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Organisational matters relating to the postponed Tenth (2020) NPT Review Conference

GLOBAL SECURITY
REPORT

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The European Leadership Network (ELN) is an independent, non-partisan, pan-European network of nearly 200 past, present and future European leaders working to provide practical real-world solutions to political and security challenges.

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Executive Summary

The tenth review conference¹ of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)² was scheduled to take place at United Nations (UN) headquarters from 27 April to 22 May 2020. With the global outbreak of the COVID-19 pandemic in March 2020, the conference was rescheduled to 4 to 29 January 2021 and then again postponed to 2 to 27 August 2021. **It is important to clarify that NPT review conferences are meetings of NPT States parties with their own rules of procedure and are financed by them – they are *not* UN meetings.**

This paper will briefly describe: (a) the origins and structure of NPT review conferences; (b) outcomes of past review conferences; (c) the meaning of consensus in the review process; and (d) the 2020 review conference, its postponement to 2021 and the proposal to convene the conference in 2022 in Vienna (Austria). In summary, **NPT States parties must seriously contemplate convening the postponed 2020 review conference in 2022, as well as future NPT conferences, in Vienna, where the intangible “spirit of Vienna”,³ a “benevolent genie”, and *Gemütlichkeit* (cosiness) can work in mysterious ways to foster harmony out of discord.**

Origins and structure of NPT review conferences

The NPT created the precedent for multilateral arms control agreements of having periodic reviews to assess the implementation of the Treaty after its entry into force. Article VIII.3 specifically provided for the first review conference to be held in Geneva in 1975, five years after the Treaty's entry into force in 1970. It also left open the option for subsequent quinquennial reviews thereafter if requested by a majority of States parties. In practice, NPT review conferences have been held every five years since 1975.

The concept of periodic reviews was a novelty devised for the NPT at the insistence of non-nuclear-weapon States. It was meant to: (a) help offset the imbalance in the obligations of the majority who had to do something right away (accept safeguards to prove non-proliferation) and the few who made a long-term promise to disarm; (b) present a way for the majority to see how the Treaty was operating and express themselves on what they found; and (c) produce conclusions for further action for implementation of the Treaty.

To the first of these, the principal rationale was to provide some semblance of balance between the nuclear-weapon States (NWS) and non-nuclear-weapon States (NNWS) which were party to the Treaty as envisaged in UN General

“The NPT created the precedent for multilateral arms control agreements of having periodic reviews to assess the implementation of the Treaty after its entry into force.”

Assembly resolution 2028 (19 November 1965). This refers to the obligations of NNWS that are obligated to permanently renounce nuclear weapons (Article II) and to place all of their nuclear activities under International Atomic Energy Agency (IAEA) safeguards (Article III) within a specified time period. The NWS, on the other hand, have the obligation to carry out “negotiations in good faith” on nuclear disarmament (Article VI) but no time period is specified. In this context, the technologically advanced NNWS in the late 1960s wanted a process to periodically and regularly review the implementation of the Treaty by the NWS and other NNWS.⁴ Until 1995, review conferences were convened through enabling resolutions adopted by the General Assembly sponsored by one or more of three depositary States of the NPT: UK, USA and USSR.

When the NPT was extended in 1995 to be of indefinite duration, the States parties decided that “in accordance with Article VIII, paragraph 3, that review conferences should continue to be held every five years and that, accordingly, the next review conference should be

held in the year 2000". Thus, review conferences were to be convened every five years as a rule, without the depositary States having to take the lead in submitting an enabling resolution at the General Assembly.

After the 1995 NPT Review and Extension Conference (NPTREC), it became common practice that the country which provided the Conference President would table an enabling resolution during the First Committee / General Assembly on the convening of the Preparatory Committee for the next review conference. For instance, as Ambassador Jayantha Dhanapala had presided at the 1995 NPTREC, Sri Lanka sponsored resolution 51/45 A.⁵ This was adopted by the General Assembly on 10 December 1996 and set the dates of the first session of the Preparatory Committee (PrepCom) for the 2000 NPT review conference to be held in New York from 7 to 18 April 1997. The 1997 PrepCom set the dates for its sessions in 1998 and 1999, and also decided that the 2000 review conference would be held in New York from 24 April to 19 May. A similar process was followed for the convening of subsequent review conferences in 2005, 2010, 2015 and 2020.⁶

Main Committees

The first two review conferences, 1975 and 1980, conducted their work through two committees. Main Committee I, chaired by a representative from a Non-Aligned Movement (NAM) State Party, considered non-proliferation,

disarmament and international peace and security, and security assurances. Main Committee II, chaired by a representative from a Western and Others Group (WEOG) State Party, considered peaceful applications of nuclear energy. This changed in 1985, where the process became that work is done through three committees: Main Committee I, chaired by a NAM State Party representative, covers nuclear disarmament and security assurances; Main Committee II, chaired by an Eastern European Group (EEG) State Party representative, considers safeguards and non-proliferation, as well as regional issues such as nuclear-weapon-free zones; and Main Committee III, chaired by a WEOG State Party representative, covers peaceful uses of nuclear energy and the strengthened review process.

Presidency

The NPT review conference President is traditionally from a NAM State Party, as the NAM has the largest number of States parties: these are nominated from a different region on a rotational basis. The presidency is generally based on the personality/nationality of the individual and can be substituted by another individual from the same or different nationality (but from the same region).

Many diplomats lobby to become the President of a NPT review conference in order to boost their credentials or egos. This cannot be said of the current President-designate of the 2020/2021

NPT review conference, Ambassador Gustavo Zlauvinen of Argentina.⁷ Zlauvinen is an accomplished senior diplomat with wide experience serving his foreign ministry, the International Atomic Energy Agency (IAEA) and the United Nations Special Commission for the Disarmament of Iraq (UNSCOM), among other senior positions.

Originally, it was Ambassador Rafael Mariano Grossi, Argentina's Ambassador to Austria and Permanent Representative to the IAEA and UN Organizations in Vienna, who had actively been seeking the presidency. On 8 May 2019,⁸ the NPT Preparatory Committee took the decision that the "nomination of the President of the 2020 Review Conference ... of the candidate endorsed by the Latin American and Caribbean Group, Rafael Mariano Grossi (Argentina), will be finalized upon communication by the Chair of the Group of Non-Aligned States parties to the Treaty [NAM], during the last quarter of 2019" – as such, he immediately began consultations as presumptive President-designate.⁹

However, when the post of IAEA Director General (DG) unexpectedly became available at the end of July 2019, Ambassador Grossi declared his candidacy and eventually was elected by the IAEA Board of Governors to that position on 30 October 2019.¹⁰ On 2 December 2019¹¹ at a special session of the IAEA's General Conference, Member States endorsed the appointment of Ambassador Grossi as IAEA DG and consequently he took office as IAEA DG on 3 December 2019.¹²

Earlier, when Ambassador Grossi declared his candidacy in August 2019 for the IAEA DG position, some NPT States parties were concerned about a possible conflict of interest of combining the duties of President-designate and candidate for the IAEA position. In light of this, in September 2019, Argentina withdrew Ambassador Grossi's nomination for the presidency of the NPT review conference and in his place communicated the nomination of then Deputy Foreign Minister Gustavo Zlauvinen¹³ to the 33-member Group of Latin America and Caribbean Countries (GRULAC), one of the five United Nations Regional Groups, which in turn proposed his nomination to the NAM. **In January 2020, the NAM endorsed the nomination and Ambassador Zlauvinen then was empowered to commence consultations as President-designate for the organization of the 2020 NPT review conference.**

As I have stated elsewhere, the job of a NPT review conference President is stressful, requiring a lot of consultations with States parties in national capitals, New York, Vienna, Geneva and Brussels. This necessitates frequent travel, the cost of which is borne by his/her government.¹⁴ I was a colleague of Ambassador Zlauvinen on the IAEA NPT Delegation at NPT meetings in New York in 2002, 2004 and 2005, when he was Permanent Representative of the IAEA Director General to the UN; I can attest to his work ethic and strong organizational and diplomatic skills – all of which he will require in spades at

the review conference, which is a fractious affair at the best of times.

President-elect Zlauvinen has been facing an unprecedented challenge from the very get go, as the COVID-19 pandemic took hold and played havoc with international travel to New York as well as with the scheduling of meetings at the UN due to office closures and lockdowns. In my considered opinion, to his credit, he has been managing well remotely from Buenos Aires in holding online consultations with delegates in New York and in capitals, and striving to find appropriate dates and conference facilities for the postponed review conference. Again, as I have noted elsewhere, dealing with NPT delegates is akin to the challenge of herding cats.¹⁵ Nonetheless, he has been successful in first securing the dates of 4 to 29 January 2021¹⁶ and then again dates later in the year of 2 to 27 August,¹⁷ as discussed below. He has taken part in a number of online webinar discussions¹⁸ in addition to continuing consultations with the regional group coordinators and with the Chairs-designate of the three Main Committees of the review conference.

The delay in the convening of the review conference has provided the President-designate with an unexpected opportunity to consult with States parties regarding appropriate candidates to: (a) chair the subsidiary bodies¹⁹ under the three main committees; (b) coordinate negotiations on the

“The delay in the convening of the review conference has provided the President-designate with an unexpected opportunity...”

fractious matter of the implementation of the 1995 NPTREC Resolution on the Middle East²⁰; and (c) coordinate discussions on the strengthened review process for the Treaty and also on the “withdrawal clause”²¹ of the NPT (Article X.1). These chairs and coordinators would need to be chosen with care as regards their expertise, diplomatic skills and national affiliations, so as to ensure confidence of the President and States parties in them to deliver agreed texts.

The UN Office of Disarmament Affairs (UNODA)²² provides secretariat²³ services to NPT meetings, with the assistance of the IAEA. The UNODA has held a few online webinars²⁴ that apparently limited participation to those selected by UNODA based on criteria that were neither transparent nor inclusive. In my view, to be credible and useful, future such online events planned for April and in following months should be better advertised in advance and should be more inclusive in participation to involve interested parties not only in States but also in civil society.²⁵

Main Committee Chairs

The Chairs of the three main committees are, respectively:

- The chair of the third session of the PrepCom, from NAM, chairs Main Committee I (nuclear disarmament);
- The chair of the second session of the PrepCom, from EEG, chairs Main Committee II (nuclear verification and regional issues including the Middle East); and
- The chair of the first session of the PrepCom, from WEOG, chairs Main Committee III (peaceful uses of nuclear energy, strengthened review process, withdrawal from the NPT).

These chairs are selected based on their country-of-origin, not their personalities. They are selected from either ministries in the national capital or from ambassadors to the Conference on Disarmament in Geneva, to the UN in New York, or to the IAEA in Vienna. Should a particular individual, before or after chairing their PrepCom session, is posted to a different assignment, in general, the country nominates another individual to chair the PrepCom session and relevant main committee at the review conference. The first session of the PrepCom used to be held in New York; however, since 2007, it has been held in Vienna in recognition of the IAEA's key role in the NPT. The second session is held in Geneva and the third session in New York.

“Since the 2000 review conference, each Main Committee has established a subsidiary body under its auspices to discuss selected matters in detail...”

For the tenth review conference, Main Committee I (nuclear disarmament) will be chaired by Ambassador Syed Mohamad Hasrin Syed Hussin²⁶ of Malaysia. Ambassador Hussin is the Permanent Representative of Malaysia to the UN in New York, and chaired the 2019 PrepCom. Main Committee II (safeguards/verification and regional issues) will be chaired by Ambassador Adam Bugajski²⁷ of Poland, then the Permanent Representative of Poland to the IAEA, UN Office and the International Organisations in Vienna currently posted back in Warsaw, who chaired the 2018 NPT PrepCom. Main Committee III (peaceful uses of nuclear energy and other items) will be chaired by Ambassador Marjolijn van Deelen²⁸ of the Netherlands, EU Special Envoy for Non-Proliferation and Disarmament, in place of Ambassador Henk Cor Van der Kwast who chaired the 2017 PrepCom.

Since the 2000 review conference, each Main Committee has established a subsidiary body under its auspices to discuss selected matters in detail; in practice it is in these subsidiary

bodies that the “forward looking” elements of a final document are negotiated to identify measures for the implementation of the Treaty and agreed review conference outcomes over the next five years. The chairs of subsidiary bodies are appointed by the President, in consultation with States parties, and are not necessarily determined by political grouping but by the attributes of the persons selected to chair the subsidiary bodies.

Outcomes of past review conferences

Given the mandate for review conferences, as agreed in 1995, it would be reasonable to expect that an outcome document is a requirement for each review conference.²⁹ However, this is up for debate; some analysts and diplomats maintain that the success of NPT review conferences need not rest on the adoption of a final document and further that the adoption of a final document is not really necessary. They also argue that at review conferences many good working papers are circulated and intensive discussions and negotiations take place on all aspects of the Treaty and related matters. Recommendations and proposals even from failed review conferences, in certain instances, have been put into effect later on. Furthermore, the search for consensus often leads to the lowest common denominator and involves time consuming intensive efforts. They suggest that a report listing all recommendations and

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proposals could be circulated at the end of review conferences, without putting them up for adoption or approval. And finally, that Article VIII.3 of the NPT does not prescribe the conduct and outcome of review conferences.³⁰

Views in opposition to the above maintain that merely listing or restating positions expressed at review conferences, without seeking agreement through consensus, would be acting contrary to the interests of the NPT and of international peace and security.³¹ The NPT has a mature review process with the modalities of review conferences and their preparatory committees already in place for decades.³² **Based on my long experience in the NPT review process, I am firmly of the opinion that the strengthened review process is neither broken nor unworkable; rather it is the inability of States parties to overcome their deep seated differences and to demonstrate flexibility to reach compromise solutions.** The continuing survival of the NPT and other similar multilateral arms control treaty regimes depends on the support and consent of States parties.

Possible products from the Tenth (2020) Review Conference

1. **Final Document (complete):** if the requirements of the 1995/2000 strengthened review process are to be honoured, then it is clear that the conference outcome should be a traditional final document fully negotiated and adopted by consensus, with two parts – a backward-looking assessment and review of the implementation of the Treaty and the 1995, 2000 and 2010 outcomes during the 2015-2020 time period; and a forward-looking part with recommendations for implementation during the 2020-2025 period. In my view, **a concise document along the lines of the 2014³³ or 2019³⁴ PrepCom Chair's paper may have better prospects of being negotiated and then adopted by consensus, rather than a cumbersome final document stretching to 150 or more paragraphs (as was attempted in 2015³⁵). This modality of a concise final document³⁶ would be in keeping with the mandate pursuant to 1995 Decision 1, and would demonstrate the authority of States parties.**
2. **Final Document (partial version A):** the next best option would be only a forward-looking document, with recommendations for the 2020-2025 review period, agreed by consensus; and the backward looking (2015-2020) review or assessment part appended on the authority of the conference President (as was

“A concise document along the lines of the 2014 or 2019 PrepCom Chair's paper may have better prospects of being negotiated and then adopted..”

the case in 2010). A less desirable option but better than nothing.

3. **Final Document (partial version B):** should it not be possible to reach agreement on a final document as noted above, another model could be a final document that includes text “agreed by the conference” and text reflecting the views of “many”, “some” or other States – thus reflecting both consensually agreed views as well as the views of various groups of States (as was the case with the 1985 final document³⁷) – not an optimal solution but acceptable;
4. **Final Document (partial version C):** failing agreement on a final document as noted above, a last ditch possible option could be for a final document that has an assessment (2015-2020 backward-looking review) part and a forward-looking part (2020-2025) that contain both agreed text and text on which agreement has not been reached along with an appendix containing all proposals submitted to the review conference. Such an outcome

document would lack both authority and credibility, as well as being unwieldy.

Alternative possible outcomes could include

Some alternative formulations have been advanced to salvage the review conference, absent an agreed final document, but none are adequate to fulfil the requirements of the strengthened review process.

1. High-Level or Ministerial Declaration on the 50th Anniversary of the NPT: Given the present precarious international security environment and the importance of the 50th anniversary (in 2020) of the entry-into-force of the Treaty, there are suggestions that the 2020/2021 review conference include a high-level segment featuring either heads of State/Government and/or foreign ministers.³⁸ **The conference then could issue a High-Level or Ministerial Declaration or Statement affirming the continuing fundamental importance and role of the Treaty and of its full implementation, perhaps with some other elements pertaining to the three pillars of the Treaty; universality, security assurances and regional issues.** Such a declaration or statement would require the endorsement of the conference, in order to have authority and credibility. Failing that, it could be issued under the authority of the conference president but then the declaration

or statement would be of dubious value as it did not have the support of the conference as a whole. **Such a declaration or statement could be issued during the first couple of days of the review conference, while efforts continued to strive for an agreed final document. Many States regard this as insufficient.**³⁹

- 2. Resolution on the 50th Anniversary of the NPT:** Absent a high-level or ministerial declaration, an alternative could be a Resolution affirming the continuing fundamental importance and role of the Treaty and of its full implementation, perhaps with some other elements pertaining to the three pillars of the Treaty; universality, security assurances and regional issues. Again, to be credible, such a resolution would have to be acceptable to all States parties. Such a resolution does not necessarily preclude working to achieve an agreed final document, and would not be a sufficient outcome.
- 3. Conference President's Statement on the 50th Anniversary of the NPT:** as above, but in the form of a Conference President's Statement. Such a Statement could be one that has been negotiated with the support of States parties and then circulated, much along the lines of Security Council presidential statements. Alternatively, the Conference President possibly could issue such a Statement under his own authority but this could be controversial and

would lack the authority of having the Conference's blessing.

4. **“Factual” Statement on the State of the NPT 2020:** reflecting the agreed and divergent views of States parties, to be issued either with the endorsement of the conference or alternatively on the authority of the President. If a “factual” statement is issued with the concurrence of the conference then it would have credibility but not at the same level as a final document agreed by consensus. If it is issued on the authority of the conference president, it would lack credibility.
5. **Compilation (Compendium) of the Reports of the Main Committees (and Subsidiary Bodies):** Another possible outcome document could be a compilation or compendium of the reports of the three main committees and their respective subsidiary bodies, whether agreed in each main committee or not. Such an outcome document also would lack both authority and credibility.

It may be recalled that in 1995, as part of the effort to achieve the indefinite extension of the Treaty, there was a general agreement that the strengthened review process must be “product-oriented”. Additionally, it must be structured to facilitate the attainment of the objectives of:

- (a) **permanence with accountability;**
- (b) **a qualitatively strengthened**

“In 1995, as part of the effort to achieve the indefinite extension of the Treaty, there was a general agreement that the strengthened review process must be “product-oriented”..”

on-going review process that both evaluates and is forward-looking; and (c) pragmatism and dynamism on an evolving basis.⁴⁰

Meaning of consensus in the review process

It is sometimes said that “There is no consensus on the meaning of ‘consensus’”.⁴¹ Most, if not all, international treaty conferences follow the procedure of working towards achieving agreement through consensus. In practice, this means that there should be no publicly expressed opposition to the adoption of outcome document(s). As such, in international conferences, **consensus does not necessarily imply unanimous agreement but does imply that no objections are voiced.**⁴²

The objective of reaching consensus is a procedure to secure broad based support and acceptance of multilateral treaties, agreements

and outcomes at international conferences and fora.⁴³ The Rules of Procedure (RoP) of NPT review conferences, adopted as far back as 1975, call for every effort to be made to reach agreement on substantive matters by means of consensus, but the RoP do not elaborate what specifically is meant by the term “consensus”. One practical benefit of seeking consensus was that of avoiding extreme positions leading towards acceptable compromise text. **However, in an unwritten manner, NPT review process practice suggests an understanding that consensus is achieved in the absence of any objection(s) being voiced.**⁴⁴ In reality, that is in fact how NPT review conferences and preparatory committee sessions have operated; the review conferences held in 1980, 1990, 2005 and 2015 – as well as the (post-1995) preparatory committee sessions from 1997 through 2019 – have all concluded without obtaining consensus on the adoption respectively of their final documents and substantive reports (and recommendations to the review conferences).

The record of NPT review conferences shows that when a particular review conference is unable to reach a consensus on a Final Declaration, this ‘failure’ is likely a mere symptom of some deeper political problem that is of great concern to a determined group of States parties. These concerns for the most part reflect external realities of the broader international political environment and often may be expressed or camouflaged through dissatisfaction with the internal treaty review process.

In this sense, The NPT review process serves as a barometer for gauging the overall health and vitality of the treaty regime that in many instances takes the brunt of the criticism and frustration of States parties unable to prevail on substantive matters.

With regard to achieving consensus at a NPT review conference, Ambassador Jayantha Dhanapala, President of the 1995 NPT Review and Extension Conference, was quoted as saying that, “The President of a conference is not a magician who can produce a rabbit out of a hat. The rabbit must be in the hat and must want to come out. All we can do is to coax it occasionally ... NPT diplomacy is, finally, a ‘coaxing’ process. I wish there was more ‘coaxing’ at international conferences so that we could have more agreements through consensus on the vital issues that divide us”.⁴⁵

Given the symbolic importance in 2020 of the 50th anniversary of the entry

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into force of the Treaty and the 25th anniversary of its indefinite extension, and to avoid an unprecedented back-to-back failed review conference in 2020/2021 after the 2015 failed conference; efforts are being galvanized to seek ways of surviving the 2020/2021 review conference without dealing body blows to the regime. Hence proposals are being sought regarding possible options for the outcome(s) and also how to refine or fudge the “consensus” issue in order to salvage the tenth review conference – these have been discussed in a preceding section above.

Despite unusually challenging times, the tenth review conference provides an opportunity to arrive at a constructive consensus on the future well-being of the NPT. Hence, achieving a consensus outcome is crucial in preserving the integrity and authority of the Treaty and in the related agreed outcomes on 1995, 2000 and 2010.

The NPT review process, as enshrined in the 1995-2000 strengthened review process for the Treaty, is one that is living and adaptable even in difficult times and capable of achieving consensus should States parties wish to do so and are prepared to work to achieve common ground and to rise above their deep seated differences in the interest of preserving the integrity and authority of the NPT.

“Despite unusually challenging times, the tenth review conference provides an opportunity to arrive at a constructive consensus on the future well-being of the Treaty. “

2020/2021 (Tenth) NPT Review Conference

The procedure for convening the 2020/2021 review conference and its preparatory committee (PrepCom) has been in place since 1997, as described above. On 7 December 2015, resolution 70/28,⁴⁶ sponsored by Algeria (President of the 2015 review conference) took note of the decision of the NPT States parties to the Treaty to hold the first session of the PrepCom in Vienna from 2 to 12 May 2017. This “decision” of NPT States parties was arrived at through consultations held at the UN in New York through the three regional/political groupings: the NAM of some 120 countries; the WEOG, which includes the European countries, Australia, Canada, Japan, New Zealand, South Korea and the United States; and the EEG with the Russian Federation, Belarus, Ukraine and some other Eastern European/Central Asian countries (some of which ironically are EU/NATO member States); and China

is a self-styled “group of one”; facilitated through the UNODA which acts as the Secretariat for NPT review conferences and their preparatory committees, assisted by staff from the IAEA.

The 2017 NPT PrepCom set the date for its 2018 session to be held in Geneva. The 2018 NPT PrepCom set the date for its session in 2019 to be held in New York, and also set the date for the 2020 review conference to be held in New York from 27 April to 22 May.⁴⁷ It took note of the nomination of the candidate for President⁴⁸ of the review conference “endorsed by the Latin American and Caribbean Group, Ambassador Rafael Mariano Grossi (Argentina)” which would be finalized in the last quarter of the year and communicated by the chair of the NAM.

Preparatory Committee

The normal process is to establish a Preparatory Committee for the next review conference through a General Assembly resolution adopted by States parties, as described above. Until 1995, the PrepCom had the limited mandate to complete the procedural arrangements for the review conference. These included arrangements for the organization of the PrepCom: (a) dates and venue for the second and third sessions of the PrepCom as well as of the review conference; (b) draft rules of procedure; (c) nomination and election of the chairs of the PrepCom sessions; (d) appointment of the Secretary for the PrepCom (who is an official from the UNODA); (e) agenda for the PrepCom;

(f) methods of work: decision-making (every effort to adopt decisions by consensus); participation (States parties, States non-parties as Observers, international and regional organizations, NGOs); working languages (Arabic, Chinese, English, French, Russian and Spanish); and records and documents.

The PrepCom also decides on the organization of the review conference, including: (a) dates and venue; (b) draft rules of procedure; (c) election of the President and other officers; (d) appointment of the Secretary-General; (e) provisional agenda; (f) financing of the review conference, including its PrepCom (the formula is that the nuclear-weapon States cover 55% of the costs and non-nuclear-weapon States 45%); (g) background documentation; and (h) final document(s).

In an attempt to strengthen the review process, States parties clarified and broadened the mandate of the PrepCom, at the 1995 NPT Review and Extension Conference (NPTREC), Decision 1,⁴⁹ paragraph 4 states that:

- *“The purpose of the Preparatory Committee meetings would be to consider principles, objectives and ways in order to promote the full implementation of the Treaty, as well as its universality, and to make recommendations thereon to the Review Conference. These include those identified in the decision on principles and objectives for nuclear non-proliferation and disarmament, adopted on 11 May 1995. These*

meetings should also make the procedural preparations for the next Review Conference”.

In effect, from 1997⁵⁰ onwards, the PrepCom was mandated to consider both procedural matters as well as substantive matters – the latter being implementation of the provisions of the NPT. For details on the NPT review process, see my paper published by the UN Institute for Disarmament Research (UNIDIR), entitled *Is Past Prologue? Examining NPT Review Conference Commitments* (18 February 2020)⁵¹ and my book (April 2017) co-authored with Ambassador Jayantha Dhanapala⁵² (President of the 1995 NPT Review and Extension Conference).

At the 2000 review conference, States parties reaffirmed the strengthened review process adopted by the 1995 NPTREC. However, given the rather dismal performance of the PrepCom 1997-1999 in regards to the implementation of the strengthened review process, the States parties also decided to clarify the interpretation and implementation of the strengthened review process starting in 2002 for the next review conference. The 2000 review conference in “Improving the effectiveness of the strengthened review process for the Treaty”,⁵³ decided that:

- “5. The States parties, recalling paragraph 4 of Decision 1 of the 1995 NPT Review and Extension

Conference, agreed that the purpose of the first two sessions of the Preparatory Committee would be to “consider principles, objectives and ways in order to promote the full implementation of the Treaty, as well as its universality”. To this end, each session of the Preparatory Committee should consider specific matters of substance relating to the implementation of the Treaty and Decisions 1 and 2, as well as the Resolution on the Middle East adopted in 1995, and the outcomes of subsequent Review Conferences, including developments affecting the operation and purpose of the Treaty.

- 7. The consideration of the issues at each session of the Preparatory Committee should be factually summarized and its results transmitted in a report to the next session for further discussion. At its third and, as appropriate, fourth sessions, the Preparatory Committee, taking into account the deliberations and results of its previous sessions, should make every effort to produce a consensus report containing recommendations to the Review Conference.
- 8. The States parties agreed that the procedural arrangements for the Review Conference should be finalized at the last session of the Preparatory Committee.”

Postponement of the 2020 NPT Review Conference

At the conclusion of the 2019 session of the NPT PrepCom, all signs pointed to a fractious review conference in 2020 – the fiftieth year of the Treaty’s entry into force. **The three sessions of the PrepCom for the 2020 review conference, held in 2017, 2018 and 2019, witnessed a progressive decline in civility of discourse led mainly by the United States but echoed at times by the United Kingdom and some of the “captive nations”⁵⁴ of NATO and others in alliance relationships underpinned by nuclear weapons.⁵⁵ One of the reasons for the deteriorating discourse and confrontation in the PrepCom sessions was the dilution and even rejection by the United States of the agreed outcomes of the 1995, 2000 and 2010 review conferences as they related to nuclear disarmament.⁵⁶ As a consequence none of the three sessions was able to agree on “recommendations” to the review conference.**

As noted above, Ambassador Zlauvinen was accepted as President-designate of the 2020 review conference in late January 2020. By this time a new variant of the coronavirus was beginning to spread globally. Given his experience and being a highly competent and professional diplomat, Ambassador Zlauvinen (being no stranger to NPT diplomacy), quickly tried to grapple with the matter of convening the review conference on the scheduled dates of 27 April to 22 May

“The three sessions of the PrepCom for the 2020 review conference, held in 2017, 2018 and 2019, witnessed a progressive decline in civility of discourse...”

2020, in light of the emerging COVID-19 pandemic and canvassed the views of States parties on the matter as well as those of the UN Secretariat with respect to the availability of conference rooms at the UN later in the year.

Surprisingly, even under the dire circumstances, he met with indecision, confusion and obstinacy on the part of some NPT delegations, which were reluctant to consider postponement citing the reason that 2020 marked the fiftieth anniversary of the NPT entering into force and as such it was important to hold to the agreed dates.⁵⁷

The novel coronavirus outbreak was declared a Public Health Emergency of International Concern⁵⁸ by the World Health Organization (WHO) on 30 January 2020⁵⁹. By 28 February, the WHO had increased the assessment of the risk of spread and risk of impact of COVID-19 to ‘very high’⁶⁰ at the global level. In early March 2020, the World Health Organization declared COVID-19 a global pandemic.

Accordingly, President-designate Zlauvinen addressed a communication to the chairs of the three political groups on 13 March, in which he *inter alia* proposed⁶¹ that “the Review Conference meet, conditions permitting, as scheduled, on 27 April for one meeting only and for New York-based delegates only” to decide on a number of procedural issues and to make their views known to him by 20 March using a “silence procedure” – under which if no objections are received the proposed action is agreed.

While the details of the views of the EEOG and the WEOG communicated to Ambassador Zlauvinen are not fully known, reportedly some objected to the one-day meeting on 27 April on the grounds that New York based diplomats were not mandated to decide on NPT matters and that either a video conference or a web-based meeting be arranged or the decision postponed to a later date; while others held fast to holding the conference at some unspecified date later in the year, or to agree on new dates through communications between the President-designate and the coordinators of the political groupings.

It is noteworthy that the individuals in this process to decide on the postponement of the review conference appear to have been representatives of NAM States – with more than 115 NPT States parties. Their position⁶² as communicated to Ambassador Zlauvinen apparently was that States Parties should “adopt a decision as

soon as possible on the postponement of the Review Conference scheduled from 27 April to 22 May 2020 to another date no later than the end of 2021, preferably during suitable window of dates in April and May 2021”.

On 25 March, Ambassador Zlauvinen addressed another communication to the group coordinators, in which he *inter alia* stated that “the possibility of holding a web-based meeting on 27 April 2020 in order to open the Review Conference on the date set by the Preparatory Committee, given the symbolism that would have been entailed by the 50th anniversary of the Treaty’s entry-into-force and the 25th anniversary of its indefinite extension, as well as the need to ensure the integrity and credibility of the review process ... due to reasons of technical feasibility and some concerns raised by States Parties, I do not believe such an option is viable for a formal meeting of the Conference. In the absence of other options, I believe the best course of action is for the States Parties to agree on the postponement by correspondence. ... In light of the above, I am seeking States parties’ agreement to postpone the Review Conference, to a later date, as soon as circumstances permit, but no later than April 2021”.⁶³

On 27 March 2020, the Office of the UN Secretary General posted a Note to correspondents – in response to questions on the Non-Proliferation Treaty (NPT), which dryly stated that, “In light of the situation related to the COVID-19 pandemic, States parties have

decided to postpone the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons to a later date, as soon as the circumstances permit, but no later than April 2021. Information on the new dates of the Review Conference will be posted in due course”.⁶⁴

The President-designate, Ambassador Gustavo Zlauvinen, in his letter⁶⁵ of 27 March notified States parties that the “2020 NPT Review Conference is ... postponed to a later date,⁶⁶ as soon as circumstances permit, but no later than April 2021”. He assured “States parties that as President-designate ... along with the other members of the Bureau and the UN Office for Disarmament Affairs [he would] continue to monitor developments and update States parties as the situation evolves, including regarding possible new dates for the Conference”. Ambassador Zlauvinen stated further that the “Review Conference will be held, and it will undertake its important responsibilities as a pillar of international peace and security, and as the lynchpin of the nuclear disarmament and non-proliferation regime. In the interim, he encouraged “all States parties to consider how they can work together to ensure success at the tenth NPT Review Conference”.

This was what I already had proposed⁶⁷ as early as 2 March 2020, as a rational way forward given uncertainties concerning COVID-19 and its impact on New York and on international travel, and to convene the review

conference in Vienna (Austria)⁶⁸. I had noted⁶⁹ that a time frame of 26 April to 21 May 2021 mirrored that of the schedule for this year and changing the venue to Vienna made eminent sense because two of three pillars of the NPT always have been based there – nuclear verification and peaceful uses of nuclear energy. And that States parties could adopt a procedural decision to this effect; if necessary by a majority vote by the 191 States parties, under the Rules of Procedure of review conferences.

Postponement to January 2021

On 17 April 2020, President-designate Zlauvinen circulated a new letter to States parties in which he proposed to convene the conference at the United Nations in New York from 4 to 29 January 2021.⁷⁰ He cautioned that “these dates remain tentative and can only likely be confirmed once activities resume at UN Headquarters” and that “if prompt action is not taken to secure them, these dates will likely be assigned to another meeting”. He noted that he had “asked the UN Secretariat to place a tentative hold on those dates for the Review Conference and to advise me as soon as they can be confirmed. At that time, if the COVID-19 situation would allow it and no alternative dates can be confirmed, I will seek a formal decision from States Parties to hold the Review Conference from 4-29 January 2021”. He also advised⁷¹ States parties that, “in light of the extraordinary circumstances in

which we find ourselves, settling dates for the Review Conference as soon as possible should be the utmost priority. Ensuring it is able to undertake its critical responsibilities should be our primary goal". In light of this, the proposed one-day meeting on 27 April was not held, but the President-designate posted a video message⁷² on the 2020 NPT review conference webpage.⁷³ Interestingly, he did not mention any dates.

On 20 April,⁷⁴ I suggested that at first glance the dates proposed by Ambassador Zlauvinen, 4 to 29 January 2021, on the advice of the UN secretariat, could be acceptable to States parties and some might even consider it an appropriate way to usher in the New Year. However, I pointed out in this regard, it is important not to lose sight of certain important considerations:

(a) The US presidential election is scheduled for the third week of November 2020 and the President will start his term in the third week of January 2021 – whether it is a re-elected Donald Trump or his challenger Joe Biden is elected – in either eventuality, obviously this may create problems or a distraction for the review conference;

(b) Countries that observe religious or national holidays based on the Orthodox (Julian) calendar (such as the Russian Federation, Ukraine, Belarus, Bulgaria, Eritrea, Ethiopia, Georgia, Greece, Kazakhstan, Macedonia, Moldova,

Montenegro, and Serbia), which is 13 days behind the near universal Gregorian calendar very likely may not find the proposed dates acceptable as they clash with Orthodox New Year and Christmas holidays; and

(c) It was not certain as yet whether the COVID-19 pandemic and its after effects would truly be over by January 2021; it was therefore unclear whether it would be safe to closely pack together 300-400 delegates and civil society representatives in a conference room in New York.

As such, I proposed that the review conference be held in Vienna from 17 May to 11 June 2021,⁷⁵ or later in the year; doing so would avoid conflict with another religious month, that of Ramadhan which will fall in April-May 2021.

Following my article of 20 April,⁷⁶ in which I had made the case for postponing the review conference from the proposed dates of 4 to 29 January 2021 to later in that year; in light of current developments, my views evolved further in the context of promoting a successful outcome. In May, I proposed to hold the review conference in Vienna in 2022 (not 2021) – details are discussed below.

Postponement to August 2021

Fast forward to 25 October 2020, when the President-designate sent a letter to the three political groupings and China in which he sought agreement by States parties to further postpone the review conference to a later date no later than August 2021, and requested replies no later than 28 October 2020. He informed States parties by letter on 28 October that, by that date, he had received written confirmation from the coordinators of the Eastern European Group, the Non-Aligned Movement, and the Western European and Others Group that their members all had agreed to the postponement of the review conference to a date no later than August 2021.⁷⁷ He also noted that he had received written confirmation from China that it agreed to the postponement. Accordingly, on 25 October, he had requested the Secretariat to book the necessary facilities and conference services for the period 2-27 August 2021 for the review conference to be held at United Nations Headquarters in New York. He added that the booking had been made on the assumption that conference facilities and operations would have fully returned to the pre-pandemic levels and with the understanding that this could only be confirmed at a later date, when all UN official mandated meetings for 2021 had been programmed.

Looking Ahead to 2022

As indicated above, in May 2020, I had proposed to hold the review conference in Vienna in 2022 (not 2021), because given present trends it seems unlikely that the COVID-19 pandemic will have been fully checked. Additionally, it was unclear whether vaccines would have been fully administered to populations in many countries, and that international travel would have returned to normal with the cancellation of mandatory quarantines. Furthermore, the calendar of UN related events in 2021 will be challenging as many events from 2020 have been postponed to this year.

NPT Review Conference in Vienna

Ambassador Zlauvinen has proposed to hold further consultations in February and April 2021 regarding the convening of the review conference in August this year.⁷⁸ In my view, given the continuing coronavirus pandemic, the evolving more infectious new mutations of the virus, and continuing shortages in vaccine distribution globally, it is unlikely that by August it would be possible to hold a large international conference with a few hundred delegates attending in person from around the world.

Therefore, as I have been suggesting, Ambassador Zlauvinen and the NPT/UNODA secretariat need to think “out of the box” – standard or traditional thinking is no longer feasible in these changed times and circumstances. They now need to seriously consider and propose to further postpone the review conference to April-May 2022 and to convene in Vienna (Austria). The second and third pillars of the NPT (Article III: verification/safeguards) and (Article IV: peaceful uses of nuclear energy) always have been based in Vienna at the IAEA, and in recognition of which the first session of the PrepCom was moved from New York to Vienna in 2007 on the occasion of the 50th anniversary of the IAEA, and it has remained there. Pillar one (Article VI: nuclear disarmament) has had a perch since 1996 at the CTBTO in Vienna. Thus, Vienna should be the logical venue for NPT review conferences.

NPT review conferences are *not* UN conferences⁷⁹ – rather, they are conferences of the States parties to the NPT, paid for by them separately from UN membership dues.⁸⁰ They are also governed by their own RoP.⁸¹ **Thus, while the President-designate and States parties need to take into account the advice of the UN secretariat, which is always given in good faith, they are not bound in any way to accept it and are fully empowered to make their own decisions under the RoP for NPT review conferences, taking into account international political developments.**

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Even though NPT review conferences and PrepComs have been held at the UN offices in New York and Geneva, the UN formally has nothing to do with the NPT as it was written and adopted in 1968. **The only international organization to which the Treaty accords a formal role is the IAEA – the role of implementing safeguards or verification⁸² of the non-proliferation obligations of NNWS parties (NPT article III).** The inalienable right of States parties (NPT article IV) to utilize nuclear technologies for peaceful purposes, especially in developing countries, has in practice come to be implemented through the technical cooperation programme of the IAEA. In addition, the Comprehensive Test-Ban Treaty Organization (CTBTO) is located in Vienna along with the IAEA at the Vienna International Centre (VIC) – thus an element of nuclear disarmament (NPT article VI) also is present in Vienna.⁸³ These NPT-related attributes or connections are lacking in New York and Geneva. Accommodation and food costs in Vienna are lower than in New York and Geneva. The location of Vienna

in Central Europe, with the headquarters of the IAEA and CTBTO as well as the United Nations Office in Vienna (UNOV), will greatly reduce distances to be travelled by NPT delegates from Asia, Africa and Oceania, as well as of course from European countries – these regions put together comprise the largest number of NPT States parties and countries in the world – thus reducing the carbon footprint of the review conference. Only the North and South American delegates will have increased travel distances, but these obviously are a minority compared to those from other regions.

The reality is that, of the present 172 member States of the IAEA, 163 are NNWS parties to the NPT; but 176 of the 186 NPT NNWS, as well as the NPT nuclear-weapon States, have safeguards agreements in force⁸⁴ with the IAEA including 80% of these with additional protocols in force.⁸⁵ Currently, at the IAEA there are 848 active technical cooperation projects⁸⁶ underway covering development priorities in 140 countries. These cover areas such as human health and nutrition, food and agriculture, water and the environment, nuclear safety, nuclear security, nuclear power generation, nuclear waste disposition, nuclear sciences, industrial applications, nuclear knowledge development and management, and legislative assistance (nuclear law). Additionally, they develop solutions for future energy needs, and standards for radiation safety and nuclear security worldwide.

It should be recalled that, starting in 2007, the first session of the PrepCom was moved to Vienna (from New York) in commemoration of the 50th anniversary of the IAEA and its contributions to the implementation of the NPT. The UN/NPT Secretariat has successfully organized PrepCom sessions in Vienna in 2007, 2012 and 2017 – thus there is no compelling reason why it would be unable or find it difficult to organize the review conference in Vienna with the assistance of the conference services offices of the UN Office in Vienna (UNOV), the IAEA at the Vienna International Centre, and its adjoining Austria Center Vienna (ACV).

My modified proposal⁸⁷ was to hold the review conference in Vienna in 2022 during the April-May time frame that is currently held for the first session of the Preparatory Committee for the 2025 review conference. As the PrepCom is for two weeks, another two weeks could be added to enable 20 working days; the norm for a review conference. A one-day PrepCom session should be included towards the end of the fourth week, with a chair from a WEOG State Party to agree on procedural matters for the 2023-2024 PrepCom sessions. This would enable three PrepCom chairs to go on and chair the three main committees at the review conference in 2025. As the 2022 PrepCom session's substantive discussions would have already been subsumed within the review conference, the procedural matters could be completed within

the span of one day. Ramadhan dates in 2022 are predicted as 2 April to 1 May. Previously, review conferences and PrepCom sessions have been scheduled during Ramadhan and could be done again 2022, or the conference dates could be set from 2 to 27 May 2022, or earlier or later in the year.

Conclusion

To conclude, Ambassador Zlauvinen in his consultations now should bring up the Vienna venue and dates for 2022, otherwise it may be difficult to find conference rooms at the Vienna International Centre (VIC) or at the Austria Center Vienna which are connected to each other, or at the Hofburg Palace Kongresszentrum as these might be booked for IAEA or UN or other events. NPT States parties must seriously consider convening the postponed 2020 review conference, as well as future NPT conferences, in Vienna, where the intangible “spirit of Vienna”, a “benevolent genie”, and *Gemütlichkeit* (cosiness) can work in mysterious ways to foster harmony out of discord.⁸⁸ The “spirit of Vienna” is well known to States and to Ambassador Zlauvinen; he can invoke it as he has served in Vienna earlier in his distinguished career.

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