

Section 3

A Short History of the NPT Review Process, 1970-2000

Introduction

The entry into force of the NPT was a new departure for policies towards nuclear proliferation and non-proliferation. National policies of technology denial were being reinforced by international policies involving co-option of, and collaboration with, potential proliferators. Although national technological denial activities and policies of offering security guarantees and transfers of conventional arms continued, the NPT provided a vehicle for states to make a binding legal commitment not to proliferate. This offered a solid basis for co-ercive action against them if, having made that commitment, they disregarded it. It also implied that the proliferation of nuclear weapons to an increasing number of states was no longer inevitable. The Treaty's effectiveness was, however, crucially dependent upon the number of states which became parties.

At first, attempts to persuade states to ratify the Treaty focused upon allies of the US, in particular West Germany and Japan. By 1977 both had become parties, along with other states on the potential proliferation lists of the early 1960s, such as Sweden, Switzerland and Australia. Attention then moved to bringing the large numbers of non-aligned states in Latin America, Africa and Southeast Asia into the Treaty. Numbers of parties slowly increased: 97 at the end of 1975; 114 at the end of 1980; 133 at the end of 1985 and 141 at the end of 1990. From 1990 onwards events moved swiftly, with China and France acceding as NNWS in 1992, and two of the six contemporary 'suspect' nuclear-weapon states, South Africa and Argentina, in 1991 and 1995 respectively. Since Brazil had committed itself in 1994 to bring the regional NWFZ Treaty of Tlatelolco fully into force, this meant that it too had made a legal commitment not to acquire nuclear weapons. By 1995, only three states with nuclear capabilities, India, Israel and Pakistan, had made no legally-binding nuclear non-proliferation commitments.

The NPT was a framework treaty, and once it had entered into force efforts commenced to create agreements on the details of its implementation. The resulting collection of norms, rules, behaviours, institutions and arrangements is usually described as the nuclear non-proliferation regime.

NPT Safeguards

The first task facing the international community once the NPT had been signed was to negotiate and implement its detailed safeguarding/verification system. As the Treaty gave the IAEA responsibility for verifying that nuclear materials in NPT NNWS were not being used for nuclear explosive purposes, Agency officials had to draft, and gain agreement on its detailed arrangements from the IAEA's Board of Governors. This system was to focus upon accounting for the presence and use of all fissile material within the jurisdiction of the NNWS parties to the Treaty. It was based on NNWS States Parties declaring to the Agency their initial inventories of such materials, and any subsequent changes in their location and size due to transfers between and within states, operations of existing plants or the opening of new plants. Agreement was reached on this in April 1971, and it was known thereafter as INFCIRC/153. This was the number of the IAEA information circular containing details of the model agreement between the IAEA and all NPT NNWS. EURATOM states negotiated a collective agreement of this type, enabling the IAEA to safeguard activities within those states independently of EURATOM.

The INFCIRC/153 system was a compromise between those industrial NNWS which desired as little interference in the operation and cost of their nuclear power systems as possible, and those states wishing to have effective early warning of any diversion from a civil fuel cycle. It focused its activities on the misuse of declared materials and known facilities, rather than searching for undeclared materials and plants. As a result, most of its inspection effort focused upon Canada, West Germany and Japan, even though by the 1980s they appeared increasingly to be unlikely nuclear proliferators. Also, the three NWS made 'voluntary offers' to place elements of their civil industry under IAEA safeguards in order to participate in an exercise of 'equality of misery' with industrial NNWS by shouldering some of the burdens of accepting IAEA safeguards.

One consequence of these compromises became apparent in early

1991 when Agency activities mandated by the Security Council uncovered the full extent of Iraq's clandestine attempts to manufacture fissile material for nuclear weapons, despite its NPT non-proliferation commitments. The result was that member states sought to change some of the Agency's existing safeguarding procedures to enable it to handle future NPT renegades. This culminated in proposals by the Agency Secretariat, initially labelled 93+2, for additional measures specifically geared to detecting undeclared activities and materials.

One key point in the process of strengthening the implementation of safeguards after 1991 was the recognition that although some desirable changes could be made to the existing system of 'comprehensive safeguards' to move its focus from the 'correctness' of a state's declaration to its 'completeness', others would require new legal authority. The changes that did not require further authority included voluntary reporting on all nuclear activities within a state; analysis of open source and other information concerning a state's nuclear activities; and the use of environmental sampling and remote monitoring equipment at sites declared to hold nuclear material. Other changes were the subject of extended negotiations, and it was not until May 1997 that a 'Model Additional Protocol' incorporating them was approved by the IAEA Board of Governors.

The basic concept behind all these changes was that the Agency should provide indirect, as well as direct, assurances that a state's material declarations were complete by auditing *all* activities within a state, both nuclear and non-nuclear, that could indicate the presence of undeclared nuclear materials. The Additional Protocol (known as INFCIRC/540) provided the authority for these indirect activities. It covered information about mining and waste activities; comprehensive state declarations concerning all their nuclear activities; analysis of and comparisons between these state declarations and other sources of information available to the Agency, including open sources such as commercially acquired satellite images; environmental sampling covering the whole of a state's territory; and the right of access to other locations to confirm the status of decommissioned facilities and to resolve inconsistencies between a state's declarations and other information available to the Agency. States which had this protocol in force were described as under 'integrated safeguards'. These centred upon frequent reviews of individual country profiles to provide assurances that no evidence existed of a state diverting declared nuclear materials or being in possession of undeclared nuclear material or engaged in undeclared activities. The stated aim of this new safeguards system was to offer the optimum combination of all safeguards measures and achieve maximum effectiveness and efficiency within the Agency's available resources.

Export Controls

National export controls were not specifically mentioned in the text of the NPT, but India's 'peaceful nuclear explosion' of 1974 stimulated supplier states into action on this matter. As the materials for the explosive device had been manufactured in a Canadian-supplied research reactor, attention became focused on two distinct issues: the conditions surrounding the export of nuclear materials and equipment to states that were not parties to the NPT; and whether technology holders should withhold all exports of nuclear equipment which might assist in the production of nuclear weapons if a state decided to proliferate.

The oil crisis of 1973 and the entry of France and West Germany into the market for the export of nuclear technology created acute commercial competition in an expanding and apparently lucrative market. This raised fears that fuel reprocessing and uranium enrichment plants, termed 'sensitive technologies' in this context, would be provided to NNWS customers to enhance the attractiveness of a vendor's civil technology. Moreover, some interpretations of the text of the NPT suggested that it did not prohibit exports of 'sensitive technologies' to either other NNWS parties to the Treaty or to non-parties. One consequence was that alarm started to be voiced, particularly in the US, that the normative and legal constraints contained in the Treaty were inadequate to deal with the opportunities for proliferation presented by an expanding global civil nuclear industry. This was reinforced by relatively few of the states of contemporary non-proliferation concern having signed and ratified the NPT at that point.

The solution to these evolving concerns was sought through international efforts to co-ordinate export policies; to agree on common guidelines for triggering IAEA safeguards on exports from NPT states; and in US domestic legislation. However, all these activities generated major West-West frictions between the US and its industrialised allies.

The attempt to co-ordinate export policy, and in particular agree a common policy with France and West Germany to prevent transfers of 'sensitive technologies', started with an East-West meeting of major technology suppliers in London in 1974. At French insistence, this and other initial meetings of this 'London Suppliers Club', later renamed the Nuclear Suppliers Group (NSG), were conducted without publicity. This resulted in suspicions in some quarters, particularly among the non-aligned states not members of this group, that this was a conspiracy to deny then the 'inalienable right' of access to all nuclear technology. After months of discussion, agreement was reached among participating states on a set of guidelines for nuclear transfers 'to any non-nuclear-weapon state for peaceful purposes'. They did this by creating 'an export trigger list and ...common criteria for technology transfers'. These guidelines were made public in February 1978 in the form of an IAEA information circular, INFCIRC/254.

This INFCIRC listed those plants and their components which the adherents agreed should in future require a licence before a state would permit their export. Adherents were also expected to ensure that their export control legislation conformed to the guidelines, which stated that suppliers 'should exercise restraint in the transfer of sensitive facilities, technology and weapons-usable materials'. The effect of the first was to make all nuclear transfers positive acts of state policy, thus highlighting the right of any state to refuse to sanction them if it believed they might be used to assist in nuclear proliferation. This, the suppliers argued, was necessary to implement their commitments under the NPT not to assist any state to proliferate. The effect of the second was to create a tacit understanding among all those who were parties to the NSG (as against "adherents"), that in future they would refrain from exporting any reprocessing or enrichment technology. One result was that France halted its assistance in the construction of reprocessing plants to both Pakistan and South Korea. Another that West Germany, constrained its efforts to transfer enrichment and reprocessing technology to Brazil.

The NSG guidelines of 1978 represented the high point of consensus in the later 1970s among the technology supplying states. Elsewhere, irreconcilable views existed over the interpretation of Article III.2 of the Treaty text. This stated that exports by NPT parties to non-parties were only to take place 'subject to the safeguards required by this Article'. Canada and the US argued that in this context 'safeguards' meant INFCIRC/153 safeguards (i.e. safeguards on all nuclear materials within the recipient state). Others argued that it meant INFCIRC/66 safeguards on exported items alone.

Little further movement took place to revise or strengthen the NSG guidelines until 1991, given the political sensitivities over claims by non-aligned states that its operations involved discriminatory activity and were non-compliant with Article IV of the NPT. In that year the revelations about Iraq's clandestine weapon activities led the Netherlands to organise a meeting of parties and adherents to the NSG guidelines to consider their revision. This created several working groups to consider the weaknesses in, and limitations of, the existing guidelines. These included engineering firms in Germany and elsewhere with no previous connections with the nuclear industry being used by Iraq to manufacture materials or components for their clandestine programme. In April 1992 agreement was reached amongst these states on significant amendments to the existing NSG guidelines, INFCIRC/254/Rev.1/Pts.1 and 2 published by the IAEA in July 1992.

These amendments included new guidelines covering exports of items of technology having both nuclear and non-nuclear uses (dual-use items). Also, NSG members agreed to consult with a central information point provided by the Japanese mission to the IAEA in Vienna before making such exports and to automatically reject export requests if another NSG state had recently done so. Finally, all members agreed to make comprehensive IAEA safeguards a condition for supply to non-NPT parties (they already were in respect of NPT parties). It was also agreed that the NSG would meet annually in future, and make positive attempts to expand its membership.

NSG activities were conducted entirely independently of the IAEA. However, Article III of the NPT gave the Agency the specific task of determining which items and materials supplied to non-NPT parties

should be subject to IAEA safeguards. The first version of this 'trigger list' of items, known as the Zangger List, was published in September 1974, and updates were subsequently made on a regular basis. These updates were consolidated into an amended document, INFCIRC/209/Rev.1 of November 1990, the content of which was very similar to the list of NSG guidelines items, though in theory the two lists remained independent of each other and performed different functions.

While the NSG guidelines and the Zangger lists went some way to limiting the nuclear proliferation dangers arising from the anticipated global expansion of nuclear power plants and their associated reprocessing and enrichment facilities US legislators believed that more action was needed. They introduced domestic legislation which both banned the reprocessing of nuclear fuel for civil purposes within the US and halted its national fast-breeder reactor (FBR) development programme, which providing a technical justification for such activities. Their Nuclear Non-Proliferation Act of 1978 mandated the administration to renegotiate the existing bi-lateral agreements for co-operation between the US and other states, and with EURATOM, to bring them into line with US policy. The consequence of these actions and of the election of President Carter in 1976, who had made new initiatives over nuclear non-proliferation a major campaign goal, was acute friction among the leading Western industrialised states over their nuclear energy and industrial policies.

The core disagreement was whether the types of civil nuclear power programmes being pursued by the allies of the US and their technologies, sometimes termed the 'plutonium economy', constituted too great a proliferation risk to be acceptable. No agreement could be reached on this divisive issue, and in October 1977 the International Fuel Cycle Evaluation (INFCE) was initiated to try to reduce these tensions. This was a technical and analytical study, based in Vienna, of the risks involved in the expanded nuclear power programmes. The hope was that this should arrive at some conclusive recommendations on the optimum fuel cycle when viewed from a non-proliferation perspective. By the time it reported in February 1980, however, the issue had become less pressing as the spate of new orders for nuclear power plants which had followed the 1973 oil crisis had peaked. However, the argument that all states should follow the lead the US had given in its domestic nuclear policies was to persist as an intermittent, if usually latent, source of disharmony with several of its major allies, such as Belgium, France, Japan and the UK, who had made significant investments in nuclear fuel cycles involving fuel reprocessing and plutonium recycling.

Disarmament

When the NPT was signed in 1968, multilateral negotiations to cap the nuclear arms race and reduce nuclear weapon inventories had lost most of the momentum they possessed in the late 1950s. However, a new route to these goals was starting to emerge: direct bilateral negotiations between the US and USSR. These led to the SALT I Treaty of 1972 limiting certain types of strategic armaments; a treaty to limit ballistic missile defences (the ABM Treaty of 1972); agreements to limit both the yield of nuclear weapon test explosions (the Threshold Test-Ban Treaty of 1974) and all underground nuclear explosions for peaceful purposes (the Peaceful Nuclear Explosions Treaty of 1976); a further treaty limiting strategic offensive arms (the SALT II Treaty of 1979); a treaty banning short- and intermediate-range nuclear missiles (the INF Treaty of 1987); and two treaties to reduce the numbers of strategic nuclear warheads and launchers deployed by the US and USSR (later the Russian Federation) (START I of 1991 and START II of 1993). In addition, from 1978 to 1980 there was a trilateral attempt by the United Kingdom, US and USSR to negotiate a CTBT, without any positive result.

There was thus a continuing, if at times haltering, effort from 1968 onwards to negotiate nuclear disarmament agreements between the two superpowers, with a focus on reducing numbers of delivery systems. However, in the absence of limits on the numbers of nuclear warheads to be carried on individual delivery systems, the numbers of such warheads in the US and USSR arsenals continued to increase until the early 1990s. Also, all attempts to make progress in multilateral nuclear disarmament negotiations were blocked, with no attempts to negotiate a FMCT and negotiations on a CTBT taking place for only a limited period of time.

With the end of the US-USSR ideological confrontation and the disintegration of the USSR in December 1991, the nuclear arms race between them ceased to exist. One of the direct effects was to stimulate both states into unilaterally retiring and then dismantling large

numbers of their existing nuclear warheads. Two other NWS, France and the UK, also pursued similar policies. More negatively, the situation created a new proliferation challenge. Although all USSR tactical nuclear weapons had been moved to the Russian Federation before its collapse, strategic missiles and bombers, together with their nuclear warheads and bombs, remained operational in Belarus, Kazakhstan and the Ukraine. However, by 1994 arrangements had been made to move all these warheads to the Russian Federation, and for all other states emerging from the demise of the USSR other than the Russian Federation to accede to the NPT as NNWS parties.

The end of the East-West ideological confrontation had several other important effects. One was to assist in making possible a change in regime in South Africa. This in turn enabled it to dismantle its clandestine programme for the production of nuclear devices, join the NPT as a NNWS and then in 1993 reveal details of its former weapon programme. Another may have been to cause the regime in the Democratic Peoples' Republic of Korea (DPRK) to push ahead with the separation of weapon-usable plutonium from indigenously produced reactor fuel, leading to a long confrontation from 1992 onwards between it, the IAEA and the US during which the DPRK gave notice of its intention to withdraw from the NPT, and then 'suspended' that decision. The confrontation was eventually resolved through a framework agreement negotiated between the US and the DPRK in October 1994 under which two large power reactors were to be supplied to the DPRK. In return, the DPRK agreed to freeze all activities involving its indigenously constructed nuclear facilities, and eventually dismantle them.

A further effect was to facilitate progress towards the disarmament objectives the non-aligned states had been seeking to achieve through the NPT. In January 1994 negotiations started in the Conference on Disarmament (CD) in Geneva on a CTBT, while a mandate was also agreed by the UN General Assembly for the negotiation of an FMCT. CTBT negotiations were completed in September 1996 with the signature of a Treaty. However, although the verification organisation associated with the Treaty, the CTBTO, had been brought into being in Vienna by 2000, the refusal of the US Senate to ratify the CTBT, along with several other states whose signature and ratification was necessary before it could come into force, meant that the existing informal moratorium on tests could not be given legal backing. Moreover, completion of negotiations on a CTBT did not lead to negotiations on an FMCT as had been planned, and since 1996 disagreement has persisted within the CD on the mandate and priority to be assigned to this measure, as against at least two other activities.

Security Assurances and NWFZ

In 1968 an attempt was made by the three NPT depositary states, through Security Council resolution 255, to meet the demands of non-aligned states, particularly Egypt, for positive security assurances. However, the form in which they were offered (three national statements and a resolution which referred to them) was regarded by some states as no more than a restatement of commitments that already existed in the UN charter. Moreover, no attempt had been made at that point to provide NPT NNWS with collective negative security assurances. Pressure for them continued and in 1978 they were provided, though in a form that was again regarded by NAM states as inadequate. In that year the first United Nations General Assembly Special Session on Disarmament (UNSSOD) was held, with all five NWS making unilateral statements on negative security assurances. China's statement was an unconditional one; the French one was limited to states in NWFZ's; that of the USSR covered all states that renounced the production and acquisition of nuclear weapons and did not have them on their territories. The UK and the US made a commitment not to attack or threaten to attack a NNWS with nuclear weapons, but excluded from it NNWS allied with a nuclear-weapon state. At the next UNSSOD, in 1982, France provided NNWS with a broadly similar commitment to the UK and US.

As the numbers of non-aligned NNWS party to the NPT increased, so too did their pressure on the NWS to offer enhanced security assurances. Two states took the lead on this issue: Egypt on positive assurances and Nigeria on negative ones. Four types of enhancement were being sought: a common assurance given collectively by all the NWS, rather than a collection of differing unilateral statements; one that was in a legally binding form, rather than just a statement of intent (this implied either an independent agreement or treaty, or a protocol attached to the NPT); one applying to all states, but if this was not forthcoming to all NPT NNWS parties; and one that contained no reservations. However, despite this issue being on the agenda of the

CD and being discussed actively at NPT review conferences, where both Egypt and Nigeria made positive proposals for such enhancements, it was not until 1995 that further changes were made to the existing multilateral security assurances.

The first change was that a new Security Council resolution, 984, was passed on 11 April 1995. This was similar to the 1968 one, in that it based itself on a series of national statements made in letters to the Secretary General on 5-6 April 1995, but it differed in encompassing both negative and positive assurances. Like previous assurances, they were not in treaty form, though some state representatives argued that Security Council Resolutions were legally binding, as therefore these commitments were too. The second change was that although China maintained its unconditional negative security assurance, the other four NWS modified theirs to bring them broadly into line with each other. However, several obstacles were still perceived by the western NWS to stand in the way of an unconditional assurance. One was a reluctance to give up the element of deterrence through uncertainty inherent in conditional negative security assurances. A second was a concern that such a commitment would unnecessarily inhibit a NWS faced with a threat of use of chemical or biological weapons from a NNWS, and indeed might even encourage such a threat.

The NWS also provided security assurances in two other contexts during this period. The first was that as part of the process of transferring to the Russian Federation the USSR's strategic nuclear weapons deployed in Belarus, Kazakhstan and the Ukraine, nuclear security assurances were provided to all of them on 5 December 1994 by the Russian Federation, the UK and the US; on the same day by France to the Ukraine; and in February 1995 by China to Kazakhstan. These commitments were in line with those later contained in Security Council Resolution 984.

The second context was that of NWFZs. The first of the NWFZ treaties covering inhabited areas (the 1967 Treaty of Tlatelolco) contained two additional protocols that were open to signature by states outside the region. The first was for states with dependent territories within the zone: the second was for signature by the NWS. The first effectively prevented any stationing of nuclear weapons within the zone, while the second provided the zonal states with unconditional security assurances. As all the NWS had signed this protocol by the end of 1979, all zonal states had been given unconditional negative security assurances in binding legal form through this route. However, until the 1990s US policy was negative towards the creation of further NWFZs as, among other things, it regarded them as threatening limitations on its freedom to deploy nuclear weapons on a global basis. By 1993 the only additional group of states that had negotiated a similar zone were those in the South Pacific through their Treaty of Rarotonga of 1985. Here, part of the motivation for negotiating the NWFZ was French nuclear testing in the area. As a consequence France, the UK and the US refused to sign any of the three protocols to the Treaty, one of which provided the zonal states with unconditional negative security assurances.

With the end of the global East-West confrontation, the US started to take a more positive view of NWFZs. As a consequence of this, and more importantly the change of regime in South Africa, rapid progress was made from 1993 onwards on the drafting of an African NWFZ treaty containing a protocol on negative security assurances. This work was completed in the summer of 1995, with the official signing ceremony for the document itself, known as the Treaty of Pelindaba, taking place in April 1996 in Cairo. By then a further NWFZ treaty, the Treaty of Bangkok, had been drafted and signed covering Southeast Asia, which also incorporated a protocol containing unconditional negative security assurances from the NWS. However, this protocol has yet to be signed by the NWS, for reasons connected with the wording in the Treaty and its protocols.

NPT Review Conferences

Article VIII.3 of the NPT mandated that 'Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be heldin order to review the operation of this Treaty...'. The first of these review conferences took place in Geneva in 1975. Although it was a conference of the parties to the Treaty, not a UN one, it hired UN facilities and secretariat personnel for its meetings, as well as adopting rules of procedure based upon those of the UN. It set itself the task of reviewing the implementation of the NPT over the previous five years, rather than the text of the Treaty itself or the global nuclear proliferation and non-proliferation situation *per se*. It created a standard format for future conferences of starting 1-2 years before the event with several

short sessions of a Preparatory Committee (PrepCom) tasked with identifying conference officers and agreeing the agenda and other procedural and administrative arrangements, and then moving on to a main meeting of four weeks duration.

The organisational template used for the Review Conferences involved three phases of work by delegations. The first phase saw heads of delegation of participating state parties making plenary speeches, often drafted in capitals, outlining their initial positions on the issues they felt should be addressed by the Conference. In the second phase, the NPT text was divided between two Main Committees for detailed consideration of its implementation, and for the negotiation and drafting of a text reporting on the scope of a Committee's deliberations and its conclusions. The final phase involved attempts to integrate these Committee texts into a Final Declaration (later Document) of the Conference with the aim of having it agreed by consensus. Formally, this task was assigned to the Drafting Committee, though it also involved other, more *ad-hoc*, groupings and meetings of representatives of groups of interested parties convened by the President of the Conference. Finally, a central structural element of the 1975 conference and its successors was the existence of three Cold War caucus groupings, similar to those found within the UN structure: the Western European and Others Group (WEOG); the Eastern Group; and a Neutral and Non-Aligned Movement (NAM) one.

In the years through to 1995, it became accepted as standard practice that review conferences would be held every five years. The US delegation succeeded in persuading the parties to operate through three main Committees rather than the initial two, *inter alia* to allow a representative of each of the caucus groups to chair a Main Committee, with the President nominated by the NAM. At later conferences, a new informal grouping based in Vienna started to emerge, sometimes called the 'white-angels', which consisted of smaller western states who wished to take a more active part in the proceedings than the caucus system allowed, and who performed a limited mediating role between those groups, especially over peaceful uses of nuclear energy. However, despite the existence of the 'white angels', the main issues tended to be addressed on an inter-group basis. Finally, Presidents of specific Review Conferences tended to take a differing view of their role, ranging from a non-interventionist and neutral perspective at one end of the spectrum, to drafting the Final Declaration and attempting to impose it on the conference at the other. In addition, they made differential use of informal consultative groupings centred upon themselves, in one case making extensive use of the 'Friends of the President' and in another no discernable attempt to create and use such a group at all.

The outcomes of the conferences also differed significantly, though the content displayed great consistency despite the gradual increase of the parties attending. At the first conference in 1975 a short Final Declaration was agreed by consensus, partly as a consequence of the strong leadership displayed by the Swedish President. In 1980, under Iraqi presidency, no such document could be agreed. In 1985, with an Egyptian president operating an effective informal consultative system, a final declaration was agreed by consensus, even though differences of view on a key issue was apparent within in. In 1990, under a Peruvian president, irreconcilable differences emerged over the CTBT that a last minute attempt at Presidential leadership could not overcome.

The content of the conference remained relatively static from 1975 through 1990. This was the only Treaty in which the NWS had made a legal commitment to negotiate on nuclear disarmament. The NAM states therefore regarded the NPT review conferences as major forums within which the NWS could be pressurised into moving forward on the disarmament agenda first articulated in the 1950s. As a consequence, action to negotiate a CTBT became the litmus test for them in evaluating compliance with the NPT by the NWS, and the one around which consensus was most likely to break down.

Other issues which had been prominent in the negotiation of the Treaty continued to have a significant role in the review conferences. Enhanced Security Assurances were demanded from the NWS, with little visible effect before 1995. Export Controls proved controversial, especially in 1980 when differences within the WEOG, and between members of it and the Eastern group on the one hand and members of the NAM group on the other, combined to make this a difficult issue to handle. IAEA safeguards also provided a fertile ground for limited disagreements, especially over whether INFCIRC/153 type arrangements should be a condition of supply to non-NPT parties. NWFZ and peaceful nuclear explosives, however, generated less

friction, with the latter increasingly been seen as an obsolete element of the Treaty which was best ignored.

Insofar as accusations of non-compliance with, and non-implementation of, the non-proliferation articles of the Treaty were concerned, debates on these matters focused on what were euphemistically described as 'regional issues'. These were triggered by the concerns Arab states had over Israel's nuclear capabilities, and African states over those of South Africa. Both regional groups viewed NPT conferences as relevant forums to highlight and debate these issues, and ventilate accusations that the Western NWS were aiding Israel and South Africa's alleged military nuclear programmes. The existence of these two regional nuclear proliferation concerns also served to bind the NAM group of states together, as each regional group had a mutual interest in providing the other with support. However, due to the political make-up of the NAM, these parties had little incentive to raise the issue of other potential proliferators, such as Argentina, Brazil, India and Pakistan, despite attempts by certain WEOG states to widen these regional discussions on 'suspect states' to a global level. Finally, acute conflicts between Middle Eastern states also generated complications for the negotiation of a Final Declaration on at least two occasions. In 1985 Iran accused Iraq of attacks on its nuclear facilities, while in 1990 Iraq's attack on Kuwait generated significant complications, although the conference took place before the UN became aware of Iraq's clandestine nuclear weapon programme. Disagreements over the credentials of delegations also played a persistent, if minor, role in such conferences, in particular whether the Palestine Liberation Organisation (PLO) should be granted observer status.

By 1995 NPT review conferences were thus operating within a well-established procedural and substantive pattern, based largely on East-West structures and concerns. Yet the international security and political environment had changed significantly. The 1995 Review and Extension Conference therefore not only had to deal with the issue of the further duration of the Treaty created by the existence of Article X.2; it also had to operate in a substantive context where the proliferation and disarmament debates were changing rapidly.

The 1995 NPT Review and Extension Conference (NPTREC)

The NPTREC was preceded by the normal series of PrepCom meetings, though in this case the final one did include some discussion of substantive issues. The objective of achieving agreement on an indefinite duration for the Treaty was the subject of intensive and systematic lobbying by the US, the EU states and other members of the Western Group and their associates. By contrast, members of the NAM were being urged to reject this in favour of more limited periods of extension, in the belief that this would generate periodic opportunities to force the NWS into political concessions over disarmament. At the same time, South Africa had been developing ideas on how to move debates over disarmament away from political rhetoric and towards gaining commitment from the NWS to an incremental process of nuclear disarmament, while Canada had been working on plans for making all the parties more accountable for their actions.

The consequence of these activities, and of perceptions that ultimately it was the NNWS that had more to gain from the NPT in security terms than the NWS, was a lengthy process of negotiations at the Conference on outcomes that would offer gains to most parties. These involved recognising that the majority of the parties favoured the Treaty having an indefinite duration; that a set of agreed *Principles and Objectives for Nuclear Non-Proliferation and Disarmament* should be accepted and implemented; and that *Strengthening of the Review Process for the Treaty* should be achieved through changes in the workings of the existing review process to provide for regular and more effective monitoring of the implementation of the *Principles*.

The overall objective of this unspoken bargain was seen by some of the NNWS involved in the negotiations as the achievement of 'permanence with accountability'. At a late stage in the negotiations, however, the Arab group of states indicated that they were dissatisfied with the outcome, which appeared to have deprived them of the option of threatening to terminate the Treaty if states parties failed to take collective action against Israel's alleged nuclear capabilities. This issue was eventually resolved by the three depositary states (the Russian Federation, the UK and the US) agreeing to sponsor a *Resolution on the Middle East* advocating *inter alia* that it be converted into a zone free of all weapons of mass destruction, and that all states in the region should be NPT parties and accept full-scope IAEA safeguards. Implicitly, the three depositaries could be argued to have committed

themselves to implement this resolution. Thus the indefinite duration of the Treaty was paralleled by all states making commitments to specific substantive actions and to a 'strengthened' review process covering their implementation.

In parallel with the negotiations on the duration of the Treaty, the normal review proceedings had also been taking place, though the main focus for heads of delegation until the final two days was the duration decision. As a consequence, no Final Declaration was forthcoming from the Conference, despite the DPRK and Iraq being in non-compliance with their safeguards agreements with the IAEA during the review period.

The Strengthened Review Process, 1997-1999

One effect of the decisions in 1995 was to create a set of general guidelines for the 'strengthened' NPT review process, though its detailed modalities remained to be addressed. One key change was that sessions of the PrepCom for a Review Conference were to be held in each of the three years preceding it, rather than immediately prior to it. Each session was instructed to consider 'principles, objectives, and ways to promote the full implementation of the Treaty, as well as its universality'. In order to do this, it was to consider specific matters of substance, with particular reference to the *Principles and Objectives* decision document, including 'the determined pursuit by the nuclear weapon States of systematic and progressive efforts to reduce nuclear weapons globally.' The PrepCom was also instructed to take into account the *Resolution on the Middle East*.

The Chairman of the 1997 PrepCom session modelled its structure on that of the Review Conferences, with a Plenary and then three 'cluster' discussions, whose focus closely resembled that of their three Main Committees. An attempt was made at this first meeting to develop two documents: a consensus 'rolling text', which some believed was intended to form the basis for recommendations to the Review Conference, and a compendium of proposals made by states parties during the session. In addition, it was proposed that 'special time'

should be allocated to three specific topics at the 1998 PrepCom session. Ultimately, a report was agreed on all these issues for transmission to the next session.

The 1998 PrepCom session implemented the proposal for 'special time', though this was allocated within the clusters rather than separate from them as some states were concerned, *inter alia*, that this would set a precedent for the creation at the Review Conference of the 'subsidiary bodies' which had been mentioned in the 1995 document. However, the session itself was beset by conflicts over the implementation of the *Resolution on the Middle East* and the powers of the PrepCom sessions, in particular whether their discussions and recommendations had to be limited to issues relevant to the Review Conference or could also involve current but transient events. One consequence was that although very limited progress was made on updating the compendium of proposals and developing the "rolling text", the parties were unable to agree on a consensus report to the next session.

Consequently, the Chairman of the 1999 session was confronted with no formal guidelines from the previous sessions on how to generate recommendations to the Review Conference, or how to structure the meeting. However, the parties rapidly agreed an agenda and work plan, and also to the discussions on recommendations being based upon an amended version of the 1997/8 rolling text. All negotiations on the wording of the recommendations to the Review Conference all took place in plenary. No recommendations could be agreed either on substantive issues or the establishment of Review Conference subsidiary bodies, as had been mandated by the 1995 document. One result was that the PrepCom did not comment on the nuclear tests of India and Pakistan that had taken place immediately following the 1998 PrepCom, or the self-declared nuclear status of these states. Thus, although the sessions facilitated regular monitoring of the regime, they failed to achieve many of the objectives set for them in the 1995 documents, or produce consensus recommendations on urgent non-proliferation issues.

Section 4 The 2000 NPT Review Conference

The Negotiations

The 2000 RC opened positively. Presidential consultations had produced agreement on creating two 'subsidiary bodies', SBI on Disarmament within Main Committee I (MCI) and SBII on Regional Issues within Main Committee II (MCII). The three MCs and the two SBs started work in the middle of the first week, after the United States and Egypt agreed that the *Resolution on the Middle East* would be handled as a regional question in SBII, whose remit also included Israel and Iraq, as well as India, Pakistan and the DPRK.

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

Main Committee reports were scheduled for completion at the end of the third week. As all five reports contained sections of non-agreed text, the chairs of four of the five bodies were asked to continue seeking clean texts, while the President took over the task of producing a clean MCI text. Three types of activities then took place in parallel. MCII and III met in open informal session to seek clean texts of their reports. The President convened a meeting of a group of 'representative countries' to identify agreed language for the text of the MCI report, but by mid-week this activity had been abandoned. Also, private negotiations were convened at the request of the President of the Conference to address disagreements over the text on regional issues being negotiated in SBII.

In addition, private negotiations were initiated between the NWS and the NAC by mutual agreement outside the UN building. These

concentrated on achieving agreement on a forward-looking document on disarmament. When their existence was discovered by accident by a television crew they were 'legitimised' by moving them into the UN building. By the Wednesday evening these discussions had become stalemated, though a core document did exist. When they reconvened on Thursday the UK and the US indicated that they were prepared to accept the document as it stood if the NAC would do so. Despite reservations over its content, Russia indicating it was prepared to go along with the UK – US proposal, and France followed its lead. China remained unhappy about a paragraph on transparency, but eventually accepted the text.

Negotiations on a backward-looking text between the NWS and the NAC, now joined by Indonesia, Germany and the Netherlands, continued throughout Thursday, and it was agreed to reconvene early the next morning. At that point the UK proposed that those involved should agree to accept the text that then existed as the consensus backward-looking document on disarmament, with some balanced amendments and deletions. France indicated its support for this approach and the specific proposals made by the UK. South Africa, speaking for the NAC, confirmed that they were in broad agreement with the UK approach, but made a counter-proposal for some modifications to the UK package. These were accepted by France, Russia, the UK and the US. Both China and Indonesia, representing the NAM in this context, were thus confronted with a *fait accompli*, which they eventually accepted. A consensus text had thus been agreed for both the forward- and backward-looking disarmament documents, the area that in the past had been the main stumbling-block to a consensus Final Document.

At this stage, the roadblock to a consensus Final Document became language on Iraq's non-compliance with the Treaty. Tortuous negotiations between US, Iraq and others, both in New York and capitals, eventually resulted in agreement on a text by mid-day on Saturday (the clock having been stopped late Friday). The Drafting Committee then produced the text of a Final Document. This included a text on recommended changes to the review process, which up to that point had neither been formally presented nor discussed by delegations. The impetus to agree a text placed states under intense