



Npt Review Conference 2015 In Perspective

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The most recent NPT Review Conference (Rev Con) ended in New York on May 22, 2015 without adopting a consensus final document, due to serious differences on the creation of a Weapons of Mass Destruction Free Zone in the Middle East and some other issues. The UN Secretary General Ban Ki-moon has expressed his disappointment over the failure of the Rev Con to arrive at a consensus for a substantive outcome after four weeks of intense multi-lateral diplomacy.¹

Background:

The Treaty on Non-proliferation of Nuclear Weapons commonly known as the NPT – the centrepiece of the non-proliferation regime - was opened for signatures in July 1968 and entered into force in March 1970 for a period of 25 years. Built on the three complementary pillars of disarmament, non-proliferation and promotion of peaceful uses of nuclear energy, the treaty has almost universal adherence with 190 member states. However, three important states India, Pakistan and Israel have not subscribed to the treaty and North Korea which had joined the treaty in 1985, revoked its membership in 2003. Article- VIII (3) of the treaty stipulates that:

“Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realised. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.”²

Article-X (2) of the Treaty also laid down that, “Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.”³ Accordingly, on 11 May 1995 the ‘Review and Extension Conference’ of the treaty members, unanimously decided to extend the treaty indefinitely.⁴

The indefinite extension was, however, achieved only after commitments made by the five NPT recognised nuclear weapon states i.e. the United States, the Russian Federation, the United Kingdom, France and China to make serious efforts to finalise the Comprehensive Test Ban Treaty (CTBT) and a Fissile Materials Cut Off Treaty (FMCT) and to move the disarmament process forward. The deal was finally clinched after an understanding between the US and the Middle Eastern countries led by Egypt on a resolution calling for the establishment of a WMD free zone in the Middle East.⁵ The momentum of the successful review and extension conference in 1995 was carried into the 2000 Rev Con wherein the states parties to the treaty agreed on a 13 step plan to implement the disarmament commitments made in the treaty itself as well as the decisions taken at the 1995 Rev Con. However, due to some important international developments the positive trends could not be sustained. The 9/11 incidents, controversial North Korean action to quit the NPT in 2003, the US led invasion of Iraq in 2003 to deal with that country's alleged illicit WMD programme and the growing acrimony over Iran's suspected nuclear activities which came to the surface in 2004, vitiated the international security landscape and caused a paradigm shift from non-proliferation to counter-proliferation. As a result the states parties to the treaty could not agree on an agenda well into the conference proceedings and at the end failed to adopt a final document mainly due to conflicting priorities of the Nuclear Weapon States and the Non-nuclear Weapon States wherein the former now laid more emphasis on non-proliferation and compliance by Non-nuclear Weapon States while the latter criticised the lack of progress on disarmament obligations codified in Article-VI of the treaty.

After the disastrous outcome of the 2005 conference⁶ it was feared that a similar outcome in the next Rev Con would sound the death knell for the Treaty itself. However, the build-up to the 2010 Rev Con was helped by some landmark developments. In April 2009 President Obama made an historic speech at Prague in which he outlined his vision of a nuclear weapons free world and declared to host a summit of key nuclear capable countries to strengthen nuclear security.⁷ On April 8, 2010 shortly before the first Nuclear Security Summit (NSS) the United States and the Russian Federation signed a strategic arms reduction treaty termed as the 'New Start.' The Nuclear Security Summit which was held at Washington, DC on 12th and 13th of April 2010 also produced positive vibes. In this backdrop, the political stakes for the United States in a successful outcome of the 2010 Rev Con were very high and the US diplomats worked very hard behind the scenes to secure

a successful outcome of the Conference. Consequently, the Conference adopted a final document that included an ambitious 64 point action plan covering all the three pillars of the NPT. Amongst these 64 steps was a commitment to take practical steps towards the implementation of the 1995 resolution on the establishment of a WMD free zone in the Middle East, including the convening of a conference of regional states for this purpose in 2012. This was the first time a deadline was fixed for action on this important commitment that had been a key to the agreement for the indefinite extension of the Treaty in 1995.⁸

The 2015 NPT Review Conference

The international environment preceding the 2015 Rev Con was clearly not as propitious as the previous Rev Con due to several contentious issues that had cropped up in the intervening years. On the positive side the New Start between the US and the Russian Federation had entered into force in February 2011 and the framework agreement between Iran and P5+1 had been reached in April 2015, raising hopes that the international concerns about Iran's nuclear programme would be finally laid to rest in the Comprehensive agreement that was scheduled to be finalised by the end of June 2015, though the negotiations at Vienna extended well into July after four successive extensions of the original deadline. Despite the fact that the divisive issue of Iranian nuclear programme was not on the centre stage at the 2015 Rev Con, the conference ended in a failure due to the disappointment, of the non-nuclear weapon states parties to the Treaty, on lack of progress on nuclear disarmament by the nuclear weapon states, failure of President Obama's 2009 commitment, to make every effort to secure the ratification of the CTBT from the US Congress, to materialise and failure to implement the 64 point action plan approved by the 2010 Rev Con. The Middle East WMD free zone issue, however, proved to be the ultimate spoiler. Many experts had been warning well before the Rev Con that unless some progress is made on the Middle East problem the 2015 Rev Con is destined to fail. For instance, Lianet Vazquez wrote in October 2014 that, "...members of the Arab League have threatened to reconsider their position toward that extension [indefinite extension of the NPT in 1995] on the basis that there has been no progress on the 1995 resolution associated with establishing a Middle East Zone free from weapons of mass destruction...."⁹ IISS, London based think tank in a commentary entitled 'Slow Disarmament progress will hamper NPT Review' also predicted that, "The 2015

Rev Con is likely to be a divisive affair, with significant areas of friction having developed since the last meeting five years ago."¹⁰

The challenges that were being anticipated to be faced by the 2015 Rev Con even before the start of the conference can be summed up as under:¹¹

- Lack of progress in the ratification of the Comprehensive Test Ban Treaty (CTBT) despite President Obama's commitment at Prague in 2009 to work with the US Senate to get its assent for the same. Similarly no progress has been made towards the finalisation of a Fissile Material Cut-Off Treaty (FMCT).
- The perception among the non-nuclear weapon states parties to the NPT that steps taken by the Nuclear Weapon States towards nuclear disarmament are insufficient and that the pace of disarmament has been too slow by their reckoning.
- The new initiative to bring into focus the humanitarian impact of nuclear weapons that has caused serious disagreements amongst the states party to the Treaty.
- Failure to fulfil the promise made in the Plan of Action approved by the 2010 Rev Con to convene a conference in 2012 on a WMD Free Zone in the Middle East.

The Conference started on a fairly promising note with the US Secretary of State John Kerry declaring that:

"The United States remains committed to all three pillars of the NPT – disarmament, non-proliferation and encouragement of peaceful uses of the atom." Adding that, "I am pleased to stand here today representing a President and an Administration that is committed to the vision of a world without nuclear weapons and to taking prudent actions that are necessary to one day make that possible."¹²

Kerry also read out President Obama's message in which the President stated that:

"For over 45 years, the NPT has embodied our shared vision of a world without nuclear weapons... We have not yet achieved the ultimate goals enshrined in the treaty – on this we all agree – but it is only by seeking common ground and reinforcing shared interests that we will succeed in realizing a world free of nuclear dangers. Over the next few weeks and beyond the time of this conference, let us come together in a spirit of partnership to stop the spread of nuclear weapons..."¹³

However, these pious sentiments and lofty ideals were ultimately sacrificed at the altar of the US-Israel special relations when the United States supported by the United Kingdom and Canada refused to accept the 'formula' included in the final document for the pursuit of a WMD Free Zone in the Middle East. The US representative Under Secretary of State, Rose Gottemoeller termed the language on the Middle Eastern Zone as "incompatible with our longstanding policies."¹⁴

Differences surfaced right at the outset of the conference on the implementation of important steps of the 64 point action plan adopted at the 2010 Rev Con. The non-nuclear weapons states parties to the treaty wanted to see substantive and early progress on the action plan, while the five nuclear weapon states in a joint statement released after a meeting at London in February 2015 had already taken a stance that they saw the action plan as simply a "roadmap for long term action."¹⁵ UN Deputy Secretary General Jan Eliasson, speaking on behalf of the UN Secretary General on 27 April 2015, cautioned that, "The review conference must demonstrate how and when the action plan will be implemented, or it could risk fading in relevance."¹⁶ On the other hand, Iranian Foreign Minister Javad Zarif representing the Non-aligned Movement (NAM) drew attention to "the continued lack of progress in the implementation of nuclear disarmament obligations and commitments' by nuclear weapon states. He also repeated NAM's proposal for a nuclear weapons convention that should include a time bound phased programme for total elimination of nuclear weapons.¹⁷

The crux of the differences between the nuclear and non-nuclear weapons states parties to the Treaty was very aptly summed by Alexander Kmentt, Austrian Director of disarmament, arms control and non-proliferation speaking on behalf of 49 states, commenting that, "there is a wide divide" on disarmament between the nuclear weapon and non-nuclear weapon states, "a reality gap, a credibility gap, a

confidence gap, and a moral gap.”¹⁸ Some non-nuclear weapon states also demanded action on the 2010 commitment by the nuclear weapon states to take measures to reduce the chances of accidental use of nuclear weapons and to reduce the readiness levels of operational nuclear weapons. However, the United States insisted that it had already taken all necessary steps in this regard.¹⁹

Analysis:

The failure of the NPT Rev Con 2015 needs to be seen in the right perspective. Firstly, one must keep in mind the purpose of the Rev Cons. That as per the Treaty text itself is, “to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realised”²⁰... This formulation clearly assigns the Rev Cons the task of reviewing the progress of the implementation of the treaty but there is no elaboration as to how its recommendations would be implemented or whether it is binding on the states parties to the Treaty to implement the Rev Con decisions. The recommendations made by Rev Cons are also subject to differing interpretations by different states parties as has been seen in case of the 64 point action plan adopted during the 2010 Rev Con. The second problem especially related to a WMD Free Zone in the Middle East is that the only regional state with undeclared nuclear arsenal is not a member of the NPT while the Arab League members are all states parties to the Treaty. Article 34 of the ‘Vienna Convention on the Law of Treaties’ clearly states that, “A treaty does not create either obligations or rights of a third state without its consent.”²¹ The implication is that the resolutions passed by the NPT Rev Cons are not binding on Israel being a non-party. Such resolutions can only create moral and political pressure and nothing more. It should also be noted that the consensus documents usually produced at the end of a Rev Con represent the lowest common denominator since they evolve through a process of intense bargaining and compromises between states parties sometimes trying to achieve diametrically opposite goals.

A major development in recent times that will cast a long and dark shadow over the non-proliferation regime as a whole and the NPT Rev Cons and the Prep Coms that precede these is the deterioration of US-Russia relations in the wake of the Ukraine crisis. The rising tensions between the two largest nuclear weapon possessors will cause a set back to the nuclear disarmament through the START process. The hostility between the US and Russia has also raised the salience of nuclear weapons

in their respective security policies nullifying their efforts to reduce the role of nuclear weapons in their respective security strategies.

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Endnotes

¹ 'UN Chief expresses disappointment at 2015 NPT Review Conference,' Xinhua English News, 24 May 2015.

²United Nations Office for Disarmament Affairs: Treaty on the Non-proliferation of Nuclear Weapons (NPT). Available at <http://www.un.org/disarmament/WMD/Nuclear/NPT.shtml>

³ Ibid.

⁴ Ibid.

⁵2015 NPT Review Conference Backgrounder, NTI, May 4, 2015. Available at <http://www.nti.org/analysis/articles/2015-npt-review-conference-backgrounder/#>

⁶ Gaukhar Mukhatzhanova, 'Rough Seas Ahead: Issues for the 2015 NPT Review Conference,' *Arms Control Today*, April 2014.

⁷ Ian Traynor, 'Barack Obama launches doctrine for nuclear free world,' *The Guardian*, 05 April 2009.

⁸ Alicia Godberg, 'NPT Rev Con ends with a consensus Final Document,' Federation of American Scientists, June 2, 2010.

⁹ Lianet Vazquez, 'Towards the 2015 NPT Review Conference: Attitudes and Expectations of Member States in the Middle East,' British American Security Information Council (BASIC), October 2014.

¹⁰ IISS, Vol 2015, Ed 10, 24 April 2015, Available at <http://www.iiss.org>

¹¹ 2015 NPT Review Conference Backgrounder, NTI, May 4, 2015. Available at <http://www.nti.org/analysis/articles/2015-npt-review-conference-backgrounder/#>

¹² US Department of State: Remarks at the 2015 Nuclear Nonproliferation Treaty Review Conference; John Kerry, Secretary of State, New York City, NY, April 27, 2015.

¹³ Ibid.

¹⁴ Daryl G. Kimball and Kingston Reif, 'NPT Conference Fails to Reach Consensus,' *Arms Control Today*, June 2015.

¹⁵ Kingston Reif, Kelsey Davenport and Daryl G. Kimball, 'NPT Conference Begins Amid Discord,' *Arms Control Today*, May 2015.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Kimball and Reif, op. cit.

¹⁹ Kimball and Reif, op.cit.

²⁰ United Nations Office for Disarmament Affairs: Treaty on the Non-proliferation of Nuclear Weapons (NPT). Available at <http://www.un.org/disarmament/WMD/Nuclear/NPT.shtml>

²¹ Vienna Convention on Law of Treaties, Section 4, Article 34.