



Further Strengthening the NPT Review Process: Reflections and Recommendations

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Cover image: General debate of the Tenth Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons. UN Photo/Manuel Elías.

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Introduction

The failure of several Review Conferences of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) to reach an agreed outcome has been primarily the result of major differences among the States parties rather than the fault of the structure and operation of the review process. However, States parties have also acknowledged that the preparatory cycle could be made more effective, and the decision adopted on 26 August 2022 at the final meeting of the 10th NPT Review Conference reflects that need. The decision establishes a Working Group on further strengthening of the review process of the Treaty that would “discuss and make recommendations to the Preparatory Committee on measures that would improve the effectiveness, efficiency, transparency, accountability, coordination and continuity of the review process of the Treaty.”¹

To assist States parties in preparations for the Working Group, the Vienna Center for Disarmament and Non-Proliferation (VCDNP) and the James Martin Center for Nonproliferation Studies (CNS) launched a project in early 2023 aimed at developing recommendations on further strengthening the review process. The project convened informal meetings, online and in person, of select State party representatives to discuss the areas of the review process where improvements are most needed and feasible. The meetings took place in January, February, and March 2023, with cross-regional representation of 33 NPT States parties, as well as the Chair-Designate of the 2023 Preparatory Committee meeting, and representatives of the International Atomic Energy Agency (IAEA) and the UN Office for Disarmament Affairs (UNODA).

The general takeaway from the informal sessions was that States parties did not want the Working Group to renegotiate the 1995 decision on the strengthened review process (SRP) and significantly alter the current review process structure. They wanted to make adjustments to provide more guidance and greater clarity on implementing the decision, with a view to making the existing structures and process more effective and efficient throughout the review cycle, to avoid the situation where every Review Conference has to start its discussions and negotiations from scratch.

The present paper is informed by the discussions at the three meetings as well as the authors’ experiences and reflection on some of the earlier proposals submitted to previous review process meetings. As such, the following recommendations are not exhaustive but are an attempt to focus on the more feasible suggestions and to reflect some areas of convergence in the discussions.

¹ Decision on the next review cycle, NPT/CONF.2020/DEC.2 (26 August 2022), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N22/474/95/PDF/N2247495.pdf>.

Greater Clarification and Guidance on the Purposes of the Preparatory Committee

Decision 1 of the 1995 NPT Review and Extension Conference established the current review process structure with three (four, if necessary) Preparatory Committee (PrepCom) meetings preceding the Review Conference (RevCon). The PrepComs are mandated to undertake not only procedural, but also substantive preparatory work – “to consider principles, objectives and ways in order to promote the full implementation of the Treaty” and provide recommendations to the Review Conference.²

One of the major weaknesses of the 1995 decision on the SRP is the lack of clear guidance on implementation, leaving it wide open to interpretation about how the preparatory process should function and produce outputs. The final document of the 2000 Review Conference provided only limited clarification, specifying that the first two PrepCom sessions should produce factual summaries and the third should “make every effort” to adopt consensus recommendations for the RevCon.³ A key priority area for improvement would be to achieve a common understanding and agreement on the details of how the preparatory process should work and how its results should be generated. These details need to be practical, simple, and clear.

General Debate

One of the strongest criticisms of the review process has been repetition and inefficient use of time allocated to the sessions. Each PrepCom lasts two weeks, with the General Debate taking place in the first two-three days, followed by the Cluster debates and consideration of the draft PrepCom report. A more businesslike approach could be adopted to free up more time for substantive consideration by eliminating the general debate completely during PrepComs. Perhaps exceptions can be made for statements at ministerial level for important announcements to be delivered at the start of the PrepCom session but those should be limited to only a few minutes. States parties would still be able to state their positions on different aspects of treaty implementation during the Cluster debates. The time freed through the elimination of general debate during PrepComs could be reallocated to structured, substantive and interactive discussions, which can be organized and facilitated with the introduction of expert panels and other innovative formats.

The General Debate should be retained at the review conferences due to the ministerial level of representation and the opportunity it provides for high-level political announcements and presentation of positions.

² Decision 1: Strengthening the Review Process for the Treaty, NPT/CONF.1995/32 (Part 1), Annex, https://front.un-arm.org/wp-content/uploads/assets/WMD/Nuclear/1995-NPT/pdf/NPT_CONF199532.pdf.

³ Improving the effectiveness of the strengthened review process for the Treaty, Final Document of the 2000 NPT Review Conference, Vol. I., Part I, NPT/CONF.2000/28 (Parts I and II), <https://front.un-arm.org/wp-content/uploads/assets/WMD/Nuclear/pdf/finaldocs/2000%20-%20NY%20-%20NPT%20Review%20Conference%20-%20Final%20Document%20Parts%20I%20and%20II.pdf>.

Role of the PrepCom Chairs in Generating Results and Ensuring Continuity

Because Decision 1 of 1995 did not provide clear guidance on how the PrepCom process would function and feed into the Review Conference, the initial 1997-99 preparatory process had little success, and no substantive recommendations were adopted. Much of the debate revolved around questions related to how evaluation or measurement of Treaty implementation was to be undertaken and whether to generate a rolling text or seek another way to transmit recommendations to the RevCon. States parties grappled with the lack of agreement about what kind of recommendations should be made, and what their status should be.⁴

Each PrepCom involved a process of laborious bargaining akin to a mini review conference, requiring compromises all around. Since national or caucus group positions might have to be sacrificed in the process, it made no tactical sense to the delegations to make such compromises during the PrepCom phase instead of the last week of the Review Conference, when all other possibilities had been exhausted. Experience from the 1999 session suggested that recommendations might only emerge when the issues are uncontroversial, and that States parties were not prepared to have those sent to the Conference in isolation.⁵

Attempts to resolve this in the 2000 decision, tasking the third PrepCom to produce a consensus report with recommendations, did not reduce uncertainty and interpretation on how to generate results. The last factual summary attached to a PrepCom report was in 2002 – 21 years ago, and no third PrepCom session has ever produced agreed substantive recommendations to a Review Conference.

Recommendations

PrepComs should concentrate on substantive discussions. States parties should not attempt to negotiate and adopt by consensus factual summaries produced by the PrepCom Chairs of the first and second sessions. They should instead agree that such summaries are the respective Chair's own assessment and forward them as a Chair's report to the next session.

The first PrepCom in each cycle should establish an overall agenda for the entire review cycle, and States parties should agree on some specific areas to focus on in each PrepCom. While debates are currently organized in terms of NPT pillars, agreement

⁴ Discussed in Rebecca Johnson, "Divisions and Doubts at the Third NPT PrepCom," *Arms Control Today*, 4 May 1999, https://www.armscontrol.org/act/1999_04-05/rjam99. For a detailed account of the 1998 NPT Preparatory Committee meeting, see Rebecca Johnson, "Reviewing the Non-Proliferation Treaty: Problems and Processes. Part 1: Why the PrepCom Collapse," *Acronym Report No. 12* (September 1998), <http://www.acronym.org.uk/old/archive/acrorep/a12part1.htm>.

⁵ The texts of the first and revised draft Chair's reports are contained in The Final Report of the Preparatory Committee for the 2000 NPT Review Conference, NPT/CONF.2000/1* (21 May 1999), Annex II and IV, respectively, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N99/224/81/PDF/N9922481.pdf>.

on more clearly defined issues, such as, for example, risk reduction or humanitarian impact of nuclear weapons, could enable the programme of work to incorporate better tasking and smarter allocation of time and enhance the chances of advancing substance development throughout the cycle.

The Chair of each PrepCom should be mandated with the responsibility of leading the States parties in the generation of organizational and substantive results of the respective session they are chairing. If earlier nomination of Chairs is successful, they should start acting as a bureau at the first PrepCom. This would facilitate better coordination and preparation of factual summaries that can, as Chair reports, feed into each other and result in easier grouping of elements to form recommendations by the end of the third PrepCom (see the recommendations under more formalized reporting, particularly on a joint report prepared by the PrepCom Chairs).

Better coordination among the bureau members and early appointment of the President-elect could facilitate better preparation, contribute to more effective work throughout the review cycle and minimize the “bottlenecking” scenario at RevCons.

Enhancing Accountability: More Structured Review and Monitoring

Accountability underpinned much of the debate at the 1995 Review and Extension Conference.⁶ The defining moment was a proposal by South African Foreign Minister Alfred Nzo that the review process be strengthened with the adoption of a set of Principles for Nuclear Non-Proliferation and Disarmament, setting out the general obligations and conditions to which States parties would strive. It enabled the Conference to achieve the historic outcome of a package of three decisions and Resolution on the Middle East. Nzo maintained that the Principles “would not be conditions which would lead to the termination of the treaty, but rather a yardstick by which all the States parties can measure their non-proliferation and disarmament achievements”.⁷

The core product of the 1995 debate and decisions was the concept of a “yardstick,” with the provisions of the strengthened review process offering constructive, practical benchmarks for assessing state behavior under the treaty. This is particularly relevant in light of the 13 Practical Steps for nuclear disarmament adopted by the 2000 RevCon and the 64-point action plan of 2010, where these yardsticks strengthen the NPT review process as a “results-based” enterprise.

To better plan and measure progress on disarmament as well as build upon past

⁶ Discussed in Michal Onderco and Leopoldo Nuti, eds., *Extending the NPT? A Critical Oral History of the 1995 Review and Extension Conference*, Woodrow Wilson Center (2020); Jayantha Dhanapala with Randy Rydell, “Multilateral Diplomacy and the NPT: An Insider’s Account,” UN Institute for Disarmament Research, March 2005, <https://www.unidir.org/publication/multilateral-diplomacy-and-npt-insiders-account>, and Paul Meyer, “‘Permanence with Accountability’: An Elusive Goal of the NPT,” *Journal for Peace and Nuclear Disarmament*, 3:2 (2020), 215-223.

⁷ Statement by Alfred Nzo, Foreign Minister of the Republic of South Africa at the General Debate of the 1995 NPT Review and Extension Conference, Summary record of the 4th Meeting, NPT/CONF.1995/SR.4, 19 April 1995, pp. 49-51.

commitments, in subsequent review cycles States parties need to conduct a more detailed and structured review. A common challenge for any systematic review is the tension between the need for a substantive and objective assessment of implementation and the fact that, ultimately, negotiated final documents of review conferences are political documents.

Apart from political will, the challenges of producing a substantive, detailed review include methodology, access to information, and unequal capacity among States parties. How do delegations assess progress and draw conclusions, especially in the absence of numeric targets and timelines? Besides national reports, what information do delegations use as the basis for discussion? If variation in states' resources and capacity affect their ability to effectively participate in a substantive review, how can such inequalities be mitigated?

Recommendations

For future review cycles, States parties should consider having a document prepared by a third party, reviewing implementation of past commitments ahead of a review conference. The idea is to have a professionally researched and drafted monitoring and assessment report serve as a basis, a common starting point for a substantive discussion of implementation of past commitments at a review conference. The NPT community could also look into the experience of other treaties and regimes in this regard, such as the Mine Ban Convention and Convention on Cluster Munitions, where the Landmine and Cluster Munition Monitor, a civil society initiative, serves as the monitoring regime for the two treaties.⁸ However, as many NPT States parties are still apprehensive about greater involvement of civil society in the review process, the United Nations Institute for Disarmament Research (UNIDIR) may be a more acceptable third party to produce such an assessment report.

In terms of the scope and organization of a systematic review of implementation of the Treaty and past commitments, States parties could base the review on the latest forward-looking consensus outcome (at present the 2010 Action Plan), especially given that the chapeau of the nuclear disarmament part of the "Conclusions and Recommendations" frames the Action Plan as "building upon the practical steps" adopted by the 2000 Review Conference. This would be an efficient approach, and it seemed to have been the expectation among many states in the run up to the 2015 Review Conference that the review would focus on the Action Plan in particular.⁹ Such an approach could also work well with a forward-looking part that assigns targets and/or timelines to specific action items.

⁸ See the Landmine and Cluster Munition Monitor website at <http://www.the-monitor.org/en-gb/home.aspx>. Historically, civil society's role in, and engagement with, the NPT has been different from the Landmine and Cluster Munitions Conventions. The idea here, however, is not to replicate the experience but rather draw some lessons and inspiration.

⁹ Note, for example, that many States parties organized their national reports to the 2015 NPT Review Conference around the action items of the 2010 Action Plan. National reports are available on the official conference website: <https://www.un.org/en/conf/npt/2015/national-reports.shtml>.

Whether the review assesses the implementation of all past commitments or focuses on the latest agreed steps/actions, it will face the question of “outdated” or “irrelevant” commitments. It is not unreasonable to argue that some of the agreed steps cannot remain current in perpetuity. However, commitments adopted by consensus by over a hundred states cannot be dismissed on the basis of one or two countries’ changed perception of circumstances and priorities. In reviewing past commitments, Review Conferences could deliberate and decide if some prior agreed steps are no longer relevant. It is useful in this regard to recall that the 2000 Review Conference found an elegant way to declare Article V as no longer relevant.¹⁰ Some of the past commitments are no longer implementable as formulated, but it does not necessarily mean they are irrelevant. In such cases, States parties would need to agree that the underlying goals and issues remain valid.

Improved Transparency: More Formalized Reporting

States parties have recognized the necessity of strengthening accountability through improved transparency, particularly on the implementation of disarmament commitments. Reporting, however, has been irregular and uneven among States parties, including the nuclear-weapon states (NWS). Furthermore, the review process lacks a systematic approach to reviewing and discussing national reports.

Reporting in a more formalized manner, particularly by the NWS, with regard to their nuclear weapon capabilities and the implementation of Article VI obligations and nuclear disarmament commitments, would enable progress on implementation to be regularly monitored and reviewed and build mutual confidence, in line with Actions 5 and 21 of the 2010 Action Plan.

Recommendations

Each Preparatory Committee session should allocate time for a structured discussion on the review of implementation of the treaty and past RevCon agreements, including with respect to national reports of States parties, particularly the NWS. As part of this structured discussion, the nuclear-weapon states should present, jointly or individually, information about the implementation of their Article VI obligations and nuclear disarmament related commitments. Nuclear-weapon States should report at least twice during the review cycle.

PrepCom Chairs should have the discretion of inviting experts, including from civil society, to comment on national reports and/or implementation of commitments.

Pursuant to Action 21 of the 2010 Action Plan, nuclear-weapon States had to adopt a standard reporting form to provide information on their arsenals, nuclear policies, and implementation of disarmament commitments. The standard agreed by the five NWS, however, consisted of headings that allowed for wide divergence in the quantity and

¹⁰ In 2000, NPT States parties agreed that provisions of Article V on peaceful nuclear explosions should be “interpreted in the light of the Comprehensive Nuclear Test-Ban Treaty,” rendering the article moot.

quality of information submitted as part of the NWS reporting. The nuclear-weapon States, therefore, should commit to improve the standard reporting form. Different States parties and groupings, especially the Non-Proliferation and Disarmament Initiative (NPDI), have made several proposals on what kind of information should be reported by the NWS.¹¹ For greater transparency and assessment of implementation of Article IV and related commitments, standard NWS reporting could include:

- i. the number, type and status (deployed or non-deployed) of nuclear warheads;
- ii. the number and the type of delivery vehicles;
- iii. plans related to the modernization of nuclear weapons and related changes to their nuclear capabilities;
- iv. the measures taken to reduce the role and significance of nuclear weapons in their military and security concepts, doctrines and policies;
- v. the measures taken to reduce the operational readiness of nuclear weapon systems;
- vi. the number and type of weapons and delivery systems dismantled and reduced as part of arms control and disarmament efforts;
- vii. the amount of fissile material stockpiled, both as part of, and in excess of military programs.

Other nuclear disarmament related measures could also be included in the reporting if not addressed elsewhere.

On the basis of those structured discussions, the Chairs of the Preparatory Committee meetings would prepare, in their personal capacities, a joint report to the Review Conference, with proposals on targets and indicators, to improve the monitoring of, and reporting on, implementation of Article VI obligations and disarmament related commitments.

Each Review Conference should allocate time in Main Committee I for a structured dialogue, drawing upon national reporting and the joint report of the Preparatory Committee Chairs, with a view to strengthening implementation of Article VI obligations and disarmament related commitments.

¹¹ NPDI presented a draft reporting form for the NWS in 2012, "Transparency of nuclear weapons: the Non-Proliferation and Disarmament Initiative," NPT/CONF.2015/PC.I/WP.12, <https://www.reachingcriticalwill.org/images/documents/Disarmament-foia/npt/prepcom12/documents/WP12.pdf>. Subsequently, the group presented a reporting template covering both the nuclear- and non-nuclear-weapon States in 2015 and updated it during the tenth review cycle. See, for example, "Enhancing national reporting as a key transparency and confidence-building measure," NPT/CONF.2020/PC.III/WP.24 (18 April 2019), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N19/114/54/PDF/N1911454.pdf>. The New Agenda Coalition (NAC) presented its proposal on the NWS reporting in a working paper in 2017, NPT/CONF.2020/PC.I/WP.13 (24 March 2017), <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N17/079/22/PDF/N1707922.pdf>.

Subsidiary Bodies

One of the most successful tools emerging from the 1995 SRP decision has been the mechanism of subsidiary bodies (SB). The work that was undertaken by them on nuclear disarmament at the 2000 and 2010 Review Conferences, as well as on the Middle East in 2010, was integral to ensuring that these Conferences did not only reassert principles but set forth actions or an agenda for the achievement of the Treaty's objectives. On the other hand, the establishment of subsidiary bodies and appointment of their chairs have often been plagued by uncertainty and resort to last-minute decisions.

Recommendations

The review process would benefit from earlier establishment and appointment of subsidiary body chairs and an adjustment of the SRP mandate to allow for this to be done during the PrepCom process, no later than by the end of the third PrepCom session. SB Chair(s) can then undertake preparatory work in advance of the RevCon through consultations and build on major topics that may emerge from PrepCom discussions relevant to the SB's mandate.

Subsidiary body meetings should include panels of experts and briefings to promote more substantive and interactive discussions and SB Chairs should prepare and recruit the expert panels on those substantive issues.

Article-by-Article Review of the Treaty

Canada and representatives from civil society have often maintained that an article-by-article review was "a common-sense approach to a revitalized review of the Treaty" that "could facilitate a structured and balanced review of the Treaty and provide greater focus on those elements of the Treaty requiring further effort at promoting full implementation."¹²

The proposal is logically attractive as it promises to streamline the current cumbersome process. The established practice at the RevCons has been to allocate items to three Main Committees¹³ and when the substantive outcome is consolidated to revert back to an article-by-article compendium for the final declaration or document. Proposals on the article-by-article approach have not been able to garner adequate support over the years and the preference has been to stick to the three-committees practice.

Established since 1985, the current practice fits neatly with the political expediency of having each of the Main Committees chaired by a representative of one of the three NPT political groups. The group structure itself, however, is outdated, having been formulated on the basis of the Eighteen-Nations Committee on Disarmament, and

¹² See, for example, Tariq Rauf, "PrepCom Opinion: Farewell to the NPT's Strengthened Review Process?" *Disarmament Diplomacy*, Issue No. 26, May 1998.

¹³ The three clusters at PrepComs follow a similar allocation of items.

merits reconsideration in the post-Cold War world. Potentially, the revision of group structure could be conducted alongside the switch from the three Main Committees practice. At the moment, though, there is little appetite among States parties for review process changes on such a scale.

Inclusivity

The NPT should be brought in line with practices in other multilateral fora. The one meeting allocated to civil society per PrepCom and Review Conference doesn't do justice to the contribution non-governmental organizations (NGOs) could make, considering the substantive and technical expertise of many expert stakeholders. The starting point for consideration of the role of civil society should be finding a way to integrate their participation in the substantive discussions rather than relegating their involvement to a separate meeting that is underattended by States parties. Participation in expert panels and providing room for civil society representatives to comment on reporting are amongst the measures that could be considered. Presentations and panel discussions with non-governmental experts could be particularly useful in addressing topics where many delegates might lack specialized knowledge, such as the potential impact of emerging and/or disruptive technologies on various disarmament, nonproliferation, and peaceful uses issues.

In the absence of progress in this area, NGOs themselves could give serious consideration to improving the format and content of their three-hour time allocation. The current practice of tightly packed sets of statements delivered by different civil society representatives does not seem especially useful for either the States parties or the NGOs.

Establishment of an NPT Secretariat or Implementation Support Unit (ISU)

There have been previous proposals to establish a formal, permanent secretariat or implementation support unit for the NPT, similarly to other regimes.¹⁴ This issue, however, has not made much headway over the last 25 years and there still appears to be little appetite among States parties to allocate additional funds to fund an ISU, especially to cover the substantial human resources it takes to perform the varied duties and responsibilities it would entail.

Recommendations

The SRP mandate should formalize the current Secretariat responsibilities. UNODA should be responsible for servicing the NPT by providing the organizational and substantive support to the respective appointed officers leading the preparation and organization of the meetings of the preparatory sessions as well as the Review

¹⁴See, for example, the Working Paper on further strengthening the review process of the Treaty on the Non-Proliferation submitted to the 2010 NPT Review Conference, NPT/CONF.2010/WP.4 (18 March 2010), <https://reachingcriticalwill.org/images/documents/Disarmament-fora/npt/revcon2010/documents/WP4.pdf>.

Conference. The IAEA should share the Secretariat responsibility and provide substantive and secretariat support relevant to its mandate.

To promote greater consistency in the preparations for, and follow up to, the review process meetings, consideration should be given to earlier nomination of the Secretary-General of the Review Conference. In accordance with past practice, the first PrepCom session invites the Secretary-General of the United Nations, in consultation with the members of the Preparatory Committee, to nominate an official to act as provisional Secretary-General for the upcoming Review Conference. A nomination could be made prior to the second PrepCom session, with States parties taking note of it, while the confirmation would take place at the Review Conference.

Regional Outreach

During the tenth review cycle, some of the designated officers included in their preparation process regional outreach, including through regional workshops and meetings focused on NPT issues. The contribution of such outreach activities is acknowledged, and it is recommended that such efforts continue and that states or groups of states in a position to do so consider providing voluntary funding to support them. The support previously provided by the European Union and individual governments in this regard is commended.

Conclusion

Some of the recommendations and proposals presented above are more feasible than others, but none are so drastic or profound as to require a renegotiation of the 1995 decision on strengthening the NPT review process. More than 25 years after its adoption, States parties broadly share the view that the goals of the SRP decision – aiming at greater accountability in implementing the Treaty – remain valid. Changes to how the review process is conducted should be made while keeping in mind the underlying reasoning and intentions of the 1995 decision.

The 11th NPT review cycle has commenced in exceptionally difficult circumstances, following the failure of the Tenth Review Conference and against the background of continued tensions and conflicts among the States parties. While procedural adjustments will not eliminate substantive disagreements, States parties should use the opportunity presented by the Working Group to improve the effectiveness and accountability of the review process to give themselves a better chance to achieve progress in the current and future review cycles.

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