriate, to the International Atomic Energy Agency (IAEA) all fissile material designated by each of them as no longer required for military purposes and to place such material as soon as practicable under IAEA or other relevant international verification and arrangements for the disposition of such material for peaceful purposes, to ensure that such material remains permanently outside military programmes.”³² Instead of placing these materials under IAEA control, the nuclear-weapon States are now encouraged to declare them to the IAEA, and to place such material only as soon as practicable to the IAEA or another international arrangement.

However, there is a recognition in the action plan of the importance of verification by the IAEA “to ensure the irreversible removal of fissile material designated by each nuclear-weapon State as no longer required for military purposes.”³³

Reporting

Action 21 encourages all of the nuclear weapon States to “agree as soon as possible on a standard reporting form and to determine appropriate reporting intervals for the purpose of voluntarily providing standard information without prejudice to national security.” It was made clear that some nuclear weapons states would not agree to required reporting, but would voluntarily report. While this action is something that the nuclear weapons states are meant to do on their own, there is an opportunity to engage on the development of the standard reporting form and to suggest what should be included. This is an area that the EU in particular, could have an impact by setting a high standard of reporting, which could include, inter alia, the types and total number of deployed nuclear weapons delivery systems; the total number of active and inactive warheads; the total number of dismantled nuclear weapons delivery systems and warheads; the total amount of fissile material declared excess to national security requirement, and plans for its disposition; the year in which the production of fissile material for nuclear weapons was ceased; the total expenditure and the physical extent of nuclear weapons research, development and production infrastructure, including reductions in the square footage and the number of personnel; and efforts to reduce the role of nuclear weapons in security doctrines, including the alert status of nuclear weapon systems.

Non Proliferation

Nuclear Commerce

The Conference called upon all States parties “not to undertake any actions that can negatively affect prospects for the universality of the Treaty.”³⁴ This could be interpreted as an indirect reference to the India/ US nuclear deal³⁵, as well as to the recently announced China/ Pakistan nuclear deal³⁶. Both of those deals provide non states parties to the NPT with fuel that will allow them to continue their military production of fissile materials, outside of international controls.

The issue was more concretely addressed in Action 35, where all states were urged “to ensure that their nuclear-related exports do not directly or indirectly assist the development of nuclear

³¹ NPT/CONF.2000/28

³² NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 16

³³ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 17

³⁴ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 23

³⁵ More information can be found here: http://www.cfr.org/publication/9663/usindia_nuclear_deal.html

³⁶ More information can be found here: <http://www.armscontrolwonk.com/2066/china-pakistan-nuclear-deal>

weapons.... And that such exports are in full conformity with the objectives and purposes of the Treaty....”

There was no mention of the Nuclear Suppliers Group or of the Zangger Committee in the outcome document, although both have been referenced in previous Review Conference outcomes. The Conference did *“encourage States parties to make use of multilaterally negotiated and agreed guidelines and understandings in developing their own national export controls.”*³⁷ Many states who are not part of the Nuclear Suppliers Group or the Zangger Committee have indicated concerns with these smaller groups setting the export control standard in a way that is not always transparent.

Additional Protocol (AP)

Action 28 *“encourages all States parties which have not yet done so to conclude and bring into force additional protocols as soon as possible...”* While the NPT did not make the Additional Protocol a condition, or list it as the new non-proliferation verification standard, it did agree to encourage the Additional Protocol.

Questions about the validity of the AP and the Comprehensive Safeguards Agreements, together, as the new verification standard were not fully addressed at this Review Conference, however, Action 32 *“Recommends that the IAEA safeguards should be assessed and evaluated regularly”* which provides the opportunity, through the IAEA regulatory bodies (namely the Board of Governors) to ensure that this is the new verification standard- at least for all states with quantities and capacities requiring more intrusive inspections.

Nuclear Weapons States Safeguards

The application of safeguards to the sites in nuclear weapons states was called for by the conference in Action 30, and *“stresses that comprehensive safeguards and additional protocols should be universally applied once the complete elimination of nuclear weapons has been achieved.”* Which further recognizes the Additional Protocol as the verification standard.

Physical Protection of Nuclear Materials, Safety and Security

Safety and security and physical protection of nuclear materials were dealt with in actions 40- 43, by drawing states parties attention to other internationally legally binding instruments, including (INFCIRC/225/Rev.4 (Corrected))³⁸, Convention on the Physical Protection of Nuclear Material (and its amendment)³⁹, and the IAEA Code of Conduct on the Safety and Security of Radioactive Sources, as well as the Guidance on the Import and Export of Radioactive Sources approved by the IAEA Board of Governors in 2004⁴⁰.

Nuclear Terrorism & Illicit Trafficking

Action 44 *“calls upon all States parties to improve their national capabilities to detect, deter and disrupt illicit trafficking in nuclear materials throughout their territories, in accordance with their relevant international legal obligations”*. This is an indirect reference to the obligations of all UN Member States to uphold their obligations to UN Security Council Resolution 1540.⁴¹

³⁷ NPT/CONF.2010/50 (Vol. I), Action 36

³⁸ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 41

³⁹ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 42

⁴⁰ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 43

⁴¹ UNSCR 1540 (2004) is a Chapter VII Resolution of the UN Security Council (binding on all UN Member States). Operative Paragraph 3 *“Decides also that all States shall take and enforce effective measures to establish domestic controls to prevent the proliferation of nuclear, chemical, or biological weapons and their means of delivery, including by establishing appropriate controls over related materials”* and lists several actions States are responsible for in this regard.

Action 45 addressed the question of nuclear terrorism, by encouraging states parties to join the convention on nuclear terrorism if they have not yet done so.

Support for the IAEA

The Conference recognized that the IAEA needs political, technical and financial support in order to effectively meet its safeguards application responsibilities, and called on States parties to ensure this (Action 33).

The Conference also encouraged *“all States in a position to do so to make additional contributions to the initiative designed to raise 100 million dollars over the next five years as extra-budgetary contributions to IAEA activities”* (Action 55).

Peaceful Uses

Inalienable Right

The first several actions (47-49) in this part of the plan reaffirm the rights of states to make their own decisions about how much of the nuclear fuel cycle they want to develop. It calls on States parties to *“Respect each country’s choices and decisions in the field of peaceful uses of nuclear energy”*⁴²; *“facilitate, and reaffirm the right of States parties to participate in, the fullest possible exchange of equipment, materials and scientific and technological information”*⁴³ and; *“Cooperate with other States parties or international organizations in the further development of nuclear energy for peaceful purposes”*.⁴⁴

Technical Cooperation

Actions 51-54 all deal with the technical cooperation programme of the IAEA, encouraging greater effectiveness and resources for it. In addition, States are called on to *“eliminate in this regard any undue constraints inconsistent with the Treaty.”*⁴⁵ IAEA resources have been stretched beyond capacity and States are called upon to *“Make every effort and to take practical steps to ensure that IAEA resources for technical cooperation activities are sufficient, assured and predictable.”*⁴⁶

Safeguards

Action 57 may be considered more of a non proliferation action, as states agree to ensure that *“when developing nuclear energy, including nuclear power, the use of nuclear energy must be accompanied by commitments to and ongoing implementation of safeguards as well as appropriate and effective levels of safety and security, consistent with States’ national legislation and respective international obligations.”*

Multilateral Approaches to the Fuel Cycle

The multilateral approach to the nuclear fuel cycle was not decided on, but states agreed in Action 58 that they would continue *“to discuss further, in a non-discriminatory and transparent manner under the auspices of IAEA or regional forums, the development of multilateral approaches to the nuclear fuel cycle, including the possibilities of creating mechanisms for assurance of nuclear fuel supply, as well as possible schemes dealing with the back-end of the fuel cycle without affecting rights under the Treaty and without prejudice to national fuel cycle policies, while tackling the technical,*

⁴² NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 47

⁴³ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 48

⁴⁴ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 49

⁴⁵ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 51

⁴⁶ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 54

legal and economic complexities surrounding these issues, including, in this regard, the requirement of IAEA full scope safeguards.”

Proliferation Sensitive Materials

Recognising that highly enriched uranium is a proliferation sensitive material, concerned States are encouraged *“on a voluntary basis, to further minimize highly enriched uranium in civilian stocks and use, where technically and economically feasible.”*⁴⁷

Transport of Radioactive Materials & Liability

Concerns of some states about the transport of highly radioactive materials, including radioactive waste, were minimally addressed in Action 62 although they were encouraged to continue communication between shipping and coastal states for the purposes of confidence building.

A civil nuclear liability regime will be put in force, through relevant international instruments, or suitable national legislation (Action 63).

Armed attack on nuclear facilities

In the 2000 Final Declaration *“The Conference considers that attacks or threats of attack on nuclear facilities devoted to peaceful purposes jeopardize nuclear safety, have dangerous political, economic and environmental implications and raise serious concerns regarding the application of international law on the use of force in such cases, which could warrant appropriate action in accordance with the provisions of the Charter of the United Nations.”*⁴⁸

In the 2010 Action plan *“The Conference calls upon all States to abide by the decision adopted by consensus at the IAEA General Conference on 18 September 2009 on prohibition of armed attack or threat of attack against nuclear installations, during operation or under construction.”*⁴⁹

The IAEA General Conference decision referred to *“noted that ‘any armed attack on and threat against nuclear facilities devoted to peaceful purposes constitutes a violation of the principles of the United Nations Charter, international law and the Statute of the Agency’, and a thorough discussion was made on all aspects of the issue. Member States recognized the importance attached to safety, security and physical protection of nuclear material and nuclear facilities and, in that regard, expressed their views on the importance they attached to the protection of nuclear installations. They also noted the need to have the Agency involved in early notification and assistance in cases of radioactive release from nuclear installations.”*⁵⁰

The 2010 action goes further, in noting the need of the IAEA to have early notification and provide assistance in cases where a nuclear facility might be subject to attack and the possibility of a radioactive release might be present.

Middle East Weapons of Mass Destruction Free Zone

Universalisation

In the 2000 Final Document, Israel was specifically named when the Conference noted *“that the report of the United Nations Secretariat on the implementation of the 1995 Resolution on the Middle East (NPT/CONF.2000/7) states that several States have acceded to the Treaty and that, with these accessions, all States of the region of the Middle East, with the exception of Israel, are States parties*

⁴⁷ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 61

⁴⁸ NPT/CONF.2000/28

⁴⁹ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Action 64

⁵⁰ GC(53)/DEC/13

to the Treaty on the Non-Proliferation of Nuclear Weapons.” The 2000 Final Document also “reaffirms the importance of Israel’s accession to the Non-Proliferation Treaty and the placement of all its nuclear facilities under comprehensive IAEA safeguards, in realizing the goal of universal adherence to the Treaty in the Middle East.”⁵¹

The 2010 Consensus document used much gentler language in referring to the only State in the region not party to the NPT, and only named Israel one time stating: “The Conference recalls the reaffirmation by the 2000 Review Conference of the importance of Israel’s accession to the Treaty and the placement of all its nuclear facilities under comprehensive IAEA safeguards.”⁵²

Practical steps towards a Middle East Weapons of Mass Destruction Free Zone

As the “Conference regrets that little progress has been achieved towards the implementation of the 1995 Resolution on the Middle East”⁵³ it decided on a series of practical measures to facilitation of the 1995 resolution.

Practical measures to implement the 1995 resolution include a conference to be convened by the UN Secretary General, UK, US and Russia, in consultation with the states of the region, in 2012⁵⁴; the appointment by the UN Secretary General, UK, US and Russia, in consultation with the states of the region, a Facilitator with a mandate to do consultations and undertake preparations for the 2012 conference⁵⁵; the designation by the UN Secretary General, UK, US and Russia, in consultation with the states of the region, of a host country for the conference⁵⁶. The Review Conference also called on the IAEA and Organisation for the Prohibition of Chemical Weapons and other relevant institutions prepare documentation for this 2012 conference⁵⁷. NPT States also accepted the EU offer to host a follow-on seminar to that organized in June 2008⁵⁸.

The Review Conference also “emphasizes the requirement of maintaining parallel progress, in substance and timing, in the process leading to achieving total and complete elimination of all weapons of mass destruction in the region, nuclear, chemical and biological.”⁵⁹ As progress must be made to achieve universality on the NPT as well as the Biological and Toxicological Weapons Convention and the Chemical Weapons Convention to achieve a Weapons of Mass Destruction Free Zone in the Region.

Other Issues

Withdrawal

There was no consensus on strengthening or in any way elaborating on Article X questions. Discussions about the issue were reflected in the Reporting section of the Final Document, under the President’s authority. The President did report “that numerous States were of the view that States parties should undertake consultations immediately, as well as regional diplomatic initiatives”⁶⁰ in case of a notice of withdrawal.

⁵¹ NPT/CONF.2000/28

⁵² NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section IV, Paragraph 5.

⁵³ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section IV, Paragraph 4

⁵⁴ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section IV, Paragraph 7(a)

⁵⁵ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section IV, Paragraph 7(b)

⁵⁶ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section IV, Paragraph 7(c)

⁵⁷ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section IV, Paragraph 7(d)

⁵⁸ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section IV, Paragraph 7(e)

⁵⁹ NPT/CONF.2010/50 (Vol. I), Conclusions and recommendations for follow-on actions, Section IV, Paragraph 8

⁶⁰ NPT/CONF.2010/50 (Vol. I), Paragraph 120

Institution Building

There was no decision on strengthening the NPT as an institution, though some of the discussion were reflected in the Report, although the idea of annual meetings with decision-making powers was not included.

The Report did recommend two institution building mechanisms, that *“past and incumbent Presidents and Chairs to be available for consultations with the incoming President and Chair, if necessary, regarding practical matters relating to their responsibilities”*⁶¹ and *“that a dedicated staff officer to support the Treaty’s review cycle should be added to the Office for Disarmament Affairs of the United Nations Secretariat.”*⁶²

During the conference, some member states argued that changing the system of meetings would not change the political will needed to agree on and implement specific actions and outcomes. Others argued against this idea stating that the change in the meeting schedule was a distraction from the real work at hand- to achieve the goals enshrined in the treaty. However, a broad cross regional group of twenty-five States did support the working paper that focused on institution building, and the issue is likely to emerge again.

Civil Society

There were two references to Civil Society in the consensus action plan. In Action 19, *“the importance of supporting cooperation among Governments, the United Nations, other international and regional organizations and civil society aimed at increasing confidence, improving transparency and developing efficient verification capabilities related to nuclear disarmament”* was noted. This is a reference to the good work that has been done in building warhead disarmament verification capacity in a joint project by the UK, Norway and the civil society organisation VERTIC.

The second reference was to *“the important role played by civil society in contributing to the implementation of the 1995 Resolution”*.

No additional references, nor decisions to increase or formalise engagement with civil society were made in the document.

⁶¹ NPT/CONF.2010/50 (Vol. I), Paragraph 110

⁶² NPT/CONF.2010/50 (Vol. I), Paragraph 111