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Strengthening the eleventh NPT Review Cycle: A diplomatic space for continuity and coordination

Working Group 1 Policy Brief

July 2023

This paper reflects discussions among members of the ELN's project **Protecting the Non-Proliferation Treaty**. The project seeks to preserve the multilateral nuclear non-proliferation regime and prevent further erosion of the nuclear taboo and the Nuclear Non-proliferation Treaty (NPT). Bringing together an intergenerational, pan-regional Network of experts, it works to identify pathways to success in the eleventh review cycle, taking a holistic approach to the NPT and its three pillars. We are grateful for comments and feedback from several NPT member state officials on drafts of this paper.

For more information on the project please go to www.europeanleadershipnetwork.org/protecting-the-non-proliferation-treaty.

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General framework

States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) set the framework for the next review cycle in their decision NPT/CONF.2020/DEC.2 at the 2022 Review Conference. As part of this process, a working group was established to strengthen the review process; this is a clear signal that substantial changes are required to set the NPT on a positive track after two previous review conferences ended without an agreed final document.

There is a hope that the proceedings and outcome of this working group, scheduled before the beginning of the first meeting of the Preparatory Committee (PrepCom), will at the same time signal a positive beginning for the forthcoming review cycle leading to the eleventh Review Conference.

Indeed, given the present stress on multilateralism and the nuclear arms control, disarmament, and non-proliferation architecture, such a positive signal can only underline the continued relevance and viability of the NPT. This is especially needed in a context where we see the demise of arms control arrangements, disquieting trends in nuclear rhetoric, a perceived lowered threshold for the use of nuclear weapons (e.g. non-strategic nuclear weapons), as well as persistent risks of nuclear proliferation crises and proliferation dynamics.

The discussion in the working group can draw on a considerable number of contributions¹ from States Parties, civil society, research centres, and academia. This could allow the working group in its proceedings and outcome to enhance inclusivity in all its aspects, for instance by ensuring equal, full, and effective participation for women. It may also allow for further integration of gendered perspectives on the implementation of the Treaty.

Throughout the next few pages, we endeavour to provide an overview of these contributions (see in particular the annex) in order to facilitate a structured discussion during working group meetings.

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History

The 1995 NPT Review and Extension Conference established a framework to facilitate a more substantive and balanced review process

The 1995 NPT Review and Extension Conference in its Decision 1, on 'Strengthening the Review Process for the Treaty' established a framework to facilitate a more substantive and balanced review process.²

This Decision contained provisions on:

1. The frequency of review conferences, to be held every five years.
2. A preparatory process, which would consider principles, objectives, and full implementation of the treaty, as well as its universality, in order to make recommendations to the review conference. The preparatory process was also tasked with making procedural preparations for the next Review Conference.
3. The practice of holding an annual PrepCom session, in each of the three years prior to the Review Conference – with the option to convene a fourth PrepCom if needed. These PrepCom sessions were usually to be held for a duration of 10 working days.
4. The structure of three Main Committees, with the General Committee resolving the overlap of issues being discussed in more than one (Main) Committee.
5. The option to create subsidiary bodies within the respective Main Committees, to tackle specific issues. The establishment of subsidiary bodies would be recommended by the PrepCom for each Review Conference – in relation to the specific objectives of that Review Conference.

The 'Final Document' of the 2000 NPT Review Conference further established the procedural review process. Greater intersessional continuity was fostered by the 2000 Review Conference's requirement that PrepCom Chairpersons were to "carry out consultations with the States Parties to prepare the ground for the outcome of the sessions as well as their agenda."³

Some specificity regarding the nature of PrepCom reports was also achieved in the 2000 Review Conference. During this conference, it was decided that the forthcoming PrepComs before the 2005 Review Conference were to produce a factual summary, to be passed to subsequent PrepComs for consideration. The final PrepCom before the Review Conference was then tasked with considering "the deliberations and results of its previous sessions", and make "every effort to produce a consensus report". Surprisingly however, reporting requirements became a major source of contention at the 2002 PrepCom.⁴

The 'Final Document' of the 2010 Review Conference reinforced coordination and continuity throughout the review cycle. Among other things, it recognised the importance of drawing upon the experience of past and incumbent chairs. It also encouraged past and incumbent Presidents and Chairs to be available for consultations with their successors on a voluntary basis. This was accompanied by a recommendation to make funding available for a dedicated officer (added to the UNODA secretariat), responsible for the meetings of States Parties to the NPT.⁵

In the 27 years since the 1995 NPT Review and Extension Conference, varied interpretations of the meaning and significance of the decisions made at the 1995, 2000, and 2010 conferences have fostered further consideration of how to improve the strength of the treaty. Unfortunately, concerted implementation has been hindered due to the lack of clear guidance, the loss of institutional memory, the proliferation of subjective interpretations, and the treaty's persistent 'institutional deficit'.⁶

Against this backdrop, the 2022 NPT Review Conference decided to establish a working group focused on strengthening the review process of the Treaty to discuss and make recommendations to the PrepCom. Among the recommendations for the 2023 PrepCom, it has been suggested that 6 criteria should be considered. These are: effectiveness, efficiency, transparency, accountability, coordination, and continuity.

There is a widely shared understanding that these recommendations should be incremental and pragmatic in nature and remain within boundaries of the already accepted decisions to strengthen the review process, i.e. those stemming from the 1995, 2000, and 2010 conferences - thereby eliminating concerns about renegotiating these hard-fought outcomes.⁷

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Options under discussion

A number of proposals⁸ have been tabled for further discussion at the working group. They cover the areas of the “Bureau”, the role of the PrepComs, proceedings at the PreComs, proceedings at the review conference, as well as reporting and institutional support. Notwithstanding a number of nuances, these proposals converge to a certain extent. Therefore, it seems useful in preparing for the discussion at the working group to summarise these proposals in a generic and synoptic way in a menu of option, in order to considering the incremental and pragmatic reforms in line with improving the overall health of the treaty.

Bureau

Previously, very little coordination has taken place between the chairs of the PrepComs and the President of the Review Conference. Furthermore, the high turnover among the foreign ministries of States Parties both within and between review cycles can lead to a marked loss in institutional memory.

As a consequence, and in order to allow for a greater degree of continuity and cohesion in procedure and substance throughout the entire review cycle, a Bureau should be established at the beginning of the review cycle. The Bureau would consist of the President of the Review Conference and the chairs of the PrepComs.

In order to allow for an early designation of the members of the Bureau, an agreement should be reached that the relevant decisions will be adopted by the end of each review cycle, or within a specific timeframe for each Group to put forward its nominee(s) after Review Conferences (e.g., three months). Nominations submitted by the Groups within the specified timeframe after the conclusion of a Review Conference could then be endorsed through an expedited silence procedure. Designated officers could be replaced during each review cycle depending on decisions by their respective Governments.

The Bureau should be tasked, in particular, with elaborating a programme of work for the entire review cycle, for decision at the first PrepCom. The Bureau would, at the same time, receive and deliberate on complaints, for example about non-compliance; act as a clearing house for information and reports; respond to significant cases affecting the integrity of the NPT; and represent the Treaty in general.

In line with enhancing outreach activities, the Bureau could be responsible for administering regular briefings to States Parties. These could include comprehensive information on: how the review cycle works; the structure of review conferences (including of main committees and subsidiary bodies) and; the outcome(s) of past review conferences.

In practical terms, incumbent and incoming Chairs (or President in the case of a Review Conference) could meet as the Chairs’ Circle, as often as deemed necessary and as circumstances allow, either in person or virtually, in order to ensure optimal coordination and continuity throughout the review cycle. The Chairs’ Circle would share best practices and provide advice to the incumbent and incoming Chairs. The transfer of information, knowledge and support would encourage good stewardship of the Treaty at all times.⁹

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Role of the PrepComs

In order to avoid repetitive discussions at each PrepCom, alternatives should be considered, e.g. by assigning focal areas for each of the PrepComs at the outset of the review cycle. These could include, but do not need to be limited to, the three pillars of the NPT (i.e., peaceful uses, non-proliferation, and disarmament). Thus, the PrepComs could be enabled to concentrate on these focal areas. The proceedings can be reflected in the form of a 'Rolling Text', led by the Chair. This 'Rolling Text' should, in turn, inform discussions at the third PrepCom, hopefully leading to a consensus report with recommendations, as foreseen by NPT/CONF.2000/28, for endorsement and final decision-making by the Review Conference. In parallel, PrepComs should be in a position to respond to time-critical developments relative to the implementation of the NPT.

Proceedings at the PrepComs

Given time constraints at PrepComs it seems appropriate to limit the time allocated to formal exchanges at the General Debate, or to eliminate the General Debate altogether. At the same time, Cluster debates could be structured in a more informal way, in particular by organising interactive topical discussions on reports submitted by States Parties, and by the inclusion of a broad range of stakeholders.

Furthermore, time limits could be set on statements delivered during PrepCom meetings.

Proceedings at the Review Conference

Most high-level statements are delivered within the first few days of the general debate, and are subsequently only repeated during main committees. Therefore, time limits could be placed on general statements delivered in the main committees. This more efficient use of time would allow for a greater substantive discussion of issues earlier on in the main committees. Specifically, the practice established at the last Review Conference to limit statements to five minutes could be formalised. If this were to be implemented, consideration could also be given to commencing committee work whilst the general debate is ongoing.

The present structure of three main committees, presided over by the chairs of the PrepComs, has been proven to work over time. However, the question of overlapping issues being discussed in more than one committee should be resolved in the Bureau. The Bureau should coordinate the work of the committees so that the substantive responsibility for the preparation of the report regarding each specific issues is undertaken in only one committee.¹⁰

The Chair of each Main Committee should also serve as Chair of the respective Subsidiary Body, with the Vice Chairs assisting with the chairing of Main Committees.¹¹ Past experience in 2000 and 2010 has shown that subsidiary bodies are efficient at negotiating forward-looking recommendations. With committee chairs in

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control of both the committee and subsidiary body, there is higher likelihood of greater oversight, coordination, and, ultimately, success. As Main Committees do not meet concurrently with their subsidiary bodies, it will be feasible for committee chairs to also chair subsidiary bodies.

Since 2000, the drafting of decisions and final documents of the Review Conference has been taken over by the President.¹² The President could more efficiently delegate this functions to a drafting committee. The drafting committee would edit or draft all texts referred to it by the Conference or a Main Committee, including drafts of the Conference's Final Declaration. Furthermore, the committee would be responsible for consolidating the administrative, procedural and substantive parts into a single document.

Reporting

In order to assess the implementation across the three pillars of the Treaty, reporting on Treaty obligations, in particular Article VI, is a key element. However, in the past, reports varied widely in terms of structure and detail. In order to make reports comparable, a unified reporting template seems appropriate.¹³ For Nuclear Weapons States, such reports should have a backwards-looking part, describing achievements in terms of nuclear disarmament and arms control, as well as concrete plans for future undertakings. This is particularly true for commitments under Art VI. These reports should be examined in a well-structured, dedicated, and interactive session of the PrepCom and the Review Conference with the inclusion of a broad range of stakeholders.

Institutional support

In the past, the preparation and conduct of meetings throughout the review cycle has been ably assisted by the United Nations Office for Disarmament Affairs. However, the creation of a small, dedicated implementation support unit should be considered in order to do the following;

- Respond specifically to the administrative and logistical needs of the chairs;
- Assist and facilitate Treaty meetings and intersessional work;
- Provide advice, background documentation, and analysis;
- Analyse and consolidate documents submitted to the PrepComs and the Review Conference;
- Assist the chairs in preparing recommendations and decision-making;
- Promote continuity between and within review cycles and facilitate more informed planning and preparation for the review conferences;
- Coordinate with States Parties, non-governmental entities and United Nations agencies.

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In order to allow for seamless coordination with the Bureau, staff at the Bureau or secondments from States Parties from each regional group could be embedded in the implementation support unit.

Recommendations

Measures that would improve the effectiveness, efficiency, transparency, accountability, coordination, and continuity of the review process of the Treaty, as reflected in the tasking of the working group, are by their nature interrelated and interdependent. They should be addressed in an incremental and pragmatic way to lead to concrete and tangible results.

At the same time, reforms focused on improving the overall health of the treaty will have to respect the integrity of Review Conferences, in particular their prerogative to decide on the issues concerning the principles, objectives, and methods to promote the full implementation of the Treaty.

In this context, it seems appropriate for the working group to concentrate on its deliberations, as outlined in the above menu of options, on:

- Adequate governance structures, in particular the creation of a “Bureau”;
- Streamlining procedures and mechanisms concerning the role and proceedings of the PrepComs as well as the proceedings of Review Conferences;
- Promotion of the full implementation of the Treaty, in particular reporting requirements on non-proliferation and disarmament obligations;
- Creating adequate institutional support.

Steps in this direction would greatly strengthen the NPT’s underpinnings. States Parties would also pave the way for more meaningful substantive discussions in this Review Cycle, while setting the tone for a solid outcome of the 11th NPT Review Conference in 2026. In these times of growing polarisation, that would be a significant achievement and an indication that NPT members are willing to turn the tide on arms control, disarmament, and non-proliferation.

Measures that would improve the review process are by their nature interrelated and interdependent. They should be addressed in an incremental and pragmatic way to lead to concrete and tangible results.

References

- 1 See in particular: <https://meetings.unoda.org/meeting/67666/documents> and <https://vcdnp.org/wp-content/uploads/2023/05/NPT-SRP-paper-full-with-covers.pdf>
- 2 NPT/CONF.1995/32 (Part 1), Annex
- 3 NPT/CONF.2000/28 (Parts I and II)
- 4 Jayantha Dhanapala and Tariq Rauf, Reflections on the Treaty on the Non-Proliferation of Nuclear Weapons: Review Conferences and the Future of the NPT (SIPRI, n.d.). p 215
- 5 NPT/CONF.2010/50 (Vol. I)
- 6 NPT/CONF.2005/PC.III/WP.1 – overcoming the institutional deficit of the NPT.
- 7 The President of the 1995 NPT Review and Extension Conference advised that Procedural reform be guided by the focussed discovery and elaboration of institutional and administrative mechanisms, see Jayantha Dhanapala and Tariq Rauf, Reflections on the Treaty on the Non-Proliferation of Nuclear Weapons: Review Conferences and the Future of the NPT (SIPRI, n.d.). p 105
- 8 See in particular: <https://meetings.unoda.org/meeting/67666/documents> and <https://vcdnp.org/wp-content/uploads/2023/05/NPT-SRP-paper-full-with-covers.pdf>
- 9 NPT/CONF.2010/WP.4, para. 15
- 10 See Jayantha Dhanapala and Tariq Rauf, Reflections on the Treaty on the Non-Proliferation of Nuclear Weapons: Review Conferences and the Future of the NPT (SIPRI, n.d.). p 224
- 11 Ibid., p 222
- 12 Ibid., p 221
- 13 E.g. “Transparency of nuclear weapons: the Non-Proliferation and Disarmament Initiative”, working paper submitted by Australia, Canada, Chile, Germany, Japan, Mexico, the Netherlands, Poland, Turkey and United Arab Emirates for the First Session of PrepCom for the 2015 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT/CONF.2015/PC.I/WP.12)

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