

# THE NPT REVIEW PROCESS AND STRENGTHENING THE TREATY: DISARMAMENT

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HARALD MÜLLER

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## I. INTRODUCTION

This paper aims at developing options for bridging the gap between the five recognized nuclear weapon states (NWS) and the non-nuclear weapon states (NNWS)—notably those of the Non-Aligned Movement (NAM)—on the issue of disarmament in the Nuclear Non-Proliferation Treaty (NPT).<sup>1</sup> For various reasons, the NWS are hesitant to embark unambiguously on the road to elimination of nuclear weapons. The NNWS, particularly those within the NAM, see the disarmament obligation of the NWS as the *quid pro quo* for their own renunciation of nuclear weapons.

Section II of this paper discusses the relevance of nuclear disarmament in the NPT regime. Section III takes stock of the results of the 2010 NPT Review Conference (RevCon). Section IV identifies two quite different disarmament philosophies: that of the NAM and that of the NWS. Neither of these is without merit, but both are flawed by the absolutism with which they are pursued. Section V discusses the possibility of bridging the gap between these two opposites. Section VI completes this discussion by presenting a ‘menu’ of measures to make the cessation of the nuclear arms race sustainable in the light of signs that a new, multilateral arms race might otherwise develop. It also presents additional measures to move the disarmament process forward. All the measures are in some way addressed in the 2010 NPT RevCon Action Plan but

<sup>1</sup> The Non-Aligned movement (NAM) is a movement of 115 members representing the interests and priorities of developing countries. The NAM has its origin in the Asia–Africa Conference held in Bandung, Indonesia, in 1955. See <<http://www.nonaligned.org/>>.

Treaty on the Non-Proliferation of Nuclear Weapons (Non-Proliferation Treaty, NPT), opened for signature 1 July 1968, entered into force 5 Mar. 1970, <<http://www.un.org/disarmament/WMD/Nuclear/NPTtext.shtml>>.

## SUMMARY

Nuclear disarmament is key to the stability of the Non-Proliferation Treaty (NPT). The Non-Aligned Movement (NAM) and the nuclear weapon states (NWS), however, follow different approaches. The NAM sees disarmament as a single act, independent of any particular conditions, achieved through a legally binding nuclear weapons convention with a time-bound path to the complete elimination of nuclear arms. The NWS prefer small steps and insist that political conditions must be favourable. They reject any prescriptive time frame, stating that stability risks would abound.

Both positions are connected to national interests and identities. The NAM states remember colonial humiliation, embrace sovereignty and reject further constraints justified as non-proliferation measures. It believes the principle of equality is violated by the perpetual asymmetry of nuclear possession and renunciation. The NWS enjoy their privilege, which for some underwrites their aspirations for world power.

To bridge the gap, it might be advisable to set time goals for the beginning, the end and the implementation of negotiations of each agreed disarmament step. Prompt negotiations on a nuclear weapons convention may be counterproductive, but important parameters such as verification, enforcement and conditions for entry into force could be explored by an ad hoc group in the Conference on Disarmament or an equivalent expert group in the NPT framework.

## ABOUT THE AUTHOR

Dr Harald Müller is Executive Director of the Peace Research Institute Frankfurt (PRIF) and Professor of International Relations at Goethe University in Frankfurt. He is also Vice-President of the EU Non-Proliferation Consortium.

have been selected by priority assessment.<sup>2</sup> Section VII analyses the performance of the European Union (EU) at the 2010 NPT RevCon and suggests how the EU could contribute to a successful bridging of the gap within the NPT in the next review cycle.

## II. DISARMAMENT IN THE NPT REGIME

That disarmament played a prominent role at the 2010 NPT RevCon is neither surprising nor new. This has been the case since the first RevCon convened in 1975. The NPT is one of the rare international legal instruments where the principle of sovereign equality does not translate into states parties' equal rights and obligations. This fact caused trouble already during the negotiations preceding the opening of a final text for signature and prevented India and, at the time, other major states from the Global South such as Brazil and Argentina from acceding.<sup>3</sup> The two nuclear superpowers, the United States and the Soviet Union, had construed and formed their own draft as a pure non-proliferation treaty with only three undertakings: (a) the non-transfer of nuclear weapons and related material, knowledge, technology and equipment by NWS to NNWS (Article I), (b) NNWS abstinence from procuring, in whatever way, nuclear weapons and related infrastructure with the intention to develop them (Article II), and (c) the strict verification of NNWS compliance with the abstention norm (Article III).

The NNWS rejected this approach. They demanded three substantial and three procedural amendments. The substantial amendments contained: (a) the unimpeded right to develop all aspects of peaceful nuclear use and to receive related cooperation (Article IV), (b) the (nuclear) disarmament obligation of all parties and the NWS (Article VI), and (c) the recognition of nuclear weapon-free zones (Article VII). The procedural amendments encompassed: (a) holding a review conference five years after the treaty came into force (Article VIII, section 3; this has developed into regular NPT RevCons every fifth year), (b) the limited endurance of the NPT unless a conference 25 years after entry into force decides otherwise (the NPT was extended indefinitely in 1995), and (c) the right of parties to withdraw from the NPT when

'extraordinary events, related to the subject matter of this treaty, have jeopardized the supreme interests of its country', with the obligation to inform the United Nations Security Council and all states parties of the withdrawal and the circumstances justifying it.

The amendments did not eliminate the unequal character of the NPT, but they did strengthen the relative position of the NNWS by giving them additional rights and procedural tools and by placing obligations on the NWS. The disarmament obligation opened the (long-term) perspective that inequality would end at some point in the future, not by every state procuring nuclear weapons, but by the present possessors eliminating them. The balance between the three substantial articles proposed by the NWS and the three insisted on by the NNWS make up what is usually called the 'NPT bargain'. Without the amendments, the NPT would never have become near-universal and might never have entered into force. However, not all critics accepted the structure of the treaty and some still remain outside the NPT today.

This balancing of interests not only enabled the NPT to come to life, but also left a decisive imprint on its subsequent development. Three NPT RevCons (1980, 1990 and 2005) failed due to disarmament controversies. Those that ended with a consensus (1975, 1985, 2000, 2010 and the extension part of the 1995 Review and Extension Conference) witnessed hard fighting and eventual compromise concerning disarmament. After 1995, success hinged on a new tool of the NPT community: specifying what Article VI meant for the coming review period.<sup>4</sup> Without such a common interpretation of the vague language of Article VI, agreement was not perceived as possible.

There is an ongoing attempt by a group of scholars to reinvent the history of the NPT, maintaining that Article VI is peripheral to the treaty's true objectives or pure rhetoric.<sup>5</sup> This proposition is not only defied by both the negotiation history and the ensuing practice

<sup>2</sup> 2010 NPT Review Conference, Final Document, NPT/CONF.2010/50 (Vol. I), pp. 19–24.

<sup>3</sup> Shaker, M., *The Nuclear Non-Proliferation Treaty: Origin and Implementation, 1959–1969* (Oceana: London, 1980), vols I and II.

<sup>4</sup> Art. VI reads 'Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a Treaty on general and complete disarmament under strict and effective international control.'

<sup>5</sup> Ford, C., 'Haves and have-nots: unfairness in nuclear weapons possession', 2011, <<http://www.newparadigmsforum.com/NFtestsite/?p=658>>; Krause, J., 'Enlightenment and nuclear order', *International Affairs*, vol. 83, no. 3 (2007); and Rühle, M., *Gute und schlechte Atombomben: Berlin muss die nukleare Realität mitgestalten* [Good and bad bombs: Berlin must shape nuclear reality] (Körber-Standpunkt: Hamburg, 2009).

of states parties, it is dangerous because accepting it would inevitably lead to hardened fronts and extremist positions that would threaten to undermine the viability of the NPT.<sup>6</sup> Apart from the US administration of President George W. Bush in 2005, no one—on either side—appears to take the revisionist proposition seriously. Not only are the NAM states and quite a few members of the Western European and Others Group (WEOG) working out specific proposals for nuclear disarmament, the NWS are also documenting the steps that they have taken which, at least in their own eyes, demonstrate their serious disarmament intentions. The challenge then is to reconcile the positions of the NWS and the NAM by devising steps that are bold enough to satisfy the NAM's desire for proof of seriousness regarding nuclear disarmament and prudent enough to convince the NWS that their national security is not endangered.

### III. DISARMAMENT AT THE 2010 NPT REVIEW CONFERENCE

The debates on nuclear disarmament were intense and controversial at the 2010 NPT RevCon.<sup>7</sup> The NAM put forward a broad catalogue of demands, from moderate to radical. The NWS pointed to past achievements, rejected many NAM proposals and engaged on some others. The New Agenda Coalition (NAC) and some other ad hoc North–South groupings as well as the NNWS members of the North Atlantic Treaty Organization (NATO) offered moderate disarmament steps. The result was a compromise which discarded the more extreme demands and diluted a lot of the others.

The Final Document consists of a formal report about the proceedings of the conference, the President's reflections on the NPT RevCon's review activities and the consensual forward-looking Action Plan. That the review part is only attached to the document as a personal piece from the President betrays the degree of disagreement. Although the review contains some agreed language, it also includes text that was not

agreed by consensus. However, this part should not be dismissed as it clearly shows that a majority of members wanted a time-bound framework for the final phase of the nuclear disarmament process and, before that, for single disarmament steps.

During the NPT RevCon debates, the NAM harshly criticized NATO strategy and demanded the end of nuclear sharing and the removal of US sub-strategic nuclear weapons from NNWS territories. Russia also added a request to dismantle the host facilities of US sub-strategic nuclear weapons. In the Action Plan, all criticisms of alliances, deterrence and doctrines were removed. There remained just a weak appeal to the NWS to further diminish the role of nuclear weapons in their military doctrines. NATO's nuclear sharing is mentioned only indirectly: all nuclear weapons shall be reduced and eventually eliminated 'regardless of their type and location', reflecting the demands of a group of 11 European states (Austria, Belgium, Finland, Germany, Luxembourg, the Netherlands, Norway, Poland, Slovenia, Sweden and Switzerland) to integrate sub-strategic nuclear weapons into the disarmament process. A nuclear weapons convention (NWC), a priority NAM project (see below), is noted as part of the Five-Point Plan proposed by the UN Secretary General, but not endorsed. Constraining the qualitative improvement of nuclear weapons is called a 'legitimate interest' of NNWS, as is an end to the development of new types, but there are no related operational requirements for the NWS. The NAM had suggested a prohibition of such developments. At the least, NWS are called on not to circumvent the objectives of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) through new technology.

China failed to prevent language on increased transparency; this reflects a broad pro-transparency coalition of the NAM, Western NNWS and those NWS which practice increased transparency themselves. Further, the NWS were encouraged in the Action Plan to develop a single format for their reporting on nuclear arsenals and disarmament steps. China succeeded in blocking calls for a moratorium on fissile material production, and its wish, along with Russia and the USA, to ask for nuclear-testing sites not to be closed—a proposal by France—was also heeded. To China's chagrin, however, closing military fissile weapon material production facilities was included. A new element was the humanitarian aspect of nuclear weapons and their use, introduced by Switzerland and initially opposed by the NWS.

<sup>6</sup> Walker, W., *A Perpetual Menace: Nuclear Weapons and International Order* (Routledge: London, 2011); Tannenwald, N., *Gerechtigkeit und Fairness im nuklearen Nichtverbreitungsregime*, eds C. Baumgart-Ochse et al., *Auf dem Weg zu Just Peace Governance* [On the way to just peace governance] (Nomos: Baden-Baden, 2011); and Müller, H., 'Between power and justice: current problems and perspectives of the NPT regime', *Strategic Analysis*, vol. 34, no. 2 (2010).

<sup>7</sup> Johnson, R., 'Assessing the 2010 NPT Review Conference', *Bulletin of the Atomic Scientists*, vol. 66, no. 4 (2010).

Altogether, the nuclear disarmament part of the Action Plan is characterized by weak language: what had appeared in drafts and working papers as undertakings, commitments or the conference ‘urging’ or ‘calling upon’ NWS, is presented as mere option, and verbs such as ‘encourage’ and ‘invite’ dominate.

#### IV. TWO PHILOSOPHIES ON NUCLEAR DISARMAMENT

The 2010 NPT RevCon further documented two distinct philosophies on nuclear disarmament: a ‘Big Bang’ strategy, promoted by the NAM, and an incrementalist-infinite one, preferred by the NWS. While the first has an air of utopia, the second looks procrastinating and endless. Neither presents a valid way into a world without nuclear weapons and neither promises to strengthen the NPT, as both are prone to deepen cleavages and to lower satisfaction with the regime. This rift is all the more problematic as a unified understanding of the disarmament process by the whole NPT community is probably the only way to convince the four outsiders to join this process, thereby eliminating over time the difference between members and non-members without forcing the latter to join the NPT as NNWS.

##### **Big Bang: the Non-Aligned Movement’s disarmament philosophy**

The disarmament proposals submitted by the NAM focused on two central requests.<sup>8</sup> First, it demanded the immediate initiation and prompt conclusion of a NWC. This concept uses as templates the chemical and biological weapons conventions, where a single treaty shall prohibit nuclear weapons and fix the entry into force of this prohibition at a specific date—the year 2025 according to the NAM. This temporal fixation is the second core request: nuclear disarmament is to be pursued within a binding time frame. Which step will be planned for what date is negotiable, but not the principle of legally binding dates.

At the same time, the NAM rejected any linkage between nuclear disarmament and global security or arms control policy conditions. The NAM conceives nuclear disarmament as an autonomous field of

political action that is not conditioned to changes in other political fields. The NAM isolates nuclear disarmament from security policy in general and makes it an unconditional legal and moral obligation that the NWS have to fulfil faithfully, without regard to conditions and consequences.<sup>9</sup>

Consequently, the NAM refuses calls to strengthen the non-proliferation toolbox (such as making the Model Additional Protocol the standard for NPT verification), to use the Nuclear Suppliers Group guidelines as a model for national export controls, to move towards multinational fuel cycle arrangements or to create a procedure to react to withdrawals from the treaty. In these issues, some NAM states might deviate from the mainstream, but the organization’s policy is adamant: such steps are not excluded for the future, but only once disarmament has progressed significantly.

The NAM views nuclear disarmament as a one-time, time-bound legal act; all NPT parties are obliged to realize it, as it depends on no particular framework conditions. The NAM’s position reflects both its experience and perceptions of the burdens on NNWS growing during the lifetime of the NPT in order to improve the regime’s efficiency against horizontal proliferation. The NWS reductions in arsenals, on the other hand, reflect a rationalist strategy to economize forces in the light of changed strategic circumstances rather than a sincere intention to move towards a world free of nuclear weapons.<sup>10</sup>

##### **Infinite incrementalism: the nuclear weapon states’ disarmament philosophy**

The NWS, in contrast to the NAM, view the possibility of nuclear disarmament, generally and for any single

<sup>9</sup> The action plan on nuclear disarmament that the NAM submitted to the 2010 RevCon documents this philosophy excellently. According to it, negotiations on a nuclear weapons convention are to be concluded by 2015 at the latest, the convention is to be in force by 2020, and fully implemented by 2025. All individual disarmament steps are subordinated to this tight time plan. See 2010 NPT Review Conference, ‘Elements for a plan of action for the elimination of nuclear weapons’, Working paper submitted by the Group of the Non-Aligned States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, NPT/CONF.2010/WP.47, 28 Apr. 2010.

<sup>10</sup> Such perceptions are certainly reinforced by gallant justifications for keeping nuclear deterrence into the indefinite future, plus the argument that the 1995 indefinite extension of the NPT has confirmed the legality of nuclear possession by the P5. Tertrais, B., *In Defense of Deterrence. The Relevance, Morality, and Cost-Effectiveness of Nuclear Weapons* (IFRI: Paris, 2011). If any third world leader were looking for a good brief to justify a nuclear weapon programme, Tertrais’ essay would perfectly satisfy his needs.

<sup>8</sup> For more details on the NAM position and its background see Potter, W. and Mukhatzhanova, G. (eds), *Nuclear Politics and the Non-Aligned Movement: Principles vs Pragmatism* (Routledge: London, 2012).



step, as contingent on favourable political conditions. They do not see disarmament as an autonomous process, disconnected from other issues in world or regional politics, but as something that can be obtained only under specific circumstances. However, the five NWS disagree about what these circumstances may be.

Russia and China emphasize ‘strategic stability’ and ‘equal and undiminished security for all’.<sup>11</sup> This language implies criticism of the US defence policy, which relies on military superiority. Russia and China have made their own readiness to reduce their nuclear weapons dependent on the withdrawal or at least limitation of US missile defence plans, on the non-deployment of weapons in space and on the renunciation of high accuracy, long-range conventional offensive capabilities (e.g. intercontinental ballistic missiles with conventional warheads).<sup>12</sup>

France, the United Kingdom and the USA demand more transparency—and have already offered more themselves. This request is directed towards Russia and China, especially towards the latter; the Chinese continue to keep their nuclear weapon complex and arsenal in opacity. The three Western NWS also promote more confidence building and deem progress in other fields of arms control necessary (such as chemical and biological weapons and missiles). They argue that the obligation to create political and security conditions conducive to nuclear disarmament not only applies to the NWS, but to all states parties.

The NWS agree that sharper non-proliferation tools will be needed as fewer nuclear weapons underwrite deterrence: at very low numbers and eventually at zero nuclear weapons, a breach of the rules would engender intolerable risks to stability. Thus, they declare as conditions of disarmament those measures which the NAM want to concede at best as rewards for significant or even complete disarmament. On the other hand, the NWS refused the core NAM disarmament proposals. With the exception of China, they expressed their common aversion to a NWC; even China qualified its benevolence with the caveat ‘at an appropriate time’ which, in China’s eyes, has not yet arrived. The NWS want to retain their freedom to shape the nuclear disarmament process, with no time constraints. In addition, they will not entrust the matter to a multilateral negotiation forum. For

the time being, the NWS prefer to keep negotiations among themselves as the results might have an impact on their arsenals. While they consented to the 2009 Conference on Disarmament (CD) Programme of Work, including a working group on nuclear disarmament which was authorized to discuss ‘legal instruments’ (i.e. even a NWC), they prevented that group from obtaining a negotiation mandate.<sup>13</sup> From the NWS perspective, disarmament steps are complex, progress is incalculable and the process can, therefore, not be time bound. Depending on how conditions develop, disarmament could stagnate or suffer setbacks even with the political will of all parties.

China and Russia complained that a capable US national missile defence (NMD) system would compromise their deterrents and thus enhance their need for offensive nuclear capabilities. In addition, Russia argued that NATO’s conventional superiority and the emergence of intermediate range missiles at its southern flank—plus, rarely indicated openly, the impressive growth of China’s conventional military capabilities—render impossible the dismantling of its four-digit arsenal of sub-strategic nuclear weapons for the time being. China has refused demands for more transparency. It argues that its small arsenal is too vulnerable for possible first strikes by vastly superior enemies. Thus, China is not ready to reveal the number and locations of its warheads and carriers. Transparency was, and is, the cornerstone of confidence building for the Western NWS, so China’s reluctance enhances distrust towards Beijing.

The Western NWS argue that uncontrolled proliferation in Iran, North Korea and possibly Syria impede the nuclear disarmament process, in particular, as long as the means for detection, sanctioning and enforcement remain limited. There is also concern about states collaborating with terrorists in the area of weapons of mass destruction. All of these uncertainties, in the view of the NWS, are not compatible with time-bound disarmament.

Finally, the NWS were averse to the NAM proposal to prohibit all modernization. While they agreed not to circumvent the CTBT with new technologies and not to develop new warhead types, the NWS reserved the option of improving existing warheads qualitatively (e.g. for safety reasons). The boundary between

<sup>11</sup> 2010 NPT Review Conference (note 2), A iv., B i.; B Action 5.

<sup>12</sup> Yuan, J. D., *Chinese Perceptions of the Utility of Nuclear Weapons: Prospects and Potential Problems in Disarmament* (IFRI: Paris, 2010), pp. 26–28.

<sup>13</sup> Conference on Disarmament, Decision for the establishment of a Programme of Work for the 2009 session, Adopted at the 1139th plenary meeting on 29 May 2009.

improvement and a new warhead is, however, blurred and the power to define this boundary rests completely in the hands of the NWS.

### **Disarmament, state interests and self-images**

Both sides emphasize rationalist means–ends reasoning. The NAM claims that NWS accountability requires binding benchmarks that can be checked by the NPT community. The NWS point to the complexity, protracted nature and condition-based character of disarmament. There is a degree of plausibility in both arguments, but each also strongly reflects the interests of its own group. Behind, and intricately connected to, those interests are self-images and identities that cannot easily be changed.

#### *The Non-Aligned Movement*

The NAM attempts to escape any obligations to change its behaviour. This positions it against ‘framework conditions’ and duties concerning, for example, its conflict management, its armament policies and its transparency. Strengthening the non-proliferation toolbox is conditional on the NNWS and requires infringements of their national sovereignty and intrusions into their emerging industries. When a rich and established industrialized state like Germany has concerns about the competitive disadvantages that a verification system might mean for its nuclear industry, developing countries might be excused for being even more concerned. Instead, the NAM wants unlimited cooperation and extensive technology transfers that would permit its states to compete, in the distant future, with current industrial leaders. Anything that can be interpreted as barrier to its states’ development—such as multilateral fuel arrangements without technology transfer or export controls—creates suspicion of being another hindrance to their future competitiveness. These attitudes are connected to historical experience, identity and self-images, which are behind the rejection of ostensibly practical improvements to the regime.

The first reason given is the high regard for national sovereignty. For members of the EU, this predilection is sometimes hard to understand, as they have given up more sovereignty than the NPT, including possible improvements, requires. For the former victims of colonialism, however, sovereignty is a hard-won asset that they are eager not to lose. Proposed improvements to the NPT cut into sovereignty, for example, through

curbs on withdrawal from the treaty or a strengthened UN Security Council position in enforcement.

The second reason given combines the memory of colonialism with the asymmetrical rights and duties embodied in the NPT, in a powerful claim for justice.<sup>14</sup> New conditions on the NNWS are acceptable only when the NWS have laid down their nuclear arms. The current achievements in disarmament are seen as moves to conceal the intention to keep nuclear weapons forever. That four of the five NWS under the NPT are former imperial powers reinforces this attitude. The idea of a rigid sequence—disarmament first, then maybe concessions by the ‘have-nots’—ignores the mutual dependence of disarmament, changing security relations and effective procedures for enforcement against attempts at ‘break-out’. However, the resentment of many NNWS that emerges from their frustrated justice claims prevents insight into these necessities. We should also not ignore the possibility that some NAM states might hedge their bets and develop a nuclear weapon option in order to get equal, as Iran seems determined to do.

Deep resentment, based on a history of repression and humiliation, and the inequality within the non-proliferation regime contribute to a distorted analysis of the strategic requirements for the strengthening of the regime and the path towards a nuclear weapon-free world. The desire to defend sovereignty and the revulsion of perceived injustice are elements of the NAM identity. A change in this mentality will be needed in order to overcome the resulting blockade. As a silver line on the horizon, the debates on the 2010 NPT RevCon may indicate (as the 2000 NAC performance did) that some moderate leading NAM states are ready to explore new paths.<sup>15</sup>

#### *The nuclear weapon states*

The NWS are also pursuing complex interests, with identity elements mixed in. The readiness of Russia and France to embrace complete nuclear disarmament has so far been limited. The Russian leadership believes it cannot do without nuclear deterrence in the light of immense Western superiority in conventional weapons and future weapons technology. Notably, sub-strategic

<sup>14</sup> Müller (note 6); and Tannenwald (note 6).

<sup>15</sup> Müller, H., ‘The 2010 NPT Review Conference: some breathing space gained, but no breakthrough’ *International Spectator*, vol. 45, no. 3 (Sep. 2010), pp. 5–18; and Müller, H., ‘A Nuclear nonproliferation test: Obama’s nuclear policy and the 2010 NPT Review Conference’, *Nonproliferation Review*, vol. 18, no. 1 (Mar. 2011), pp. 219–36

nuclear weapons are seen as a deterrence necessity, similar to NATO considerations during the cold war.<sup>16</sup> For France, as for the UK, nuclear weapons are not only the ‘ultimate security insurance’, but also an important element of political status. The NWS calls for ‘stability and equal security’ or ‘political conditions’ combine real-world concerns with the desire to delay decisive action as long as possible. China’s attitude towards nuclear disarmament is uncertain. Rhetorically, China is in full support; however, the Chinese interest in preserving minimum deterrence as long as China feels deeply inferior to the USA prevents it from accepting steps that might be useful for disarmament but which are perceived as detrimental for deterrence.<sup>17</sup>

US President Barack Obama has publicly stated his support for complete nuclear disarmament, but this goal is not shared by parts of his administration and many Republicans in the US Congress. To pacify these critics and get Republican votes to ratify disarmament treaties, Obama is compelled to make concessions—in missile defence, in conventional armament and by pampering the nuclear weapons complex. These concessions, in turn, have a negative impact on the willingness of China and Russia to undertake crucial disarmament steps.<sup>18</sup>

Russia tends to emphasize its defeat in the cold war rather than the victory of self-liberation from the Soviet Union. This minority complex contrasts with its desire to be a world power at the level of the USA or China. Russia traces the unfavourable strategic situation—NATO enlargement, US superiority and a ubiquitous US military presence—back to Western bad intentions, deceptions and insincerity abusing Russia’s temporary weakness after 1990. Nuclear weapons as the ‘big equalizer’ supports the belief in an enduring, if highly virtual, world power status. At the same time, the strong emphasis on nuclear weapons, notably on an excessive stock of sub-strategic ones, may be nothing more than retaliation—seemingly based on strategic rationality, but actually based on emotional defiance—against the West for the perceived humiliation of the past 20 years. Sub-strategic nuclear weapons are

<sup>16</sup> Arbatov, A., *Gambit or Endgame? The New State of Arms Control*, Carnegie Papers (Carnegie Endowment for International Peace: Washington, DC, 2011), p. 31.

<sup>17</sup> Yuan (note 12).

<sup>18</sup> Sokov, N. N. et al., ‘Chinese and Russian perspectives on achieving nuclear zero’, eds C. Hansell and W. C. Potter, *Engaging China and Russia on Nuclear Disarmament* (James Martin Center for Nonproliferation Studies: Monterey, CA, 2009), pp. 1–23.

useful for this aim, as the West has a strong interest in subjecting them to arms control and disarmament.<sup>19</sup>

France has connected its aspiration to keep world power status to the possession of nuclear weapons. The French political class believes that without nuclear weapons the country may sink to a mediocre global position. Neither the permanent seat in the UN Security Council nor the role of dynamic leadership in the EU jointly with Germany appears to be an acceptable substitute for the status reassurance that the French elite draws from possessing nuclear weapons.<sup>20</sup> Comparable attitudes can be observed in the UK, but at a weaker intensity. Pragmatic considerations—for example, dilemmas over maintaining nuclear weapon status and strengthening conventional forces—could lead the UK to seriously debate whether non-nuclear status might even enhance national security. Of the five NPT NWS, the UK might be the one least fixed on enduring nuclear weapon possession.<sup>21</sup>

China’s massive self-assertion reflects the trauma that Western imperialism caused during the 19th and early 20th centuries and strongly influences the distrust of the USA. China wants to leave behind the feeling of having been a helpless victim, enforced by US nuclear threats during the 1950–53 Korean War and during the Taiwan Crisis in the second half of the 1950s. Its nuclear armament progresses at a moderate speed, compared to the cold war arms race, but nevertheless with determination.<sup>22</sup>

The present US administration maintains that the transition to a nuclear weapon-free world is a political possibility and probably advantageous for both world and US security. However, it presumes that conventional superiority is the condition to move in that direction.<sup>23</sup> This diminishes the readiness of others to undertake disarmament steps. Leadership, superiority and invulnerability are syndromes of the US superiority complex of ‘exceptionalism’, which contrasts to Russian, French and Chinese complexes of

<sup>19</sup> Kulesa, L., ‘Global zero: implications for Europe: nuclear weapons after the 2010 NPT Review Conference’, ed. J. P. Zanders, *Nuclear Weapons after the 2010 NPT Review Conference* (IISS: Paris, 2010).

<sup>20</sup> Wisotzki, S., *Die Nuklearwaffenpolitik Großbritanniens und Frankreichs: eine konstruktivistische analyse* [The nuclear weapons policy of the UK and France: a constructivist analysis], Studien der Hessischen Stiftung Friedens- und Konfliktforschung, no. 39 (Campus: Frankfurt, 2002).

<sup>21</sup> William W., ‘The UK, threshold status and responsible nuclear sovereignty’ *International Affairs*, vol. 86, no. 2 (Mar. 2010), pp. 447–64.

<sup>22</sup> Yuan (note 12), pp. 14–15.

<sup>23</sup> *National Security Strategy of the United States* (The White House: Washington, DC, 2010), p. 5.

inferiority. To be *primus inter pares*, to admit others to equal status and to base national security on balance and parity are notions that escape the US security elite, as succinctly expressed in the 2002 National Security Strategy.<sup>24</sup> Among the military and Republican security specialists this attitude assumes an even more extreme form: they aim at ‘full spectrum dominance’. This term was coined by the US Air Force in the 1990s and means superiority in all dimensions of military contest: cyber, space, air, land, sea, subsea, conventional and unconventional—including the nuclear dimension.<sup>25</sup>

In summary, nuclear weapons are woven into the self-images and world views of the NWS, which influence how they define their national interests and ensuing security strategies. In the present US administration, the role of nuclear weapons is compensated for by other superiority options, which reinforce the determination of others to maintain their nuclear capabilities. This makes the path to a nuclear weapon-free world difficult and threatens to cause further NAM dissatisfaction, with negative repercussions for regime stability.

## V. BRIDGING THE GAP

### Working out political conditions for nuclear disarmament

The positions on both sides are deeply entrenched in fundamental belief systems and ensuing interests. Therefore, any solution must pick up essential elements from both positions so that the NWS can move forward without expecting to lose security and status (which they would not accept) and the NAM can increase its confidence that the path taken leads towards the desired end result.

There is little doubt that the path towards nuclear disarmament consists of many small steps rather than a single large one: established structures must be changed, deep-seated thinking, mentalities and practices must be overcome and parties must build mutual trust in order to take the last, bold steps. Henry Kissinger, his co-authors and President Obama are right when they distinguish between the ‘vision’ of a nuclear weapon-free world and the ‘steps’ which lead slowly but solidly in that direction. The vision shows

the goal, but only the small steps move us there. As with any change, the transformation of security policy must be seen as a process in which small changes in practices and in the mental structures of the actors are constituted, reinforce each other and co-evolve through time. A fissile material cut-off treaty (FMCT), for example, although ostensibly a small step, will have to rely on a comprehensive system of verification in the NWS. This implies a change in the attitude towards transparency, which, in turn, opens up new possibilities for later verifying multilateral reductions in existing nuclear arsenals in all NWS. At the end of such a process, more will be possible of that which we deem unthinkable today—remember when on-site inspection was an absolute taboo for the Soviet Union?

The process of nuclear disarmament also requires changes to certain conditions in the political framework.<sup>26</sup> While the process no doubt contributes to changing relations among the states involved, it is by no means self-sustaining and requires, the more it progresses, larger changes in the political environment. These changes must be addressed directly, not only by arms control and disarmament.

The NPT itself is clear about this relationship. In preambular paragraph 12 it states that the ‘easing of international tension and the strengthening of trust between States’ is needed for the cessation of the arms race and complete nuclear disarmament.<sup>27</sup> Preambular paragraph 13 recalls that ‘States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations’.<sup>28</sup> Making this point in the context of the NPT suggests that there is a connection between non-aggressive behaviour and the prospects for both non-proliferation

<sup>26</sup> Gallagher, N., ‘International security on the road to nuclear zero’, *Nonproliferation Review*, vol. 18, no. 2 (2011).

<sup>27</sup> The paragraph reads: ‘Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a Treaty on general and complete disarmament under strict and effective international control.’

<sup>28</sup> The paragraph reads: ‘Recalling that, in accordance with the Charter of the United Nations, States must refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Purposes of the United Nations, and that the establishment and maintenance of international peace and security are to be promoted with the least diversion for armaments of the world’s human and economic resources.’

<sup>24</sup> *National Security Strategy of the United States* (The White House: Washington, DC, 2002).

<sup>25</sup> Mahajan, R., *Full Spectrum Dominance: U.S. Power in Iraq and Beyond* (Seven Stories Press: New York, 2003).



and disarmament. Lastly, Article VI juxtaposes the cessation of the arms race, nuclear disarmament and a ‘treaty on general and complete disarmament under strict and effective international control’.<sup>29</sup> Even if such a treaty is probably regarded as unfeasible today, Article VI clarifies that there is a connection between progress in nuclear disarmament and the lowering of a conventional arms threat; this implies a duty by treaty members to promote conventional arms control as well as disarmament.<sup>30</sup>

In terms of the political conditions for nuclear disarmament, the most important change concerns the relations among the great powers. Their present conflicts are marginal compared to enduring rivalries and deadly quarrels historically, yet they remain an impediment to intense security cooperation. In the era of globalization, transforming a moderate power competition into a concert designed to share the responsibility of maintaining international order is the most important prerequisite for any successful security governance, and thereby for a promising nuclear disarmament process.<sup>31</sup> The Obama administration has made a few useful steps in that direction: its 2010 National Security Strategy includes offers addressed to Russia, China and India.<sup>32</sup> A transformation of big power relations, therefore, does not appear to be impossible.

It is, of course, not enough to raise the point of the ‘necessary conditions for nuclear disarmament’ and leave it at that—this could indeed be taken as an excuse for doing nothing. It behoves the actors making this point to spell out what these conditions may be, and the international community should install a procedure to discuss steps for how they might be realized. In devising the future course of the NPT review process, this aspect, and the ensuing duties of parties, should be recognized and defined. The responsibility for creating these conditions does not just rest with the NWS, but with all parties.<sup>33</sup>

<sup>29</sup> Article VI reads: ‘Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.’

<sup>30</sup> As this point is made occasionally by the NWS, they should be reminded that this sounds slightly disingenuous as they are marching at the top of conventional armament as well.

<sup>31</sup> Müller, H., *Building a New World Order: Sustainable Policies for the Future* (Haus Publishing: London, 2009).

<sup>32</sup> *National Security Strategy of the United States* (note 23), pp. 43–45.

<sup>33</sup> Creating disarmament-conducive conditions requires integrating India, which plays an increasing role in world politics. Sagan, S. ‘Shared

### Time-bound incrementalism?

Real-world nuclear disarmament will most certainly be more incremental than the NAM would like. However, in order to accommodate their preferences, it is not unfeasible to fix target dates for the start of negotiations on the next steps. States concerned could also accept an obligation to try to bring them to a conclusion within a certain time and to be accountable if that does not prove possible. Such target dates for negotiations have been set occasionally, for example, September 1996 for the conclusion of the CTBT (in the Principles and Objectives of the 1995 NPT Review and Extension Conference) and December 2009 for the New Strategic Arms Reduction Treaty (New START).<sup>34</sup> The CTBT date was met, while New START took a bit longer, but there is little doubt that the commitment by the US and Russian presidents to the set date of the latter had a healthy effect on the speed of negotiations.

The NWS would probably undertake to meet certain time-bound benchmarks in any agreement—this has been done in the Strategic Arms Limitation Talks, START I and II, New START, the Intermediate-Range Nuclear Forces Treaty and the Chemical Weapons Convention (CWC). The example of the CWC shows that lofty goals are not always achievable, but that target dates create a duty of accountability and have stimulated assistance to laggard states in their efforts to dismantle their chemical weapons stocks. As a consequence, the failure to meet these dates was not a source of distrust and quarrels, but of a more enhanced effort to meet a common goal—strengthening the bonds within the CWC community.<sup>35</sup>

A future legal instrument which requires the complete elimination of all nuclear weapons will necessarily impose a date by which all NWS are obliged to have accomplished this undertaking under the strict supervision of an international body, as in the case of chemical weapon elimination. Only simultaneous elimination in all NWS will make complete nuclear disarmament possible. This step will also be time-bound even if it may be too early to fix such a date now.

responsibilities for nuclear disarmament’, *Daedalus*, Special Issue ‘On the global nuclear future’, vol. 1 (2009).

<sup>34</sup> Kile, S. N., ‘Nuclear arms control and non-proliferation’, *SIPRI Yearbook 2011: Armaments, Disarmament and International Security* (Oxford University Press: Oxford, 2011), pp. 363–74.

<sup>35</sup> Iran, with its scathing polemics against the failure to meet deadlines, which was largely due to technical, environmental and financial problems, remained the exception in the CWC, as in other contexts.

A matter for consideration is whether it would make sense and be possible to set a target date for a world without nuclear weapons, not a legally binding one where non-compliance would trigger sanctions against the perpetrator, but one that shows a joint political commitment to try to meet it. The International Commission on Nuclear Non-proliferation and Disarmament has proposed a fairly precise plan which suggests that the step towards zero nuclear weapons could be envisaged between 2030 and 2040. A joint commitment for 2050 would therefore offer enough leeway for contingencies and is an option worth debating.<sup>36</sup>

### **Addressing the nuclear weapon states**

It might not be advisable to start negotiations on a NWC right away. Current mentalities make it probable that negotiations would lead to a stalemate and thus enhance rather than diminish frustration. The matter is very complex and dependent on political change. Even with a lot of goodwill on both sides, it will require protracted deliberations not only internationally but also in the domestic arena of the NWS. The model NWC, drafted by well-intentioned senior experts, suggests a simplicity that does not mirror real-world difficulties.<sup>37</sup>

A quick start to NWC negotiations may not be in reach, but there is no plausible reason not to explore the parameters of such a convention, to which all incremental steps envisaged and promoted by the NWS are bound to lead. As these issues are complex, early work on them could be very helpful. What does ‘zero nuclear weapons’ mean precisely? How could a nuclear weapon-free world be verified and how could the dismantlement process in the last stages be achieved without spreading nuclear weapon knowledge? What would the enforcement system against rule-breakers look like?<sup>38</sup> How will the nuclear industry be organized and controlled in a world where there is no quick fallback to nuclear deterrence?

<sup>36</sup> Evans, G. and Kawaguchi, Y., *Eliminating Nuclear Threats: A Practical Agenda for Global Policymakers* (ICNND: Canberra/Tokyo, 2009).

<sup>37</sup> Reaching Critical Will, ‘Nuclear Weapons Convention’, <<http://www.reachingcriticalwill.org/legal/nwc/nwcindex.html>>.

<sup>38</sup> For an attempt at conceptualization, Müller, H., ‘Enforcement of the rules in a nuclear weapon-free world’, ed. C. Hinderstein, *Cultivating Confidence: Verification, Monitoring, and Enforcement for a World Free of Nuclear Weapons* (Nuclear Threat Initiative: Washington, DC, 2010).

The abortive 2009 CD agenda included an ad hoc committee for nuclear disarmament. This committee did not obtain a negotiation mandate, but was authorized to address means and ways to foster nuclear disarmament, including a NWC. This enabled the committee to explore the parameters of a future treaty. In addition, it was also able to discuss how incremental steps could contribute to the disarmament process and give recommendations regarding the priority and sequence of such steps. The synergies between a moderate version of ‘big bang’ and a type of incrementalism not destined to procrastinate could be documented. This combination might sufficiently satisfy the aspirations of the NNWS and the security and efficiency concerns of the NWS.

Alternatively, or in order to complement the work of the CD, the next NPT RevCon could convene a group or groups of experts to engage in such exploratory deliberation. This approach would follow the example of the Group of Scientific Experts, which worked during the 1980s and early 1990s when negotiations on a CTBT were impossible due to objections by some NWS. The group explored options for verifying a CTBT, and the relatively short time span in which this treaty was finally negotiated owed much to this diligent preparatory work.

## **VI. INCREMENTAL DISARMAMENT STEPS FOR THE NEXT NPT REVIEW CYCLE**

### **Making the cessation of the nuclear arms race sustainable**

Discussions on the next steps for disarmament need precise terminology. In the language of the NPT, what are required are primarily measures to ensure that the cessation of the nuclear arms race remains sustainable. Signs of an increased emphasis on nuclear weapons in Russia and of an incipient rivalry between China and the USA which has an impact on Chinese, followed by Indian and then Pakistani, nuclear weapons policies are disquieting. Therefore, it is necessary to re-emphasize the priority objective of the enduring cessation of the arms race; a multipolar nuclear arms race would be much harder to control than the bilateral cold war competition.

The signature and ratification of the CTBT by all nuclear weapon possessors would prevent the introduction of revolutionary new (in contrast to modified) nuclear weapon design, thereby preventing qualitative jumps in nuclear weaponry. Signing the

CTBT would commit them to refrain from steps that undermine the treaty's objectives, thereby strengthening the commitment to a nuclear testing moratorium. In addition, parties could agree at the next Article XIV conference—designed to facilitate the entry into force of the CTBT—to bring the verification system into force provisionally even before the treaty itself enters into force. This would require much statesmanship from the Indian Government and no doubt come at some political cost. Nevertheless, as India appeared to be willing to take this step in 1999 before the US Senate refused its consent to ratification, a US–Indian understanding, and reciprocal steps by China and Pakistan, might make such a move possible.

A 'no new type agreement among the NWS' (the cessation of further development of nuclear warhead technology) was a NNWS demand in 2010, but only appeared in the NPT RevCon Action Plan in a watered-down form. The proposed agreement would guarantee the end of a qualitative nuclear arms race. The NWS would commit to not researching, developing or deploying types of nuclear warheads fundamentally different from those presently in their possession. It would be their task to define 'fundamentally different' in technical terms. They would register existing types in a form that would make them identifiable, but not give away proliferation-relevant information. One possibility would be to base the registry on the Nuclear Weapons Databook, a respected open source. This measure would complement the CTBT by curbing the qualitative nuclear arms race. National laboratories would be tasked exclusively with granting the safety and security of existing arsenals, pending their complete elimination.

An FMCT with a reliable verification system, accompanied by a voluntary commitment by the two biggest NWS to reduce existing stockpiles and to transfer the fissile material extracted from dismantled warheads to the civilian sector, would put a cap on the quantity of nuclear weapon materials not subject to safeguards. Verification in the form of an FMCT is necessary for two reasons. First, to put NWS and NNWS on a level playing field with regard to fuel cycle activities, thereby opening the door to a universal, non-discriminatory multilateral solution for the phase-out of enrichment and reprocessing facilities under national control.<sup>39</sup> Second, to lay the groundwork

for a reliable verification system in a world without nuclear weapons: FMCT verification affords the international community the confidence that it has sufficient knowledge about the size, sites and structure of the nuclear weapon complexes. After several decades of such activities, the likelihood that something was hidden somewhere would converge towards zero. Such a system could be dual, as in the EU–International Atomic Energy Agency (IAEA) relationship: sensitive verification activities could be conducted by an inspectorate exclusively drawn from the NWS, whereas the results could be reviewed, and broader inspections conducted, by regular IAEA inspectors. Such an arrangement would mean sensitive weapons information stays only with those who possess it. In contrast, an FMCT without verification, as promoted by the Bush administration, would continue discrimination, would have no value for nuclear disarmament and should not be pursued. Should the CD remain at a stalemate, a last-resort suggestion is to approach the UN General Assembly for an alternative negotiation track.<sup>40</sup>

Russia and China are concerned that the USA might place offensive weapons in space. These would jeopardize their satellites and might even have capabilities to attack ground targets, facilitating a first strike against small deterrence assets in a crisis. Should the USA develop such an offensive posture, others will strive to follow and the result will be a highly unstable race. As the country with the most to lose if space is militarized, because it has the most valuable space assets, the USA would be better off with a ban on space weaponry. Budgetary pressures might, therefore, make it more willing to consider related international regulations.

In the USA there is a near consensus on the need to move forward with national missile defence. Limits on it, however, are the necessary equivalents of caps on offensive nuclear arsenals (see below). It is unlikely that China will accept caps on nuclear arsenals or that Russia will be prepared to go much below New START limits unless the USA is willing to confine its NMD system to the bare minimum for intercepting accidental, terrorist or small-scale rogue missile attacks. Limiting NMD is anathema to US Republicans, but two developments might help win over some from

<sup>39</sup> Yudin, Y., *Multilateralization of the Nuclear Fuel Cycle: Assessing the Existing Proposals* (UNIDIR: Geneva, 2009).

<sup>40</sup> Berlin Statement by Foreign Ministers on nuclear disarmament and non-proliferation, <<http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Meldungen/2011/110426-Abbruestungstreffen.html?nn=382590>>.

their ranks. First, budgetary problems point in the direction of lower defence budgets, which would put a brake on full-scale NMD procurement. Second, if China and Russia, in turn, would be more forthcoming about the nuclear weapon and missile programmes which most concern the USA—in Iran and North Korea—the USA might agree to keep its NMD below the threshold where Russian and Chinese nuclear deterrents could be compromised.

The capping of existing arsenals is an urgent measure for preventing the incipient multilateral arms race. Currently only the USA and Russia have announced capping numbers in the context of New START. These limitations address deployed warheads, but not reserves and spares, and they leave out sub-strategic warheads. Reasonably precise estimates of the range of British and French arsenals are available, but next to nothing is known about China, India, Israel and Pakistan.<sup>41</sup>

At a minimum, unilateral declarations should be made by the NWS not presently bound by limits. Such declarations should take the form: ‘National holdings of nuclear weapons will not exceed the number of . . .’. Such ‘Declarations on future capping’ avoid the demand on the smaller nuclear weapons holders, notably China, India and Pakistan, to stop the quantitative enlargement of their arsenal at once, something they might not yet be prepared to do. They would be invited to declare the maximum number of warheads in their possession for, for example, the year 2015, with a view to not exceeding this number at any time in the future. This ceiling might contain some ‘headroom’ if present arsenals fall short of perceived security needs. The declaration might also contain conditions (e.g. no dense nationwide missile defence system that would compromise moderately sized deterrent forces). The option of providing headroom would also serve to preserve some opacity. The embarrassing risk of announcing an arsenal too small to deter would be avoided, yet more transparency would be gained. What qualifies in the smaller countries as the minimum deterrent would be understood.

<sup>41</sup> Müller, H. and Schaper, A., ‘Torn apart: nuclear secrecy and openness in democratic nuclear weapon states’, eds. M. Evangelista and N. Schörnig, *Democracy and Security: Preferences, Norms and Policy-making* (Routledge: London, 2008), pp. 143–66. For the best available information see the regular reports in the *Bulletin of the Atomic Scientists* under the headline ‘nuclear notebook’.

The major problem in this context is how to deal with Israel. Not joining the others in declaring an end to the nuclear build-up, and in providing some transparency, would isolate Israel and arouse the anger of its neighbours. In emulating the others and thereby admitting nuclear weapons possession, Israel would break the tradition of opacity and possibly compel Arab leaders to formally react to this situation of non-deniability. This might enhance tensions in the region, which could then only be contained by a move regarding the Middle East Nuclear Weapon-Free Zone. If Israel were to join the capping agreement, it would need assurances from its Arab neighbours not to use this step for propaganda and mobilization purposes.

#### **Disarmament steps to be considered for the coming period**

The future reduction of all nuclear weapons by the USA and Russia will probably have to address, beyond the measures discussed here, strategic conventional options, because they could have an impact on the vulnerability of second-strike capabilities.<sup>42</sup> In contrast to past agreements, new ones should include the verified dismantlement of warheads.

A capping agreement might facilitate another START treaty between the two nuclear superpowers. Two options are on the table. The first option is to, once again, focus the next treaty exclusively on strategic nuclear arms. Non-deployed nuclear warheads should be covered for the first time: those in reserve, undergoing refurbishment, stored and awaiting dismantlement, and in the dismantlement process. A new treaty might prescribe reductions in the total number of warheads deployed, reserved and undergoing refurbishment in one category, as these weapons still belong to the stockpile underwriting deterrence. Warheads stored for dismantlement and in the dismantlement process could figure as another category that would be accounted for, possibly with some verification. To hit at or slightly below the 1000 warheads threshold would be of great importance. Other NWS not yet integrated in strategic reductions have occasionally stated that they might consider entering multilateral arms control or disarmament talks at this level. By around 2020 Russia is likely to be

<sup>42</sup> Arbatov, A., *Gambit or Endgame? The New State of Arms Control*, Carnegie Papers (Carnegie Endowment for International Peace: Washington, DC, 2011).



below this number anyway, due to the obsolescence of a significant part of its deployed strategic arsenal.<sup>43</sup> Why not use the opportunity for another START agreement at this level?<sup>44</sup>

The second option is to address all types of warhead, deployed and non-deployed, strategic and sub-strategic, in a single treaty. Within an overall ceiling, the partners would be at liberty to adjust their arsenals to their perceived strategic needs; the USA would probably keep a higher share of strategic warheads deployed on submarines and Russia would probably choose to have relatively more sub-strategic nuclear weapons. Subcategories would be the same as, or similar to, those discussed in the first option. The disadvantage might be that the boundary of 1000 would probably be missed, as Russia would insist, for the time being, on a stockpile of sub-strategic nuclear weapons in the four-digit range.

If the first option were chosen—to keep strategic nuclear arms control as a separate process—sub-strategic nuclear weapons would have to be handled separately. First, there would need to be overall reductions. Second, warheads would need to be separated from their delivery systems and stored at a distance from the latter.<sup>45</sup> Verification would be a difficult issue; counting and identification methods for non-deployed nuclear warheads would still have to be worked out. If strategic and sub-strategic warheads were to be dealt with in separate treaties, such a method would have to be specified for sub-strategic warheads as well. Verification would be definitively easier in a non-deployed mode, as counting warheads mounted on, or stored next to, delivery vehicles involves additional national security issues that will be hard to overcome.

Having a sizable part of strategic nuclear forces on high alert remains risky. At the 2010 NPT RevCon, a group of parties from the WEOG and the NAM prepared some suggestions for de-alerting deployed nuclear weapons. Their proposals made it into the Plan of Action in diluted form: Action 5d calls on NWS to ‘discuss policies that would prevent the use of nuclear weapons’, Action 5e invites NWS to ‘consider the legitimate interest of non-nuclear-weapon States in further reducing the operational status of nuclear weapons systems’ and Action 5f demands that NWS

‘reduce the risk of accidental use of nuclear weapons’.<sup>46</sup> Options for further de-alerting should figure prominently on the agenda of the P5 consultations which started in autumn 2009. Most useful would be discussions in which NWS outline the conditions under which measures to reduce alert levels could be considered, and a joint effort to meet these conditions.

Transparency has been a continuous request from the NNWS and a consensus item within the EU. The 2010 NPT RevCon, in Action 21 of its Action Plan, called for a standardized format of reporting by the NWS. The new Non-Proliferation and Disarmament Initiative, in which three EU members participate (see below), is working on a model standard format. That means there is promise of progress in this important issue.

## VII. THE EU AND DISARMAMENT IN THE COMING NPT REVIEW CYCLE

### The EU at the 2010 NPT Review Conference

The EU entered the 2010 NPT Review Conference with a Council decision adopted on 29 March 2010.<sup>47</sup> It was the result of difficult negotiations, reflecting divergences in positions on two of the three pillars of the NPT: disarmament and peaceful uses of nuclear energy. Nevertheless, it was a substantial document that showed a balance among the three pillars, addressed some other important aspects such as the Middle East and nuclear terrorism and contained practical proposals for moving the treaty forward.

The part on nuclear disarmament included relatively little that has not already been written about. Exceptions were the clear language on sub-strategic nuclear weapons and on the FMCT, where the closure or conversion of nuclear weapon-related production facilities for fissile materials was requested. The Council decision praised past achievements in nuclear disarmament and elaborated framework conditions for nuclear disarmament.

A comparison of the Council decision with the Action Plan shows that the EU was successful to a degree. Of the 56 aims elaborated in Article 3 of the

<sup>43</sup> Notably China. Yuan (note 12), p. 32.

<sup>44</sup> Arbatov (note 42), p. 14.

<sup>45</sup> Arbatov (note 42), pp. 27–33.

<sup>46</sup> 2010 NPT Review Conference (note 2), pp. 19–24.

<sup>47</sup> Council of the European Union, Council Decision 2010/212/CFSP of 29 March 2010 relating to the position of the European Union for the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Official Journal of the European Union*, L 90, 10 Apr. 2010.

Council decision, 34 made it into the Action Plan, although many of the non-proliferation suggestions in a weakened form. On disarmament, a surprising number of the EU suggestions made it into the Action Plan, among others, regarding further reductions with special obligations for the USA and Russia, the CTBT and an FMCT. However, many of the disarmament proposals in the Action Plan were presented in stronger language than the EU had suggested, notably on transparency, regular and formalized reporting, constraints on technical improvements of nuclear weapons, and renouncing the development of new types of warheads. References to a NWC, the humanitarian consequences of nuclear war and the possibility of negotiating a legal instrument for negative security assurances went beyond the Council decision. The most original EU proposals on disarmament—on sub-strategic nuclear weapons and the closing of production facilities for fissile material destined for weapons use—went in different directions. The language on sub-strategic nuclear weapons was diluted to ‘nuclear weapons of all types notwithstanding their location’, whereas the closing of facilities was surprisingly integrated into the document because of the unexpected acquiescence of China. Since the consensus-based part of the Final Document was forward-looking, most of the applause for past disarmament efforts which the EU had proposed went nowhere. Even the President’s notes on the review part of the RevCon’s work only contained such language in a tone of minimal enthusiasm. Efforts by the EU to emphasize the framework conditions for nuclear disarmament met with NAM resistance and were largely banned from the Final Document. One exception was the notion of ‘stability and equal security for all’, because it drew strong support from Russia and China, who view this formulation as a veiled reservation against US missile defence plans.

Future EU policy in the review process should be based on analysis of its 2010 performance.<sup>48</sup> With 27 members that have different preferences, negotiation possibilities are restricted. For this reason, the EU confined itself in 2010 to reading texts proposed for the Committee reports or for the Final Document and to tabling such language without taking the floor at all. There are substantial and procedural reasons for this restrictive mode of operation that have to be overcome

in order to make sure the EU does not perform below its significance as a union of 27 member states.

The substantial problem is, of course, caused by divergences in member states’ interests. On nuclear disarmament, the EU has to accommodate two NWS, the majority of NATO NNWS (whose commitment to nuclear disarmament varies but whose alliance loyalty binds them all) and half a dozen neutral countries (some of which feel strongly about nuclear disarmament). Nevertheless, the EU has managed to find some common language on disarmament that it could promote. However, on the floor, only a minority actively pursued strong language on sub-strategic nuclear weapons and the majority kept silent (most conspicuously the two European NWS). When the Russian delegate attacked the German head of delegation (the leader on this issue), support from fellow Europeans was lukewarm. On the other hand, when France tried to get praise for past disarmament actions, using language from the Council decision on the closing of test areas and fissile material production facilities, it was attacked by another EU state. France pushed this issue through gallantly, but almost single-handedly. France also stood alone on the framework conditions. The EU’s proposals on other disarmament issues such as transparency and irreversibility were hardly recognizable.

### **Possibilities for improvement**

Is it possible to do better in the future? It might be advisable to settle on two or three main issues, on which the EU places the highest emphasis, for each NPT pillar. Emphasis could be based on the gravity of an issue or on a broad and deep agreement among the members. On these issues, minimum and maximum positions could be defined informally, and the EU leadership (see below) could be given the authority to negotiate within these limits and, if the limits are to be exceeded, to negotiate *ad referendum*, pending the agreement of the EU members in ensuing consultations. Such priorities could be decided by consensus, or by a qualified majority as would be principally admissible under the Lisbon Treaty, once the position as such has been agreed on. Member states would then support the EU leadership on the floor. Alternatively, if members believe this to be too time-consuming for floor debates, enervating for the rest of the treaty members and thereby counterproductive, the EU could designate a group of members for each issue

<sup>48</sup> Müller (note 15).

to support the leadership on the floor—maybe those which indicate they feel strongest about the issue at stake.

On issues beyond the core priorities agreed on within the EU, EU members would be at liberty, as always, to take the floor or not in support of the Council decision. Beyond that, EU members would remain free to submit or support proposals beyond those agreed in a Council decision, as long as these do not contradict the *acquis communautaire*. This slight correction of the substantial part of the EU preparation could definitely enhance the weight of the EU at NPT RevCons without assuming a dramatic convergence of member states' interests beyond the status quo.

On procedure, the above-mentioned suggestion already contains an important proposal: the 'negotiation corridor' for whoever is designated to speak on behalf of the EU. Even after repeatedly studying the Lisbon Treaty, it is unclear to the author whether future EU delegations to NPT reviews will be led by the EEAS or still by a member state holding the more ceremonial Presidency. It appears more plausible to have the EEAS in that position, because of its supposed neutrality. Yet the EU as such is not a party to the NPT. Nevertheless, it might be possible to place EEAS staff in the delegation of the country which holds the Presidency and to have them speak on behalf of the EU. However, the EEAS might not have enough staff to present the EU in all the meetings, formal and informal, that NPT reviews conduct simultaneously. Working through a 'friends of the chair' format, the EEAS delegation leader could nominate appropriate diplomats from member states to act as EU speaker in the various forums; this might be the best way to close the gap. Of course, 'friends of the chair' would be bound by the minimum or maximum position corridor for their own negotiation roles, in the same way as the EU leadership. Finally, all member states should have the obligation to think twice before they take the floor on exclusively national positions. There is, of course, no way, and no legal rule, to prevent members from doing so. Nevertheless, there should be a norm of restraint before diplomatic energy is spent on questions which the rest of the EU takes little interest in or which might even be controversial.

If all these considerations are taken into account, there is no harm done when EU member states also work in different state groupings, as some have done in the past. The two NWS have always coordinated within the P5; seven member states belong to the

Vienna Group of 10 (now 11) pursuing improvements to articles III and IV of the NPT; Sweden and Ireland are members of the New Agenda Coalition; and a variety of member states have entered ad hoc coalitions on specific items (such as on sub-strategic nuclear weapons). In 2010 Germany, the Netherlands and Poland co-founded a new cross-cutting grouping, the Non-Proliferation and Disarmament Initiative.<sup>49</sup> Working across group boundaries could potentially multiply the impact of EU policy, notably by bridging the gap between North and South, provided the members do not work at cross purposes but either promote EU positions or at least proposals that do not run counter to what the EU has decided itself.

The 'menu' of measures offered in sections V and VI above contains food for thought for EU diplomats in terms of what to consider for inclusion in a Common position for the 2015 NPT RevCon; no further elaboration is needed. It is, however, worth emphasizing and looking at five issues that transcend the focus on single disarmament measures and have wider-ranging implications for the future of the disarmament process.

First, an interesting point emphasized by France and contained in the 2010 EU Council decision is the conditions for a non-nuclear world. This is a valid point, as discussed at length here: nuclear disarmament will only occur under particular circumstances, and there are lacunae of knowledge and thinking about what these circumstances might be. The EU should do common work on this issue and propose to do more in the NPT setting.

Second, there is the issue of irreversibility, a term that has been part and parcel of official NPT documents since 2000, but about which no one knows very much. It is more a metaphor than a legal concept: in social and political matters, absolute irreversibility is hard to conceive. Until now, the discussion—as far as there has been one—has focused on technical matters rather than political ones. Why should the EU not invest resources in that issue?

Third, withdrawal and enforcement seem to have little relation to disarmament and seem rather to belong to the realm of horizontal non-proliferation. In fact, they are closely linked to the conditions for disarmament. This remains a theme on whose

<sup>49</sup> German Federal Foreign Office, 'International foreign ministers meeting for disarmament and non-proliferation', Press release, 26 Apr. 2011, <<http://www.auswaertiges-amt.de/EN/Infoservice/Presse/Meldungen/2011/110426-Abruestungstreffen.html>>.

saliency the EU should insist and which it should push for during the preparatory process of the next NPT review, including intense consultations with the moderate NAM leadership. It might make sense to treat measures for responding to withdrawal as part of the agenda exploring the parameters of a future NWC. Indeed, the international community would need viable instruments to react to anyone announcing a withdrawal from a future treaty prohibiting nuclear weapons. If such investigations result in measures, part or all of which would also be applicable today, for cases of withdrawal from the NPT, it might then be easier to find agreement in the NPT review process.

Fourth, the 2010 NPT RevCon integrated disarmament and non-proliferation education into Action 22 of the Action Plan. The EU could develop related activities and present them at the 2015 NPT RevCon or already during the preparatory process. The EU Non-Proliferation Consortium and its network of European think tanks present an instrument for implementing such an initiative. The consortium could offer training for PhD students and young diplomats. This offer could be addressed to EU member states currently lacking in non-proliferation and disarmament expertise. This offer could also be addressed to the Middle East, where there might be a vacuum of expertise after the present generation of experts retires. Training young diplomats and non-governmental experts from the Middle East could be presented as an EU contribution to the effort to bring about a Middle East Nuclear Weapon-Free Zone. Further, an offer could be addressed to sub-Saharan Africa where related expertise appears to exist almost exclusively in South Africa and, in a much more rudimentary form, in Nigeria.

Fifth, and lastly, it might be advisable for the EU to explore the suggestion that Tanya Ogilvie-White and David Santoro made in a recent article: that it might be possible to trade specific disarmament concessions for specific improvements in the non-proliferation toolbox.<sup>50</sup> This might be an appropriate subject for consultations between the EU and NAM leaders in preparation for, or at the margins of, the coming preparatory committees.

## ABBREVIATIONS

CD	Conference on Disarmament
CTBT	Comprehensive Nuclear-Test-Ban Treaty
CWC	Chemical Weapons Convention
FMCT	Fissile Material Cut-off Treaty
IAEA	International Atomic Energy Agency
NAC	New Agenda Coalition
NAM	Non-Aligned Movement
NATO	North Atlantic Treaty Organization
NMD	National missile defence
NNWS	Non-nuclear weapon state(s)
NPT	Non-Proliferation Treaty
NWC	Nuclear weapons convention
NWS	Nuclear weapon state(s)
START	Strategic Arms Reduction Treaty
WEOG	Western European and Others Group

<sup>50</sup> Ogilvie-White, T. and Santoro, D., 'Disarmament and non-proliferation: towards more realistic bargains', *Survival*, vol. 53, no. 3 (2011).





## A EUROPEAN NETWORK

In July 2010 the Council of the European Union decided to create a network bringing together foreign policy institutions and research centres from across the EU to encourage political and security-related dialogue and the long-term discussion of measures to combat the proliferation of weapons of mass destruction (WMD) and their delivery systems.

## STRUCTURE

The EU Non-Proliferation Consortium is managed jointly by four institutes entrusted with the project, in close cooperation with the representative of the High Representative of the Union for Foreign Affairs and Security Policy. The four institutes are the Fondation pour la recherche stratégique (FRS) in Paris, the Peace Research Institute in Frankfurt (PRIF), the International Institute for Strategic Studies (IISS) in London, and Stockholm International Peace Research Institute (SIPRI). The Consortium began its work in January 2011 and forms the core of a wider network of European non-proliferation think tanks and research centres which will be closely associated with the activities of the Consortium.

## MISSION

The main aim of the network of independent non-proliferation think tanks is to encourage discussion of measures to combat the proliferation of weapons of mass destruction and their delivery systems within civil society, particularly among experts, researchers and academics. The scope of activities shall also cover issues related to conventional weapons. The fruits of the network discussions can be submitted in the form of reports and recommendations to the responsible officials within the European Union.

It is expected that this network will support EU action to counter proliferation. To that end, the network can also establish cooperation with specialized institutions and research centres in third countries, in particular in those with which the EU is conducting specific non-proliferation dialogues.

<http://www.nonproliferation.eu>



## FOUNDATION FOR STRATEGIC RESEARCH

FRS is an independent research centre and the leading French think tank on defence and security issues. Its team of experts in a variety of fields contributes to the strategic debate in France and abroad, and provides unique expertise across the board of defence and security studies.

<http://www.frstrategie.org>



## PEACE RESEARCH INSTITUTE IN FRANKFURT

PRIF is the largest as well as the oldest peace research institute in Germany. PRIF's work is directed towards carrying out research on peace and conflict, with a special emphasis on issues of arms control, non-proliferation and disarmament.

<http://www.hsfk.de>



## INTERNATIONAL INSTITUTE FOR STRATEGIC STUDIES

IISS is an independent centre for research, information and debate on the problems of conflict, however caused, that have, or potentially have, an important military content. It aims to provide the best possible analysis on strategic trends and to facilitate contacts.

<http://www.iiss.org/>



## STOCKHOLM INTERNATIONAL PEACE RESEARCH INSTITUTE

SIPRI is an independent international institute dedicated to research into conflict, armaments, arms control and disarmament. Established in 1966, SIPRI provides data, analysis and recommendations, based on open sources, to policymakers, researchers, media and the interested public.

<http://www.sipri.org/>