

RESTORING THE NPT

ESSENTIAL STEPS FOR 2010

DEEPTI CHOUBEY

CARNEGIE ENDOWMENT

FOR INTERNATIONAL PEACE

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ACKNOWLEDGMENTS

The author wishes to thank George Perkovich and Peter Reid for their support and comments. She is deeply grateful to the over 35 officials and experts from eighteen countries who took the time to speak with her and agreed to be interviewed for this report. Special thanks are due to research assistant Kimberly Misher for her tireless assistance at every stage of the process. Thanks are also due to junior fellow Brian Radzinsky and intern Amir Badat for their help.

SUMMARY

Conventional wisdom states that the nonproliferation regime is on the verge of collapse and that the May 2010 NPT Review Conference will determine its fate. Casting the Review Conference within this make-or-break context is misleading and a mistake. The Review Conference is important, and vital progress can be made during it. But it is also a paradox. Achieving even modest results will require many states to expend enormous amounts of political will and effort. However, failure will also have a large impact, so it is worth making an effort to prevent such an outcome.

Averting failure and achieving some modest success at the 2010 NPT Review Conference will require nuclear-weapon states and non-nuclear-weapon states alike to take up the call of restoring the NPT as a joint endeavor. Because each state's security is affected by the outcome of these efforts, every state has a stake in fixing problems.

This analysis:

- ▶ Puts the Review Conference in proper perspective and identifies how to enhance the prospects for success and how to avert failure and undercut potential spoilers.
- ▶ Identifies achievable substantive goals.
- ▶ Lists steps for all states to take such as emphasizing the joint endeavor, raising the political profile of the proceedings, and engaging nongovernmental organizations (NGOs).
- ▶ Determines strategies for non-nuclear-weapon states to adopt such as seizing the window of opportunity while favorable political conditions prevail,

reconciling policy inconsistencies, choosing allies carefully, and anticipating the focus of future debates.

- ▶ Provides recommendations tailored for the United States because of its indispensable leadership role. Recommendations focus on the need for a strong narrative to secure domestic and international support for the Obama non-proliferation and disarmament agenda and on how to reconcile the Nuclear Posture Review with NPT commitments.

The Review Conference is crucial to the nonproliferation regime, but it is in jeopardy of being overloaded by expectations. It cannot solve all that ails the broader nonproliferation regime. Instead, policy makers in home capitals, diplomats at the Review Conference, NGOs, and the media all need to set realistic expectations of what can be achieved by the end of the 2010 Review Conference. The next Review Conference should be approached as an opportunity for those states that are party to the NPT to stabilize the regime and to restore their faith in its value. Although ambitious steps are welcome, small steps will do.

INTRODUCTION

On April 5, 2009, President Barack Obama's Prague speech reinvigorated U.S.–Russian negotiations to reduce nuclear arsenals, the U.S. commitment to seek ratification of the Comprehensive Test Ban Treaty (CTBT), and other initiatives that clearly demonstrate his administration's resolve to reclaim leadership of the nuclear nonproliferation regime.¹ The United States and other countries recognize that this regime is ailing and needs restoration. Will engaging non-nuclear-weapon states on issues that concern them have the desired effect of advancing the American agenda to strengthen the nonproliferation regime at the upcoming 2010 Nuclear Non-Proliferation Treaty (NPT) Review Conference? What are the stumbling blocks, and what other strategies and steps are required?

These questions are best answered by putting the Review Conference in perspective by considering how it relates to the broader nonproliferation regime. What are the purposes and limitations of such conferences? How are key states defining success and failure? What are realistic objectives? This report, informed by discussions with foreign ministry officials and experts from eighteen countries,² sheds light on how Washington's approach to shoring up the nonproliferation regime can impact prospects for the 2010 NPT Review Conference.

The Review Conference can be a key marker to gauge how much influence the U.S. strategy has on creating the conditions for non-nuclear-weapon states to further cooperate in improving the regime. United Nations Security Council (UNSC) Resolution 1887 specifically “calls upon all States Parties to the NPT to cooperate so that the 2010 NPT Review Conference can successfully strengthen the treaty and set realistic and achievable goals in all the Treaty's three pillars: non-proliferation, the peaceful uses of nuclear energy, and disarmament.”³ Though some states resent the Security Council's involvement in setting standards, the

centrality of the nonproliferation regime to international peace and security is too great for the Security Council to ignore. The Review Conference is important, and vital progress can be made during it. But it is also a paradox. Achieving even modest results will require many states to expend enormous amounts of political will and effort. However, failure will also have a large impact, so it is worth making an effort to avert such an outcome.

That said, expecting the upcoming Review Conference to solve all that ails the broader nonproliferation regime diminishes prospects for realistic progress. Instead, policy makers in home capitals, diplomats at the Review Conference, nongovernmental organizations (NGOs), and the media all need to set realistic expectations of what can be achieved by the end of the 2010 Review Conference. Thinking about 2010 as an opportunity to reset the future course of the nonproliferation regime may yield better results for the long term. Reflecting President Obama's new agenda, Robert Einhorn, special adviser to the secretary of state, urged "NPT parties [to] set aside slogans and dogmatic positions and seek pragmatic solutions that work. We should look forward and not fight old battles.... Let's instead create a new and more promising agenda for the years ahead."⁴ The regime may be fraying and may be possibly subject to further strain in the near future, but steps can be taken now by both nuclear-weapon states and non-nuclear-weapon states to seed much-needed efforts to shore up the regime.

THE OBAMA EFFECT ON EXPECTATIONS

Jayantha Dhanapala captures the effect of President Obama's Prague speech when he poetically opines, "We have been through a long winter of discontent and have the audacity to hope for springtime."⁵ In May 2009, at the third Preparatory Committee (PrepCom) meeting for the 2010 NPT Review Conference, the halls of the United Nations in New York buzzed about the change in the atmosphere, particularly in comparison with the two previous PrepComs. Many diplomats seemed buoyed by U.S. support for multilateralism. A Brazilian diplomat interpreted the American objective as follows: "The Obama administration is trying to make the NPT work by demonstrating value in the treaty and the institution, and not by just focusing on the crisis of the day. The United States is back in business regarding multilateral diplomacy in the nonproliferation area."⁶ In the months since that morning in Hradčany Square in Prague, President Obama's approach has been credited with creating a positive negotiating atmosphere and coalescing political will. Yet it has also sparked concerns about excessive expectations and skepticism about the likelihood of practical results.

The mood of diplomatic gatherings, such as NPT preparatory conferences, is important and can change quickly. An Irish diplomat emphasized that "atmospherics are very important in discussions."⁷ Underscoring this point, a Brazilian official noted that "the speeches made by leaders of nuclear-weapon states on disarmament are an important element because they create a positive psychological signal. This is important because we got an agenda in no time, whereas it took three weeks in 2005."⁸ A Japanese official projected the impact to last beyond the third PrepCom when he said, "There is a greatly improved environment for the PrepCom and for the entire NPT process beyond."⁹ "The impact is seen on both atmosphere and substance,"¹⁰ observed an adviser to the Russian delegation. As explained by an Indonesian official, "a conducive atmosphere is

important and it can bolster the confidence of states party that they might see something tangible. It can be a catalyst and a determining factor for a successful conference in 2010.”¹¹ If that is true, one can expect to see an increase in political will across parties to effect change. From a nuclear-weapon state’s perspective, a British diplomat remarked, “Two years ago, the British disarmament agenda was a lonely one, and now not so much.”¹² A different British diplomat related that the “significant impact is the changed dynamic among nuclear-weapon states. The Non-Aligned Movement (NAM) is the next big step.”¹³ Changes within the NAM are taking place already. An Indonesian diplomat revealed that “substantively, the change in Washington has led to a change in the attitude of key players in the NAM.”¹⁴

Along with positive signs, several diplomats voice concern and skepticism. Some are worried about creating expectations that cannot or will not be met. Others have been even more critical. Referring to the difficulties involved in securing the entry into force of the CTBT and negotiating a fissile-material cutoff treaty (FMCT), an Egyptian diplomat stated, “Most of what is pledged doesn’t seem to be making a difference on the ground.”¹⁵ Citing other challenges, one diplomat observed, “Nothing has changed regarding Iran, North Korea, fuel cycle issues or the Chinese nuclear posture. The jury is still out. It is too soon to figure out the impact on collective international security.”¹⁶ The League of Arab States welcomed the “good intentions of the new Government of the United States,” but then continued: “Although those initiatives are important first steps, they have yet to result in any tangible measures and do not diminish the need to address the obstacles and challenges that threaten the future of the treaty.”¹⁷ Offering both skepticism and optimism, a Polish diplomat stated, “I don’t see any practical results. I see a positive climate, which I hope is a good basis for moving forward at the 2010 Review Conference.”¹⁸

IS 2010 A MAKE-OR-BREAK MOMENT?

Conventional wisdom states that the nonproliferation regime is on the verge of collapse and that the May 2010 NPT Review Conference will determine its fate. This overstates the impact of a meeting held once every five years. Still, the conference will be an opportunity to stabilize and strengthen the broader nonproliferation regime.

The signs of the nonproliferation regime's ailments are evident. In the last decade alone, North Korea withdrew from the NPT and conducted two nuclear tests, Iran is suspected of cheating from within the regime, Syria attempted to construct a nuclear reactor without informing the International Atomic Energy Agency (IAEA), and the discovery of the A. Q. Khan illicit network and al-Qaeda's nuclear ambitions have highlighted the threat from non-state actors. These headline-making headaches—along with the spread of commercially available sensitive nuclear technology and vulnerable nuclear materials, and shortcomings in detecting cheaters and punishing them—have contributed to a regime suffering a crisis of confidence.

Non-nuclear-weapon states charge that nuclear-weapon states have not done enough to eliminate their arsenals, whereas nuclear-weapon states claim that non-nuclear-weapon states are not doing enough on nonproliferation. Faith in the security benefits derived from the NPT has eroded, and more states, nuclear and non-nuclear alike, seem to be hedging their bets against the uncertainties of tomorrow's security threats. Some non-nuclear-weapon states have announced a sudden interest in civilian nuclear energy programs, and others require constant assurance of their relationship with nuclear-weapon states. Nuclear-weapon states say they take seriously the goal of a world free of nuclear weapons, but doubts abound as to whether they will revise their nuclear doctrines and policies

regarding the modernization of warheads or delivery systems. The oppositional nature of these arguments is counterproductive. As a French diplomat observed, there is a “problem with the message of ‘nuclear bargains’ where nuclear-weapons states disarm and non-nuclear-weapon states commit to nonproliferation. This misses the point that both kinds of activities are good for everyone.”¹⁹ A Brazilian diplomat concurred with this assessment, by stating, “We only have one regime and both elements should work together.”²⁰

When asked whether the 2010 NPT Review Conference is a make-or-break moment for the regime, officials offered diverse opinions. “If nothing is achieved, people will disrespect the NPT. There would be no reason to uphold obligations and the regime would no longer exist,”²¹ observed a South African diplomat. A Chinese expert emphasized that “we cannot afford to let one more Review Conference be a failure.”²² Between these views, a Swedish diplomat expressed the thought that “success certainly is needed for the NPT; however, it can also be dangerous to put too much pressure.”²³ A British diplomat asserted, “It’s wrong to bill 2010 as the ‘be all, end all.’ It raises the stakes and encourages brinkmanship.”²⁴ Sharing that concern, an official related that “Egypt is already laying down markers that they expect concrete progress. In doing so, they are creating a make-or-break atmosphere.”²⁵ Taking a more pragmatic stance, a Russian expert professed that “2010 should not be viewed as a catastrophe if it doesn’t achieve the maximum results. It should be seen as a window of opportunity.”²⁶ A Polish diplomat added: “2010 won’t be the end of the world. We should treat it as a station on the way to achieving our ultimate goals intended in the NPT. We can’t solve all of the problems in one year.”²⁷ There was large agreement that casting the Review Conference within the make-or-break context is misleading and a mistake.

WHY THE REVIEW CONFERENCE MATTERS

Review Conferences are opportunities to assess the implementation of the NPT and to chart a course forward. Their function as a barometer of the health of the nuclear nonproliferation regime is crucial, but it is a mistake to treat the relative success or failure of these proceedings as the decisive factor in the regime's fate. The regime is far broader than just the NPT. It is a "network of interlocking treaties, organizations, inspections and unilateral, bilateral and multilateral arrangements aimed at halting the spread of nuclear weapons."²⁸ However, because the NPT is widely considered the cornerstone of the regime, many of the skeptical non-nuclear-weapon states that agreed to its indefinite extension in 1995 view Review Conferences as the best chance for voicing concerns. A better understanding of the purpose and limitations of the Review Conferences facilitates realistic expectations about potential outcomes.

As called for in Article VIII, paragraph three, of the NPT, Review Conferences are tasked with evaluating the operations of the treaty, "with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realized."²⁹ The first Review Conference was held in 1975, and others have followed every five years since. The 1995 conference, which led to the indefinite extension of the NPT, affirmed the continuation of this practice—with some improvements.

Review Conferences are the only forum in which all 188 countries subscribing to the NPT have an opportunity to create accountability and voice their concerns.³⁰ At any given time, the vast majority of these states does not have representation on the IAEA's 35-member Board of Governors, are not one of 46 members of the Nuclear Suppliers Group, and, at best, might have a one-year term as one of the ten members of the UN Security Council that do not have veto power. The 65-member Conference of Disarmament has better global representation,

but until recently was moribund for more than a decade. Unfortunately, proceedings on the current plan of work are slow. The first committee of the UN General Assembly (tasked with addressing disarmament and international security issues) and the Disarmament Commission (a subsidiary organ of the UN General Assembly) consist of all UN member states, but they are marginalized on these issues. Officials and analysts who deride the usefulness of Review Conferences should understand how disparities in representation across the decision-making mechanisms of the broader nonproliferation regime make the Review Conference especially important to a large number of countries that are otherwise disenfranchised.

The nonproliferation regime has evolved over time to address proliferation threats using alternative mechanisms. One NAM official related the “dismay of non-nuclear-weapon states and developing countries by the establishment of cartels, such as the Nuclear Suppliers Group and the Zangger Committee. This goes against the principles of transparency and multilateralism.”³¹ This comment illuminates why many states continue to imbue the Review Conference with great value. To the extent that the political will of non-nuclear-weapon states is required to shore up the nonproliferation regime and restore the promise of the NPT, it is worth, as a first step, engaging in forums they deem legitimate.

LIMITATIONS OF THE REVIEW CONFERENCE

The NPT Review Conference suffers from institutional deficits, substantive lacunae, and associated procedural politicking. Unlike other multilateral arrangements in the UN system or other collective security arrangements, the NPT does not have a standing secretariat. Canada has provided a detailed proposal for bolstering the NPT Review process and has called for a standing NPT bureau that could convene extraordinary sessions in response to withdrawal notification. Ukraine has called for something similar that would be charged with administrative matters pertaining to the NPT. Both these ideas could address weaknesses of the review process that persist despite efforts to reform it in 1995. The George W. Bush administration opposed these proposals and argued that the problems besetting the regime were political rather than procedural.³² The Obama administration may want to reconsider this position, particularly if investing in the institutional assets of the NPT, at least on a trial basis through the 2015 Review Conference, could help build some goodwill and better facilitate efforts to address noncompliance and the efficacy of treaty implementation measures.

Another gap, about which Western countries complain, is the lack of enforcement provisions and a dispute resolution mechanism in the text of the NPT. This has sparked disputes about the role of the UN Security Council and the IAEA in enforcing compliance. At a Review Conference, it is nearly impossible to address compliance issues, or at least to identify specific cases of noncompliance as a basis for further action. Universal consensus rules enable a state accused of noncompliance to block a final declaration to this effect. One Brazilian diplomat put this dilemma in perspective when he revealed, “I’m not sure the Review Conference matters for Iran and North Korea as crises in the regime. These issues should be discussed, but not with the objective of trying to solve them.”³³ A Polish diplomat pointed out that “the Review Conference doesn’t have any

tools to address concerns about Iran and North Korea.”³⁴ A South African diplomat explained that it is “very difficult to discuss in the multilateral forum the details of a country’s nuclear program. The NPT is odd because of the role of the IAEA and its responsibility for verification.”³⁵ He continued to wryly note, “The Iran issue doesn’t wait for a Review Conference.”³⁶ A New Zealand diplomat agreed, stating that the “Iran file won’t be solved in the NPT. It will require a much wider solution.”³⁷ Although this may be true, progress on resolving doubts about the exclusively peaceful nature of Iran’s nuclear program could result in better outcomes at the Review Conference. Continued impasse, however, could further spur non-nuclear-weapon states in the region that are concerned about Iran to keep the regime weak so they can create hedging options of their own.

States concerned about enforcement issues at the Review Conference are forced to address it more generally in discussions about Article X, the withdrawal clause of the NPT, or in discussions about noncompliance with Articles III and IV. Critics of the nonproliferation regime point to this capacity for procedural politicking as an indication of the weakness of the overall regime. Although enacting strong enforcement provisions is a point of contention, support for one of the many proposals to ensure consequences for states that would seek to leave the treaty without cause is possible, given the right conditions. This enforcement challenge is just one example of the limitations of the NPT. Without a doubt, the NPT serves as the foundation for the nonproliferation regime, but it does not encompass it.

The initiatives and institutions that flourish outside the formal confines of the NPT reveal the real limits of the Review Conference. The IAEA, the Zangger Committee, and the Nuclear Suppliers Group are just a few examples of efforts to plug institutional gaps in the regime. Other examples of innovations to the nonproliferation regime beyond the NPT include responses to the threat of nuclear terrorism and vulnerable nuclear materials in the form of bilateral cooperation between the United States and Russia, multilateral commitments from the Group of Eight, a nuclear terrorism convention, the Proliferation Security Initiative, the Global Initiative to Combat Nuclear Terrorism, and UN Security Council Resolution 1540. Nuclear terrorism, as a relatively new international security challenge, highlights how the NPT is limited by problems the original negotiators could not imagine.

The Obama administration’s approach is consistent with the view that the nonproliferation regime is an evolving mechanism that guarantees states will continue

to receive the collective security benefits promised by the NPT. Providing more detail to the Prague agenda a day after the president spoke, Deputy Secretary of State James Steinberg declared, “We must now build on that essential foundation by supplementing the NPT and updating the overall nonproliferation regime with measures specially designed to tackle newly emerging challenges.”³⁸ Framed in the context of security benefits for all states, there may be an appetite for other regime innovations with new partners for which the “NPT doesn’t exist in a vacuum; it exists surrounded by reality,” in the words of an Indonesian official.³⁹

DEFINING SUCCESS AND FAILURE

Putting the significance of the Review Conference in perspective is made more difficult by the diversity of views about what constitutes success and failure. The diplomats interviewed offered definitions that ranged from the conceptual to the concrete. This wide range of opinions highlights the negotiating challenge awaiting delegations to the Review Conference. Commenting on the entire spectrum of what could be termed a success, a Norwegian diplomat argued that “the minimalist view is anything short of failure that also recognizes previous commitments. The maximalist view is an extensive and detailed framework for the total elimination of nuclear weapons.”⁴⁰ Agreeing with the minimalist view, an Indonesian diplomat insisted that “failure is not having the minimum reaffirmed and there are no forward-looking steps.”⁴¹ A British diplomat postulated, “A vision of success is one where everyone, without fail, reaps benefits,”⁴² whereas a New Zealand diplomat asserted that “failure is anything that leaves the NPT in worse shape.”⁴³ An Irish diplomat offered the converse: “The litmus test of success is whether measures strengthen the treaty.”⁴⁴

Other diplomats had more concrete indications of success and failure. An Australian diplomat specifically defined success as the “reaffirmation of the collective security benefits of the NPT and encouragement of good outcomes at the Review Conference for universalizing the Additional Protocol, negotiating the FMCT and ratifying the CTBT.”⁴⁵ Others focused on actions specific to the five countries the NPT recognizes as nuclear-weapon states who are also veto-wielding members of the UNSC (China, France, Russia, the United Kingdom, and the United States, known as the P-5) where even a French diplomat agreed that “a P-5 statement would be a benchmark for success.”⁴⁶ Going a bit further, a British diplomat asserted that “success is renewing the compact where the headline is that the P-5 is moving on their commitments.”⁴⁷ Also stressing the

role of the P-5, a Brazilian diplomat conceded that “success would be to get a substantive outcome document, but second best would be a P-5 that is fully engaged and willing to compromise and show flexibility.”⁴⁸ An Irish diplomat more ambitiously predicted that “there would be a sea change if parties could agree on disarmament language.”⁴⁹ Interestingly, an American official offered: “Disarmament may be the easier piece to agree to because of President Obama’s commitment.”⁵⁰ Referencing the disarmament pillar, an Indonesian official proposed that “2010 can be seen as a success if there is a consensus document that contains the willingness and readiness to continue with the START [Strategic Arms Reduction Treaty] process.”⁵¹ Trying to temper these kinds of expectations, the same American official also relayed, “If we can get START follow-on and CTBT done in 2010 that will be great, but realists understand that we [the State Department] don’t control that.”⁵²

An excessive focus on disarmament issues was worrying for one French diplomat, who offered an alternative opinion: “If the next Review Conference only discusses the outcomes of the 1995 and 2000 Review Conference, the whole discussion will miss Iran, North Korea, withdrawal, and fuel cycle issues.”⁵³ How much weight to give past commitments split opinions. An unsurprising view from an Egyptian diplomat was that “the Middle East issue is the most important and the most difficult. We can’t get any success without it and we can’t bypass it.”⁵⁴ A Turkish diplomat concurred that failure would be indicated by “limited progress in the implementation of the practical disarmament steps and lack of any incremental step serving the collective aim of the Nuclear-Weapons-Free Zone ... in the Middle East.”⁵⁵ Overall, there was consensus, particularly from non-nuclear-weapon states, that attention needed to be paid to past commitments. In the words of a South African diplomat, “Failure is a lack of dialogue, inflexibility, staying away from past commitments, and selectivity.”⁵⁶ Showing more optimism, a German official proclaimed, “Complete failure is not an option. If things continue like they are now, we can expect 2010 to reaffirm the international commitment to the NPT.”⁵⁷ An American official was similarly optimistic, and expressed that there could be “agreement on specific steps forward on any number of things.”⁵⁸

States also differ on the necessity of a consensus final declaration. In common parlance, this declaration is also referred to as a “results document,” “final document,” or “outcome document.” Diplomats use these terms interchangeably. The focus on a final declaration is understandable. “Failure is not adopting a

consensus document as it is a visible example of the divergence of views on core issues on the functioning of the NPT and its future,”⁵⁹ said a Polish diplomat. Speaking from a disarmament perspective, a British diplomat explained that the “challenge is to convert the current debate into something tangible or the agenda will be discredited.”⁶⁰ Some diplomats also expressed concerns about the future by stating, “If we can’t agree during a positive climate, this will be clear proof about the difficulty of future cooperation.”⁶¹ The idea of the final declaration as a kind of barometer resonated with a Brazilian diplomat, who remarked that “a final declaration is a symptom that things are going well.”⁶²

For some diplomats, the final declaration is the only way to create accountability. Referring to how negotiations actually work, an Irish diplomat argued, “Fruitful discussions are not enough. A final results document is a milestone. We need a written document to hold people to account and to measure progress. How else do you capture agreement?”⁶³ A Russian offered, “Failure would be for there to be no strong final document addressing three balanced pillars. Why? Because by 2010, we need to see everyone from the NPT club is on board responding to the challenges listed. To do so, we need a strong final document responding to these challenges.”⁶⁴ The most persuasive argument for some form of consensus final declaration came from an Australian official, who argued:

At the very least, there should be a reaffirmation of the NPT. If that doesn’t happen, are people thinking that the treaty is no longer useful? If so, then what is the replacement? Are we back to the 1950s and 1960s, where we had testing, new nuclear weapons, and an increased chance of possible misuse by terrorists and non-state actors? The NPT is worth saving, and there should be a collective statement. We need a consensus document even if it’s weak, because if we don’t have that, the treaty will be weakened.⁶⁵

Possibly presaging the future, one diplomat asserted that “failure depends on the atmosphere. For instance, if one country blocks consensus but other countries agree, there will be a crisis in how to manage that situation, but one can still say that the vitality of the NPT is intact.”⁶⁶ Put more succinctly by a British diplomat, “a final document wrecked by Iran and Egypt is not a disaster.”⁶⁷ Offering an additional pragmatic perspective, a Canadian diplomat said, “I don’t think the final document is really important. Life goes on in a way that’s practical.”⁶⁸ Adopting this view can provide protection against the threat of potential spoilers scuttling the proceedings. If other member states are comfortable with counting a near-consensus outcome as a success, broadcasting this new perspective at

the outset can diminish the power of states intent on derailing the conference and provide a disincentive against this behavior.

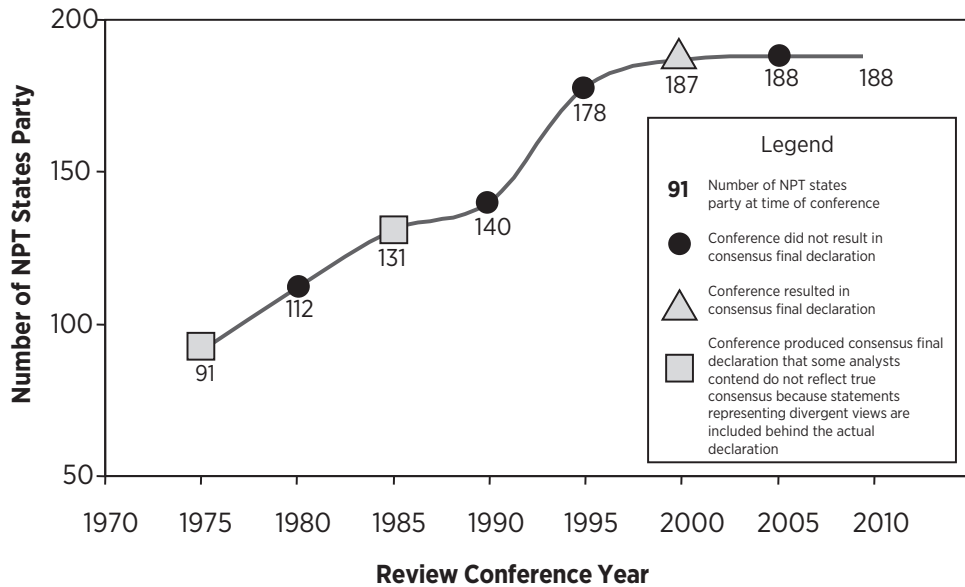
Pragmatism about final declarations may be a commonality among key states. In addition to the Norwegian view offered above, a South African diplomat reflected that success “depends on what we call the final results document. It doesn’t matter too much as long as the consensus is reflected. It could come in the form of the chair’s statement, but to expect the chair to produce a consensus document may be expecting too much.”⁶⁹ “No results document is dispiriting, but there are worse things than a non-document,”⁷⁰ observed a New Zealand diplomat. An American official took a more expansive view when he stated that he “wouldn’t make the litmus test an agreed final document. The litmus test should be whether there has been a good examination of the health of the non-proliferation regime in general and discussion of ways to strengthen it.”⁷¹ Among various states, there is agreement that the Review Conference should assess the implementation of the provisions of the NPT, but what form that assessment should take is still an open issue.

DEMYTHOLOGIZING FINAL DECLARATIONS

The customary practice of adopting a final declaration by consensus is both a strength and a weakness of the Review Conference. The text of the NPT neither mandates nor provides guidance for how to indicate Review Conference results. Changing the practice of reaching a universal consensus that is expressed in a final declaration seems anathema to many states, even though, in more politically charged Review Conferences, it has enabled one or a few states to block meaningful progress.

The near-universal membership of the NPT boosts the regime's legitimacy but also complicates the pursuit of tangible results. An Indonesian diplomat confirmed this assessment when he declared that "consensus rule is a perfect masterpiece of the multilateral system, but also its biggest challenge."⁷² In 1975, only 91 countries were party to the NPT, and that number has now doubled (see figure 1). As membership of the NPT has grown, so has the challenge of obtaining consensus across a greater number of parties. There are more states that may choose to block progress or provide cover for other states seeking to do the same. But there are also more countries that can be cultivated to support progress and put pressure on obstructing states.

FIGURE 1. NUMBER OF STATES PARTY TO THE NUCLEAR NON-PROLIFERATION TREATY, 1975-2010



In the seven Review Conferences held in the four decades of the NPT’s existence, only three conferences have produced final declarations. Some analysts contend that the 1975 and 1985 documents do not reflect a true consensus. In 1975, the Group of Seventy-Seven insisted that its divergent views be included as a supplement to the final document. In 1985, the NAM refused to agree to the final document unless its declaration was included as a supplement to the final document.⁷³ Additionally, the 2000 Final Declaration was criticized for “papering over differences” and thereby enabling states to retreat from that agreement afterward.⁷⁴ In some ways, although the goal of a progressive, substantive, consensus final declaration may not actually be the unicorn of the Review Conference process, it will at least prove to be elusive.

NECESSARY CONDITIONS FOR AVERTING FAILURE

Considering the endemic challenges to achieving success, three conditions are required to avert failure at the next Review Conference. The early emergence of leadership from groups of states, a strategy for addressing potential spoilers, and the presence of a strong chair for the proceedings are necessary, though not sufficient, conditions.

EXHIBITING GROUP LEADERSHIP

Overcoming expected divisions requires leadership from diverse groupings of countries, such as the New Agenda Coalition, the Seven-Nation Initiative, the P-5, the NAM, the European Union, and other groups.⁷⁵ To date, the New Agenda Coalition has met in Geneva, but it is unclear whether this group will be able to overcome its internal divisions. This would be a missed opportunity for Egypt to demonstrate constructive leadership as both a member of the New Agenda Coalition and as the current chair of the NAM. Since the 2005 NPT Review Conference, the Seven-Nation Initiative has bridged gaps between governments while using civil society to foster a better understanding of the challenges to the nonproliferation regime and potential solutions.

Consultations among the P-5 have occurred and should increase in intensity and frequency as the Review Conference approaches. A coordinated P-5 statement was identified as an element of success from several quarters. A French official noted that “P-5 statements are important. We are not united on everything, but we should reaffirm our commitment to the treaty and make progress on the three pillars. We bear a special responsibility to the treaty as nuclear-weapon states.”⁷⁶ A Chinese scholar argued, “P-5 negotiators should have some internal

negotiations to have a collective positive stance to stabilize the nonproliferation regime and to encourage each other to not attack one another.”⁷⁷ Others focused more narrowly on the issue of disarmament. One British diplomat called for a statement that “includes the phrase ‘that they all believe in the vision of a world free of nuclear weapons.’”⁷⁸ A Canadian diplomat echoed this sentiment, “There has to be a sincere and concrete commitment of the P-5 that they are committed and moving forward in the disarmament field.”⁷⁹

If past experience is any indicator of what is required for success, much time has been lost for group leadership to emerge. Such leadership will be required to overcome ideological divides when the time is right. As of yet, no group has clearly emerged to play this role in 2010. This does not bode well for the prospects of any ambitious breakthroughs. There are still opportunities, however, for coordinated positions and strategies to unfold.

ADDRESSING POTENTIAL SPOILERS

The 2005 NPT Review Conference was widely viewed as a failure. Depending on who is asked, Iran, Egypt, or the United States is blamed for the collapse of the proceedings. In some ways, the 2005 experience may actually inoculate the 2010 Review Conference from experiencing a similar outcome. Many diplomats expressed weariness with fractious positions emanating from states like Iran and Egypt. A British diplomat observed, “There is some truculence from Iran and Egypt, but that is to be expected.”⁸⁰ Referencing the working papers submitted by Iran ahead of the third PrepCom, a Japanese diplomat remarked, “They are saying the same things as before.”⁸¹ “You have to give them as few hooks as possible to latch onto. Nuclear-weapon states need to show progress on disarmament, and the rest need to turn the other cheek and not respond to every utterance or working paper,”⁸² advised a New Zealand diplomat.

Other diplomats advocated a strategy of engaging potential spoilers and ensuring that they have a stake in the success of the proceedings. Putting it succinctly, a Brazilian official observed, “The only way to overcome them is to engage them.”⁸³ A German official argued, “Avoid getting them so frustrated that they see there is only a role for them as spoilers. Give them good reasons not to be spoilers.”⁸⁴ “Stop naming and shaming,”⁸⁵ asserted an Indonesian diplomat. An American official concurred, stating that “name calling is a failure.”⁸⁶ The

United States and other delegations took great pains not to name Iran at the last PrepCom, and it may be a strategy that yielded some results, particularly in the early adoption of an agenda for the Review Conference. As explained by a Japanese diplomat, “This time, they weren’t really singled out. Therefore, they didn’t feel the need to speak out.”⁸⁷ United Nations Security Council Resolution 1887 provides language for addressing current proliferation threats without naming specific states, as follows: “Expresses particular concern at the current major challenges to the non-proliferation regime that the Security Council has acted upon, demands that parties concerned comply fully with their obligations under the relevant Security Council resolutions, and reaffirms its call upon them to find an early negotiated solution to these issues.”⁸⁸ Similar formulations could be helpful at the next Review Conference.

Another way to decrease the threat of spoilers wrecking the conference is if Egypt, as the current chair of the NAM, realizes how its own reputation is tied up with the outcome of the 2010 Review Conference. There has been significant outreach at the highest levels between the United States and Egypt about finding common ground, but an American official warned that “Egypt will have to be realistic. It will not succeed with the tactic of demanding we satisfy their concerns or they will bring the house down. That will discredit them.”⁸⁹ States should take steps to undercut the talking points of would-be spoilers, create a stake for them in the outcome of the proceedings, and establish other measures for defining the success of the conference aside from a consensus final declaration. If such action occurs, potential spoilers would know that the regime is stronger than what is determined at the Review Conference and captured in a final declaration. Instead, the resilience and power of the regime would be measured by the enthusiasm for initiatives after the meeting concludes. Moreover, if would-be spoilers continue to obstruct progress in multilateral forums, they will only strengthen the hand of major powers that prefer to use the UN Security Council or other methods to enforce compliance. In this context, playing the role of spoiler is not a winning strategy.

ESTABLISHING A STRONG CHAIR

Experience from past Review Conferences highlights the need for a strong chair of the proceedings. The most successful chairs have cultivated informal advisers and have had a mechanism for discerning a “sense of the floor” so they know the

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optimal times for gaining agreement. Considering the likely political climate of the 2010 Review Conference, the chair should be willing to embrace alternative approaches to defining the success of the conference. Through consultations, the chair could ensure that his summary receives greater emphasis rather than being lost among a sea of working papers from other states. The chair may also want to experiment with states individually or in groups making public commitments either throughout or at the end of the conference. This may be an alternative way to show some concrete progress even if a consensus final document remains elusive.

NARROWING THE EXPECTATIONS GAP

The vast array of institutional, procedural, and political challenges identified above underscores the need for realistic expectations about what can be achieved at the 2010 Review Conference. Expectations are extremely high. This is both a boon and a curse. A French diplomat put it best: “The paradox of creating high expectations is that we can’t meet them.”⁹⁰ A South African official further elaborated: “If we raise too high expectations for 2010 and find that we cannot meet them because there is a lot of work that needs to be done to get to them, then people will reach the conclusion that we will have failed. We need to take the time required to get to where we want to go. Everyone needs to engage constructively.”⁹¹ “Expectations are very high,”⁹² observed a New Zealand official, whereas a Japanese official said it would be important “to try to lower expectations.”⁹³ Some states bridle at efforts either to lower or raise expectations. For instance, an Irish diplomat asserted that “we should not lower ambitions.”⁹⁴ It may be more productive for discussions to focus on identifying realistic expectations. A German official explained that “there is a lot of distrust in the process and limited belief in the enforceability of even the most wonderful documents. It’s more important that people narrow differences and get closer. What counts is to openly discuss issues and narrow expectations as that can lead to agreement.”⁹⁵

A Review Conference cannot solve all the nonproliferation regime’s problems. Instead, it is tasked with taking stock of the past and charting a course for the future. In this way, it is a fundamental mechanism that can set the tone and gather momentum for action afterward, particularly in ancillary bodies such as the IAEA, the Conference on Disarmament, and the UN Security Council. The aftereffects of the failure of the 2005 Conference would still be with us had it not been for the reversal in tone and substance of the American position. This

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opportunity should not be squandered by burdening this new opening with too many unrealistic expectations. By way of providing some perspective, a Brazilian official offered, “2010 will be a step in the process.”⁹⁶ In response to the idea that states should focus on what is achievable by 2015, an American diplomat averred that “2015 is far off. We should focus on what we can agree to begin doing right away with some urgency.”⁹⁷

IDENTIFYING REALISTIC OUTCOMES

An action plan for each of the three pillars of the NPT—disarmament, nonproliferation, and peaceful uses of energy—would indicate substantial progress. Short of these comprehensive plans, eight principal goals reflecting particular commitments and leading to specific actions may do just as much if not more to restore the NPT and revitalize the dedication to it from all states:

- ▶ Reaffirm the vitality of the NPT.
- ▶ Reiterate the unequivocal undertaking.
- ▶ Acknowledge the right to peaceful uses of nuclear energy.
- ▶ Enhance transparency and factual accuracy.
- ▶ Contribute to the further progress of nuclear-weapon-free zones.
- ▶ Encourage universalizing the additional protocol.
- ▶ Establish consequences for NPT violators.
- ▶ Address states that are not party to the NPT.

These goals are not utopian and should be achievable. Many of them will not be easy to pursue, but with concerted effort, tough negotiations, and sufficient political will at the highest levels of government, they are within the realm of what realistically can be accomplished at the next Review Conference. In the end, it will be up to the collective judgment of states themselves to determine how much must be achieved to reinvigorate the NPT. Here, it is useful to briefly describe each goal.

1. REAFFIRM THE VITALITY OF THE NPT

The 2010 Review Conference will be unavoidably burdened by corrosive debates that have eroded confidence in the principal benefit of the NPT. Real action to shore up the NPT must be rooted in the understanding that all states derive essential security benefits from the NPT. Robert Einhorn, an American official, eloquently makes the case for recalling the regime's security benefits:

Non-nuclear-weapon states bear a critical responsibility to work energetically to prevent additional countries from acquiring nuclear weapons. That responsibility doesn't end with their decision to forgo their own nuclear capabilities and to accept IAEA safeguards to verify that decision. It must continue through the participation of those non-nuclear-weapon states in rigorous collective efforts to impede other countries from joining the nuclear club because their own security and well-being are affected by whether they're living in a world of more and more nuclear-armed states.⁹⁸

The outcomes of current negotiations between the major powers and Iran may have tremendous influence on how much non-nuclear-weapon states value the NPT. If trust is not restored between Iran and the international community, non-nuclear-weapon states, particularly those in the Middle East, will have an interest in keeping the regime weak and preserving a hedging option (e.g., in the form of civilian nuclear energy programs that could include indigenous reprocessing and enrichment facilities). But if steps are taken that assuage concerns about Iran's nuclear ambitions, repairing the regime may be possible.

For instance, states individually or in regional or other groupings can offer statements that affirm the security benefits of the regime. Reestablishing that common understanding among both nuclear-weapon and non-nuclear-weapon states can create the confidence needed to tackle some of the thornier issues

besetting the regime. A coordinated P-5 statement establishing a clear and strong commitment to negative security assurances for non-nuclear-weapon states could aid in that effort. It would also serve to remind states that a world with a strong NPT is better than one without an NPT at all.

2. REITERATE THE UNEQUIVOCAL UNDERTAKING

The debate over the agenda for the 2010 Review Conference provides evidence that the future of the Thirteen Steps agreed to at the 2000 Review Conference will be an issue. More pragmatic states acknowledge that the Thirteen Steps should be updated in some way to better reflect current realities. Efforts to do so should proceed carefully. A first step that could pave the way is if nuclear-weapon states would reaffirm their “unequivocal undertaking ... to accomplish the total elimination of their nuclear arsenals” in national statements as well as in a coordinated P-5 statement. The decade since the Thirteen Steps were agreed to has shown some of the analytic and political weaknesses of that agreement. Analytically, the steps are a mix of goals and tactical benchmarks. Politically, some of the more specific steps, such as the one that references the Anti-Ballistic Missile Treaty, are so narrowly defined that they run the risk of making the Thirteen Steps irrelevant and impotent. Non-nuclear-weapon states should learn the lessons of the past and use 2010 as an opportunity to develop better benchmarks that will provide greater satisfaction and accountability on disarmament issues.

3. ACKNOWLEDGE THE RIGHT TO PEACEFUL USES OF NUCLEAR ENERGY

The past several years have created confusion and concern about Article IV. The Review Conference could help alleviate suspicions about the possible infringement of rights. Because all fuel-cycle proposals are now voluntary, affirming Article IV commitments in conformity with Articles I, II, and III can help do that. Debates about fuel-cycle proposals should be based on the common understanding that the NPT does not confer the right to peaceful uses of nuclear energy, but acknowledges it. The NPT does, however, set the conditions for how assistance will be offered to states that want it. Although governments have a role to play in setting the terms for trade in nuclear technology and in both

setting and enforcing export controls, the nuclear industry also plays a vital role. Industry will influence what a world with more nuclear energy facilities will look like and whether it is safer. Anne Lauvergeon of AREVA best articulates this concept when she declares:

AREVA does not, and will never, cooperate with any customer from a country that does not adhere to international nonproliferation norms, or is in non-compliance with its nonproliferation obligations. Even if a country satisfies the above criteria, we reserve the right to assess any particular commercial transaction in terms of its effect on nonproliferation rules, and regional and international stability. As for sensitive technologies such as enrichment and reprocessing or recycling,... we exercise special care in considering the transfer to other countries. If I take the example of recycling,... Japan, maybe China, maybe one day the U.S. and that is all! Full stop!⁹⁹

In the meantime, the Review Conference is an opportunity for states to forge an agreement that a world with a great deal more nuclear enrichment or reprocessing facilities would heighten insecurity, undermine the spread of nuclear industry in the developing world, and lessen the possibilities of nuclear disarmament. If a state is intent on building and operating indigenous enrichment or reprocessing facilities, provisions will be needed to greatly build international confidence that no weapons-related work will ensue, especially following the experience with Iran. Multilateral facilities might be an alternative, as the involvement of actors from other countries could improve chances of detecting illicit weapons-related activities in a state. In any case, key states will have to decide whether pursuing fuel assurances and other fuel-cycle proposals (e.g., multilateral facilities) are worth the political will and financial investment. Assuming states with newly developing nuclear programs are not willing to follow the vast majority of states that operate nuclear power reactors without indigenous fuel-cycle capabilities, some combination of strengthened verification provisions and other confidence building measures would seem necessary to attenuate security concerns that otherwise could stifle both nuclear disarmament and peaceful cooperation.

4. ENHANCE TRANSPARENCY AND FACTUAL ACCURACY

Nuclear-weapon states can also build trust with non-nuclear-weapon states by answering the call for greater transparency articulated as the twelfth of the Thirteen Steps. The P-5 can submit reports before or at the beginning of the

Review Conference. This measure is particularly important for states that are truly committed to the vision of a world free of nuclear weapons because transparency is a necessary condition for such a world. Because strengthening the regime will require efforts by both nuclear-weapon and non-nuclear-weapon states, developing a standard means by which all states can report their respective disarmament and nonproliferation activities may be an idea to consider.

5. CONTRIBUTE TO THE FURTHER PROGRESS OF NUCLEAR-WEAPON-FREE ZONES

Zones free of nuclear weapons and weapons of mass destruction (WMD) are among the more complicated elements of the nonproliferation regime, but they are also “another important contribution by non-nuclear-weapon states to achieving the zero option.”¹⁰⁰ In some areas of the world, they have been proceeding apace, but in 2010 there may be an opportunity to demonstrate real progress in the African, South Pacific, Central Asian, and Middle Eastern zones. Such progress is necessary for continuing to build trust in the ability of the regime to respond to demands from non-nuclear-weapon states concerning their own regions.

Depending on the outcome of the Obama administration’s Nuclear Posture Review (NPR), the United States may signal a more positive stance toward seeking the eventual ratification of the Pelindaba and Roratonga treaties. The actual timeline for such ratifications is complicated by the START follow on and CTBT ratifications, which are higher priorities for the Obama administration. The Central Asian Nuclear-Weapon-Free Zone will also receive a boost if Russia rescinds the positive security assurances offered in the Treaty of Tashkent. If the Russian parliament legally commits to this action, then the objections of the United States, United Kingdom, and France will fall away (that is, a nuclear-weapon-free zone cannot coexist with positive security assurances in place that claim the right to base nuclear weapons in that area in case of an attack). The most difficult, but also critical, area for forward movement is the issue of a Middle East WMD-Free Zone agreed to at the 1995 Review Conference.

The implementation of the 1995 Resolution on the Middle East is at the top of the agenda for Egypt. The 2010 Review Conference may offer the best chance for even incremental progress if Egypt can play a constructive leadership role and if

“the P-5 can create a positive environment and coherence in the P-5 position.”¹⁰¹ There are some positive signals. Russia has stated that “we should not confine ourselves to reaffirming our commitment to this resolution, but think of specific steps to be taken in order to achieve the goal set forth in this resolution.”¹⁰² Also, the Egyptians have described each of their successive working papers for the past three PrepComs as more moderate than the previous. Agreement on a conference to address the issue in 2011 and appointing a special coordinator should be achievable goals. Russia’s view is that “it would be helpful to hold an international conference or a meeting involving all the parties concerned to consider the prospects of implementation of this resolution as a whole.”¹⁰³ The results of the April 2010 Nuclear Security Summit will be worth watching because progress there, particularly in regard to Israel’s fissile material, could pave the way for other agreements at the May 2010 Review Conference. At the very least, the Obama administration should build buy-in at the head-of-state level for Review Conference goals on the margins of the summit. The results of the summit could either positively or adversely influence the mood of the Review Conference.

6. ENCOURAGE UNIVERSALIZING THE ADDITIONAL PROTOCOL

In a world with nuclear technologies and potential weapons capabilities spreading, the Additional Protocol (AP) is a critical tool. An IAEA official stated unequivocally, “The effectiveness and efficiency of the IAEA’s safeguards system to provide credible assurance about the peace use of nuclear material and activities on a non-nuclear-weapon states part depends on several factors—the most important of which is whether the State has brought into force a comprehensive safeguard agreement ... and an additional protocol.”¹⁰⁴ A Norwegian diplomat pointed to some progress when he relayed that “we see more NAM members coming on board and not objecting.”¹⁰⁵

However, there are still strong objections among key states. “The first victim of the India deal is support for the AP in Brazil. We have done everything right, the Indians have not, but they have gotten the better result. We are not taking on any more obligations,”¹⁰⁶ asserted a Brazilian diplomat. Arguing that one size does not fit all, he continued, stating that “the objective of the Additional Protocol is to assure the international community that no undeclared nuclear activity is occurring and that there is no diversion to nonauthorized activities. In the case of Brazil and Argentina, we can assure 100 percent that there is no

diversion and there is no undeclared activity. We can do it in a better way than the Additional Protocol.”¹⁰⁷ The AP creates additional confidence that declared facilities are all that exist in a given state and verifies that there are no undeclared facilities. There is no doubt that Brazil has declared all its facilities, but past experience with Syria, Iran, and Iraq points to the need for additional inspection capabilities. Concerns about Venezuela’s alleged nuclear ambitions and increasing cooperation with Iran could create a regional demand for key Latin American states such as Venezuela, Brazil, and Argentina to accede to the AP. Although the India deal provides a talking point for Brazil to use, the real objection to the AP in Brazil has more to do with a lack of progress on disarmament from nuclear-weapon states. However, if proliferation occurs, or doubts about the nonproliferation regime rise, disarmament will be harder to achieve. In this way, the AP helps facilitate further progress on disarmament and non-nuclear-weapon states should adopt it.

The AP is worth focusing on at the Review Conference because it connects to other issues of concern such as the Middle East WMD-Free Zone. The working paper from Egypt on the topic “further requests the IAEA to prepare background documentation regarding the modalities for verification of a nuclear-weapons-free zone in the Middle East.”¹⁰⁸ The AP is a point of contention for Egypt, but the prospect of progress on the Middle East issue may further open the door for implementing the AP in the region.

7. ESTABLISH CONSEQUENCES FOR NPT VIOLATORS

Depending on how the “P-5+1” (that is, the P-5 nations—plus Germany) talks with Iran proceed and whether North Korea can be persuaded to reengage the Six-Party Talks, there may be renewed enthusiasm at the 2010 NPT Review Conference for measures to clarify the procedures for withdrawing from the NPT and attendant consequences. Progress on this issue could combat the crisis of confidence some states are having regarding the regime. But members of the NAM will require convincing. A commonly held position among these states is that international law governs the interpretation of Article X. Another objection raised by a South African official was the logistical difficulty of proposals that required “taking back” the fruits of nuclear energy cooperation from the withdrawing state. It is an odd objection, because one would think that the same processes required for irreversible disarmament could be used, or for enforcing

United Nations Security Council resolutions related to threats of international peace and security.

A Norwegian diplomat noted that “it may be too early to tell whether progress can be made on Article X proposals as some states see it as an escape clause.”¹⁰⁹ An American official countered with the following: “Are countries really happy with a situation where North Korea can violate the NPT and get away with it? Should we allow withdrawal to be abused? The United States will be the first to defend the right of withdrawal, but we should not defend the right of a country to join the NPT cynically, violate it, and then withdraw.”¹¹⁰ A minimal step would be for the Review Conference to affirm the principle that “in accordance with international law, a State that withdraws from the NPT remains responsible for violations committed while still a party to the treaty.”¹¹¹ Furthermore, states should consider proposals pertaining to the case of states that are withdrawing from the NPT are noncompliant. Surely, it should be easier to agree about what should be done about states that have been cheating from within the regime. All states should be worried about and should want to address the consequences of that scenario. If a consensus agreement is impossible—particularly because Iran’s position, formalized in a working paper, is that this issue does not require attention—other states should signal their intent to build political momentum to take up the issue outside the Review Conference. This may produce a less favorable outcome for Iran.

8. ADDRESS STATES THAT ARE NOT PARTY TO THE NPT

Efforts to bring the CTBT into force and to negotiate an FMCT require the cooperation of states that are not party to the NPT, such as India, Israel, Pakistan, and North Korea. Their actions also influence the effectiveness of nonproliferation efforts. The reverberations of the exception carved out for India from the Nuclear Suppliers Group are still being felt. There are also concerns about nuclear cooperation between non-NPT states and other non-nuclear-weapon states. In the meantime, as the rest of the world, obligated by the provisions of the NPT, attempts to shore up the regime, these non-NPT states are essentially free riding on the system. A French diplomat contemplating this situation suggested that “the goal is to make them stakeholders in the regime.”¹¹² “The NAM should say to India, Pakistan, and Israel that they all are freeloading off of us and tell them to do their share for global security without signing the NPT,”¹¹³

argued a diplomat. Setting rules for cooperation between non-nuclear-weapon states with states that are not party to the NPT (for example, India) or not in noncompliance (North Korea) may create incentives for non-NPT states to further engage the tenets of the regime. For instance, under what conditions is nuclear energy cooperation with non-NPT states allowable? Considering India's interest in exporting its thorium fuel cycle, would an agreement at the Review Conference that non-nuclear-weapon states would not cooperate with non-NPT states create economic incentives for them to join?

At the very least, the Review Conference should continue with calls for these non-NPT states to comply with regime norms. On the basis of past precedence, non-NPT states should consider attending the Review Conference as observers. Almost every state that has joined the NPT did so after attending a Review Conference as an observer. A world free of nuclear weapons may not be achieved for several more decades, but in the meantime the demand will grow for non-NPT states to conform to global norms. Due to their own interests, they should have a stake in seeing how these norms are formed.

RECOMMENDATIONS

Averting failure and achieving some modest success at the 2010 NPT Review Conference will require action by all states—nuclear-weapon states and non-nuclear-weapon states alike. Here are a few key recommendations, including steps for all states, specific steps for the United States, and steps for non-nuclear-weapon states. The recommendations tailored for the United States are made because of the indispensable leadership role it has played in the past and for which it is now positioning itself. Therefore, the steps for all states include:

- ▶ Emphasize the joint endeavor.
- ▶ Raise the political profile.
- ▶ Engage NGOs.

The steps for the United States include:

- ▶ Emphasize a mutually reinforcing and integrated approach.
- ▶ Reconcile the Nuclear Posture Review with NPT commitments.

And the steps for non-nuclear-weapon states include:

- ▶ Seize the window of opportunity.
- ▶ Reconcile policy inconsistencies.
- ▶ Choose friends wisely.
- ▶ Anticipate the future.

It is useful to briefly consider each of these steps.

STEPS FOR ALL STATES

The Review Conference will have a higher likelihood of achieving the outcomes identified above if states can recognize that restoring the NPT is a joint endeavor, requiring a higher political profile and the engagement of NGOs. The array of challenges confronting the nonproliferation regime requires nuclear-weapon states and non-nuclear-weapon states alike to take up the call of restoring the NPT as a joint endeavor. Doing so can help create mutual responsibility and diminish unproductive finger-pointing. Because each state's security is affected by the outcome of nonproliferation efforts, every state has a stake in fixing problems.

Another way to break any political impasse is to have higher-level leadership represent delegations at the Review Conference. The chair of the Review Conference should also make every effort to fill the seats of smaller delegations. A British diplomat remarking on the empty desks at previous PrepComs observed that "the capacity is not there and we need a head-of-government level of support. There is a lot of goodwill from smaller countries, and the NAM doesn't necessarily speak for them."¹⁴ A South African official concurred: "We need the right people to negotiate issues and clear mandates. If you look at the Review Conference, very few ministers or senior experts attend. We need to make sure that it becomes an effective forum for negotiations."¹⁵ Broadening and raising the political profile of the proceedings can help facilitate productive negotiations.

The capacity gap identified by the South African official could be partially filled by NGOs. They are available to brief and provide expertise to smaller delegations so that they do not default to ascribing only to the position of regional or other groupings. For instance, there are important efforts under way that can inform proceedings. The International Commission on Nuclear Non-Proliferation and Disarmament's deliberations and recommendations represent a global undertaking of experts and former practitioners. States should make use of the results of that process for informing their own positions. NGOs can be mobilized also to create accountability at the Review Conference. Through information sharing and the use of new media (such as blogging), a spotlight can be shone on delegations that are dragging their feet.

STEPS FOR THE UNITED STATES

American support is critical for securing the previously identified outcomes that should be achievable at the Review Conference. In addition, the United States should focus on how it communicates its approach to reducing and eliminating nuclear dangers. The United States should also pay particular attention to the impact the Nuclear Posture Review will have on its negotiating position at the Review Conference.

Emphasize a Mutually Reinforcing and Integrated Approach

The vision and steps laid out by President Obama require the cooperation of both domestic and international actors. Implementing these steps will require success in multilateral arenas and crucially in the U.S. Senate. This is a daunting task. It could be made easier with a more unified narrative about how all the steps advocated by the Obama administration are mutually reinforcing and reduce nuclear dangers while enhancing U.S. and international security. Treating these measures as à la carte options undercuts the efficacy of an otherwise sensible security strategy.

For instance, the CTBT decreases the ability of other states to qualitatively improve their arsenals and is a significant obstacle for would-be nuclear-weapon states. The FMCT decreases the ability of states to increase the size of their arsenal. Stockpile reductions with the Russians, and eventually with other nuclear-weapon states, creates strategic stability and decreases the possibility of accidental nuclear war. The UN Security Council summit enhanced the prospects for shoring up the regime by securing agreement across diverse states. The Nuclear Posture Review should provide tangible evidence of U.S. intentions to skeptical states while appropriately assuring allies and preparing them for the future. And finally, the Nuclear Security Summit will help to secure vulnerable nuclear materials and decrease terrorist access to them. The administration should be careful, however, in how it frames its goal of preventing nuclear terrorism. For instance, on October 21, 2009 Secretary of State Hillary Clinton called for adding a fourth pillar—preventing nuclear terrorism—to the global nonproliferation regime.¹¹⁶ The concept of a “pillar” has a very specific meaning within the NPT Review Conference context. For instance, the approach to the existing three pillars primarily shapes the agenda at Review Conferences. Considering

the many nuclear security and terrorism prevention initiatives that have flourished within the broader regime or are encompassed already within the nonproliferation pillar, it is unclear what the United States hopes to achieve by casting its national security priority as a fourth pillar. As a result, the United States runs the risk of seeming tone deaf. Many states, particularly those for whom nuclear terrorism is not a top priority, may object to attempts at creating equivalence between this fourth pillar and the other three. The Obama administration can save itself some grief if it can rephrase its intent. For instance, stating that “the United States views strengthening the existing three pillars as essential to addressing its top priority of preventing nuclear terrorism” may be a more palatable formulation.

Right now, the Obama administration is running the risk of seeming scattershot in its efforts. Having a unified message will also help when the time comes to create more appetite for arms control and disarmament measures in the U.S. Senate. Senators will be able to better understand why all of them are important and how they reinforce one another and are not either/or propositions.

Reconcile the Nuclear Posture Review With NPT Commitments

The 2010 NPT Review Conference is one moment where the rest of the world will judge the United States’ commitment to disarmament. Many states are looking for concrete action. As described by a Canadian diplomat, “The atmosphere is very positive and expectations are high. I’ve never seen an atmosphere as positive as this. There are expectations of a START follow on, FMCT, and CTBT.”¹¹⁷ Diplomats from Australia, Austria, Brazil, Denmark, Finland, Hungary, Ireland, Japan, the Netherlands, New Zealand, Norway, Poland, Russia, South Africa, Sweden, and Turkey echoed this sentiment and tied progress on disarmament to unlocking greater support for nonproliferation measures.¹¹⁸ As it currently stands, the START follow on agreement is a modest arms control measure, because it is meant to serve as a down payment on deeper stockpile reductions promised in Prague; FMCT negotiations are proving difficult; and the CTBT is unlikely to be ratified before the Review Conference. Given these circumstances, the Obama administration’s NPR will be a critical piece of evidence that the U.S. delegation to the Review Conference will either celebrate or take pains to explain.

Although the NPR is intended to provide guidance to the American bureaucracy, its public summary will be widely read. Even the NAM referred to the NPR when it reiterated in the final statement of its July 2009 summit that “that improvements in existing nuclear weapons and the development of new types of nuclear weapons as envisaged in the United States Nuclear Posture Review contravene the security assurances provided by the NWS [nuclear-weapon states] ... and that these improvements as well as the development of new types of such weapons violate the commitments undertaken by the NWS at the time of the conclusion of the Comprehensive Nuclear-Test-Ban Treaty.”¹¹⁹ Aside from the NAM, even allied and friendly states—such as Australia, Austria, Canada, Denmark, Finland, Hungary, Ireland, the Netherlands, New Zealand, Norway, and Sweden, also known as the Vienna Group of Ten—contend that “the Group is concerned that any development of new types of nuclear weapons may result in the resumption of tests and a lowering of the nuclear threshold.”¹²⁰ The NPR, for many states, will be the bellwether of U.S. nuclear intentions.

Due to the slow pace and political complications of the steps President Obama emphasized in Prague and the wide attention they will receive, the NPR will have to carry water for the Obama administration’s broader disarmament and nonproliferation agenda. Bureaucrats and planners who are wary of Obama’s vision should realize that threats such as the further spread and use of nuclear weapons and nuclear terrorism are best addressed by strengthening and adding to the rules of the nonproliferation regime. Shoring up existing rules and creating new ones require good-faith efforts on disarmament from nuclear-weapon states. The United States can demonstrate this good faith by acknowledging its NPT commitments as it charts a course for the role of its nuclear weapons over the next decade.

Although there may be ambivalence in certain quarters about the feasibility and desirability of a world free of nuclear weapons, there is at least agreement that this vision will not become a reality within the next ten years. As the U.S. deputy secretary of state commented the day after President Obama’s Prague speech, the president “acknowledged that the vision of a nuclear-free world would take time and may be difficult to reach, [but] it’s still a path that the United States must remain committed to and pursue.... There’s a clear and overriding message that the President has given us as we carry out the specific task of trying to adapt our doctrine to this new vision that he’s offered.”¹²¹ To that end, the NPR as a starting point should reflect Obama’s promise to “reduce the role of nuclear

weapons in our national security strategy and urge others to do the same.”¹²² This statement conveys an important message to other nuclear-weapon states and non-nuclear-weapon states. The United States will not unilaterally disarm. Action is required by other nuclear-armed states. Consequently, others, particularly non-nuclear-weapon states, have a vital role to play in pressuring other nuclear-armed states that would otherwise drag their feet.

The Obama administration’s NPR should include three main elements that will advance American interests at the 2010 NPT Review Conference.¹²³ The first is for America to narrow the purpose and role of nuclear weapons:

- ▶ State explicitly that it is the policy of the United States to continue to decrease the salience of nuclear weapons in its national security policies.
- ▶ Declare that the only purpose of nuclear weapons is to deter the use of nuclear weapons against the United States, its allies, and its armed forces.
- ▶ Maintain the taboo against the use of nuclear weapons. Suggesting that nuclear weapons might be used preemptively against a range of non-nuclear targets undermines the nuclear taboo.

The second element is for the United States to acknowledge its NPT commitments:

- ▶ Acknowledge the NPT so as not to give the impression that the United States is deferring indefinitely the goal of nuclear disarmament.
- ▶ List fulfilling NPT obligations in the section about the official policy objectives to be met by the NPR.
- ▶ Gain credit for policies that conform to NPT obligations by recognizing them explicitly.
- ▶ Support President Obama’s commitment to ratifying the CTBT and Secretary of State Hillary Clinton’s assessment that the CTBT “contributes to our global non-proliferation and disarmament strategy as well as the President’s long-range vision. It does so without jeopardizing the safety, security, or credibility of our nuclear arsenal.”¹²⁴
- ▶ Affirm the principle of irreversibility by making proposed reductions permanent.
- ▶ Pledge clearly that the United States will not use nuclear weapons to attack non-nuclear-weapon states compliant with their NPT obligations.

The third element is for America to reconcile currently conflicting messages and policies:

- ▶ Reiterate, particularly for domestic audiences, that the United States, like other nuclear-armed states, will not unilaterally disarm and that further steps require the cooperation of other nuclear-armed states.
- ▶ Do not explicitly name states as potential nuclear targets. Naming states gives them a talking point for being concerned about regime survival and to develop capabilities to defend against a nuclear attack. This is a self-defeating strategy for the United States.
- ▶ Circumscribe the purpose of nuclear weapons to exclude chemical and biological threats and their use in preemptive attacks. Including these non-nuclear threats gives states contemplating proliferation an excuse to develop nuclear-weapon capabilities to “design around U.S. strike capabilities, for example, by building their facilities even deeper underground, by increasing the mobility of their weapons, or by deploying a large number of weapons.”¹²⁵
- ▶ Create conditions whereby U.S. allies eventually can decrease their reliance on extended nuclear deterrence commitments in a non-destabilizing way.

Aside from these three main elements to include in the actual document or other associated materials, the burgeoning debate about modernizing the nuclear arsenal and complex presents another problem for how the United States will be perceived within the nonproliferation regime. Proponents of ensuring the credibility of the United States’ nuclear deterrent have focused on initiatives to increase the “reliability” of the arsenal through modernization programs. The debate about the Reliable Replacement Warhead (RRW) was framed by a narrative that changed over time. In the final years of the George W. Bush administration, the RRW was presented as a means by which to create a smaller arsenal as a step toward disarmament. Ironically, if one of the goals of the NPR is to maintain the credibility of the nuclear deterrent, the most damage being done to it are by vociferous proponents of RRW and other kinds of modernization, who argue incorrectly that the arsenal and nuclear complex is imminently crumbling.¹²⁶ On the basis of previous Bush administration initiatives such as the Robust Nuclear Earth Penetrator (RNEP)—the so-called nuclear bunker buster—the American reputation was compromised. Initiatives like RNEP led to the widespread belief that the United States was developing new and more usable nuclear weapons. In light of that background, the residual skepticism of states about American nuclear intentions is unsurprising.

Proponents of some form of “refurbishment” of nuclear warheads, without designing new warheads or creating new roles for nuclear weapons, should realize that the United States must first address its credibility problem with the international community. As the United States attempts to regain its position as the leader of the nonproliferation regime, it must take steps to regain its credentials. Although President Obama’s speech in Prague was welcomed by the rest of the world as an indication of a new course to be charted by the United States, concrete action is needed, such as the ratification of the CTBT. Only then might the rest of the world believe that some kind of refurbishment effort might be compatible with disarmament rather than contrary to it. Referring to the Bush NPR, Jeffrey Knopf argues that ratifying the CTBT “would be an effective way to blunt criticism of U.S. nuclear weapons policy and create political space for some of the more controversial elements of the NPR.”¹²⁷ Rather than blocking the CTBT, opponents of it should instead realize that ratifying the global test ban can pave the way for eventual and truly essential improvements to the nuclear complex, not the other way around.

President Obama’s nuclear planners may need to be reminded of his 2007 statement: “I believe the United States should lead the international effort to deemphasize the role of nuclear weapons around the world. I also believe that our policy toward the RRW affects this leadership position. We can maintain a strong nuclear deterrent to protect our security without rushing to produce a new generation of warheads. I do not support a premature decision to produce the RRW.”¹²⁸ The undue attention and wrongly timed discussion about the reliability of the arsenal does more to undermine the credibility of the nuclear deterrent than any real-world problem that exists today or any time in the next five to ten years, if not longer.

STEPS FOR NON-NUCLEAR-WEAPON STATES

The actions of non-nuclear-weapon states, by their sheer numbers, if nothing else, are more likely to determine the future of the nonproliferation regime. The following recommendations are particularly applicable to non-nuclear-weapon states.

Seize the Window of Opportunity

To the extent that forward-leaning American leadership is a key element for strengthening the nonproliferation regime, the 2010 NPT Review Conference may be one of the best opportunities to do so, rather than waiting for 2015. Even if President Obama secures a second term in office, political scientist Colleen Shogan explains that “there is no doubt that presidents are more effective in implementing ambitious policy programs during their first term in office. Clinton and Reagan were far from irrelevant in their second terms, but neither pushed forward a policy agenda that aggressively pursued innovative ideas or concepts. The Twenty-second Amendment clearly limits the policy capacity of a second term ‘lame duck’ administration.”¹²⁹ Political strategist David Gergen suggests that for presidents, “anything you really wanted to do, you did in the first term.”¹³⁰ Therefore, 2010 is the best opportunity to see constructive American policies at work. A Japanese diplomat underscores the peril of waiting until 2015 when he asserts that “waiting for 2015 is too long a time. We don’t know what will happen with the U.S. situation.”¹³¹

A Chinese scholar noted that “Obama offers the opportunity of political equality among countries.”¹³² This observation has important implications for states that want to see greater progress on disarmament from nuclear-weapon states. These states should extend themselves to craft meaningful nonproliferation agreements that disarmament advocates in nuclear-weapon states can point to as proof of progress to counter domestic critics. An American official alludes to this dynamic when he says that “Obama recognizes the relationship between nonproliferation and disarmament. And we expect others to meet us halfway.”¹³³ Without some indications of non-nuclear-weapon states changing their positions on important nonproliferation initiatives, 2010 may be a squandered opportunity for building the requisite momentum on disarmament.

Reconcile Policy Inconsistencies

Calls for a world free of nuclear weapons have been met with increased emphasis on the role of nuclear deterrence within alliance arrangements. This has led to conflicting messages emanating from the foreign and defense ministries of U.S. allies. NATO members and other states that derive security benefits from

extended nuclear deterrent commitments from nuclear-weapon states could be seen as “non-nuclear-weapon states in bad faith.”¹³⁴

Expecting states that currently benefit from extended nuclear deterrence guarantees and face nuclear threats to resolve these conflicts within the next five years is unrealistic. Some acknowledgment must be given to the complexity of the situation, particularly in East Asia, where part of the nuclear threat comes from a state with questionable status within the NPT. The cooperative security arrangement involving many non-nuclear-weapon states in NATO, however, is a different matter. As NATO undertakes for the first time in a decade a review of its Strategic Concept, the salience of nuclear weapons to its nuclear strategy must be a debate fully joined rather than marginalized or swept under the rug. Norwegian foreign minister Jonas Gahr Støre most eloquently calls for this when he suggests that “we non-nuclear-weapon states in particular must engage in an earnest, even soul-searching discussion about the future of security guarantees and alliances in a world with far fewer and even zero nuclear weapons.”¹³⁵

NATO states should make every effort to reconcile policies across their own bureaucracies. Because its Strategic Concept will not be finalized until the end of 2010 or early 2011, its member states should think about how outcomes at the 2010 Review Conference could shape the Strategic Concept. For instance, what impact might a coordinated P-5 statement have on how the Strategic Concept articulates the role of deterrence within the NATO arrangement? Will the Strategic Concept decrease the salience of nuclear weapons? Rather than emphasizing the indispensability of nuclear deterrence commitments, non-nuclear-weapon states should work in conjunction with their allies to perform threat assessments and non-nuclear means by which to address them. Beyond decisions that will be made within NATO, more attention needs to be paid to redefining European security, including how it relates to Russia. This has implications for how to account for and eliminate tactical nuclear weapons, and it may require conventional force balancing because of Russian doctrine. Addressing the challenge of extended deterrence commitments and regional security arrangements is complicated and will take time to sort out. In the meantime, states can firm up and clearly indicate their support for the effort to move toward a world free of nuclear weapons in a way that creates further peace and stability.

Choose Friends Wisely

The NAM represents the largest bloc of states at the NPT Review Conference. Including India, Pakistan, and North Korea, the NAM represents 118 members. In terms of regional representation, 53 NAM members are in Africa, 38 are in Asia, 26 in Latin America and the Caribbean, and one member, Belarus, is in Europe.¹³⁶ Many of these states are small and are grappling with problems that have more of a day-to-day impact on their populations. They may also be developing countries that lack the resources to develop strong expertise in the nuclear arena. These realities make the impulse to agree to the views of the larger group understandable.

If, however, the members of the NAM do not fully engage on negotiating the NAM's coordinated position, this may lead to the undue influence of a few states. Both Egypt and Iran are highly critical voices in the NPT Review Conference context, but for different reasons. Egypt truly sees itself as a leader in the Arab world and as having a responsibility to hold states accountable for implementing the 1995 Resolution on the Middle East. Iran has different reasons for its truculence. Evaluating the agendas of these states is important because Egypt is the current chair of the NAM until the summer of 2012 and Iran will then take over as chair until the summer of 2015. Egypt will chair the NAM during the 2010 Review Conference, and Iran will be the chair during the 2015 conference. As explained by an Indonesian diplomat, the "benefit of NAM chairmanship is the advantage of having the imprint of their own point of view as the basis for negotiation."¹³⁷ For the past twenty-five years, Indonesia has served as the chair of the disarmament working group. Due to Indonesia's own political transition, it has come to be seen as a fair broker with a less strident tone than in the past. Indonesia has already demonstrated a moderating influence on the NAM, as reflected in the coordinated NAM statement delivered at the third PrepCom. Specifically, Indonesia insisted on and succeeded in including text acknowledging the positive steps taken by the Obama administration.

Some assessments of the failure of the 2005 NPT Review Conference focus on the failure of a unified position within the NAM.¹³⁸ Rebecca Johnson has suggested that groupings like the NAM may be outdated. The NAM itself is aware of this critique; its last summit, in July 2009, raised the issue of revitalizing the movement. The Egyptians assert that their position, particularly on the 1995 resolution, has become more moderate with each passing PrepCom in the last cycle. Because

Iran will be the chair of the NAM in 2015, the 2010 Review Conference may be one of the better opportunities for finding common ground with the NAM.

Reflecting on the dynamics of the NAM in the NPT context, a Japanese diplomat observed that “the NAM is more sympathetic with Egypt, but not Iran. But how much sympathy they have is a question. Will the NAM allow the conference to collapse by maintaining support for the Iranian or Egyptian positions?”¹³⁹ NAM member states should ponder this scenario and contemplate whether the Iranian agenda is consistent with the NAM’s declared goals. For instance, the Cluster II Statement made by IAEA ambassador Ali Asghar Soltanieh on behalf of Iran at the 2009 PrepCom reveals that Iran is using the NAM to advance its own agenda. He stated: “They should not lose sight of the fact that Iran has continuously received indispensable support of friendly countries of NAM, consisting over 100 States Parties, during last six years [*sic*].”¹⁴⁰ The Iranian report, titled *Implementation of Article VI*,¹⁴¹ takes great pains not to name China or Russia. Iran is playing politics for its own interests, and the NAM should not fall for it. Cracks are beginning to show in the NAM’s support for Iran. In September 2009, Iran was unable to secure a consensus on support from the NAM for a resolution it presented at the IAEA General Conference to prohibit military attacks on nuclear facilities. Since then, revelations about Iran’s second secret enrichment facility near Qom have raised even more questions about its activities and intentions.

Anticipate the Future

As the agenda to promote a nuclear-weapons-free world progresses, there is an increasing likelihood that the nuclear-weapon states’ commitment to disarmament may translate into real-world results within the next five years. The CTBT is a key disarmament benchmark that may do the most thus far to change the terms of debate between nuclear-weapon states and non-nuclear-weapon states that are vocal critics of disarmament efforts. President Obama has invested significant political capital by signaling his desire to see the CTBT ratified. It may not happen before the 2010 Review Conference, but once it does, many analysts predict that China, Indonesia, and possibly Israel will soon follow. If this scenario is accurate, the NAM will face an accountability moment. The states remaining are all NAM members—Egypt, Iran, India, Pakistan, and North Korea. The NAM affirmed its commitment to the CTBT at its 2009 summit.¹⁴² That summit also

highlighted the NAM's internal struggle to define its purpose in today's geopolitical realities and "revitalize the movement."¹⁴³ The nuclear realm poses the greatest challenge to the NAM, due to the divergent policies and behaviors of its own members. If further ratifications of the CTBT occur within the next five years, this may be a chance for the NAM to burnish its own disarmament credentials, which may provide it with greater leverage to call for more action on other disarmament steps. Smart states that are serious about disarmament will see this as an opportunity to embrace rather than a commitment to avoid.

CONCLUSION

Efforts to fulfill the obligations of the NPT Review Conference in 2010 will be doubly complicated. The failure of the 2005 Review Conference means that there was no consensus about the status of the treaty's implementation, and participants will have to look back even further. Moreover, because of the wait-and-see attitude of the second PrepCom in 2008, due to anticipation of a change in administration in the United States, the time available to prepare for the forward-looking aspects of the negotiations has been further circumscribed. The Review Conference is a crucial cog in the nonproliferation regime's machinery, but it is in jeopardy of being overloaded by expectations. Time is running out for putting in place the elements needed to secure an ambitious substantive outcome for 2010. The next Review Conference should be approached as an opportunity for those states that are party to the NPT to stabilize the regime and to restore their faith in its value. Although ambitious steps are welcome, small steps will do.

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ABOUT THE AUTHOR

Deepti Choubey is the deputy director of the Nonproliferation Program at the Carnegie Endowment. Choubey is responsible for establishing strategic priorities for the program, conducting research and generating policy analysis, and leading the Carnegie International Nonproliferation Conference. Her research interests include the calculations of non-nuclear-weapon states, U.S. nonproliferation and disarmament policies, U.S. nuclear security spending, Iran's nuclear ambitions, the U.S.-India civilian nuclear cooperation deal, and the Comprehensive Test Ban Treaty. She has provided commentary for CNN, MSNBC, National Public Radio, BBC, and CBS Radio, and has written for the *Washington Post*, *Los Angeles Times*, and *U.S. News and World Report*, among others.

Prior to joining the Carnegie Endowment in 2006, Choubey was director of the Peace and Security Initiative (PSI) for the Ploughshares Fund. The PSI is a network of more than 160 think tanks, advocacy organizations, grassroots groups, and funders that work together to increase their capacity to influence U.S. national security policies. Before joining Ploughshares, Choubey worked for Ambassador Nancy Soderberg in the New York office of the International Crisis Group.

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