

III. Developments in multilateral nuclear disarmament and non-proliferation

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Preparatory Committee for the 2020 Non-Proliferation Treaty Review Conference

The Preparatory Committee for the 2020 Review Conference of the Parties to the 1968 Treaty on the Non-proliferation of Nuclear Weapons (Non-Proliferation Treaty, NPT) held the first of three planned sessions in Vienna on 2–12 May 2017.¹ The session was chaired by Ambassador Henk Cor Van der Kwast of the Netherlands.²

The discussions were generally restrained and avoided the acrimonious disputes that had paralysed the 2015 NPT Review Conference.³ The latter was widely seen as having ended in failure when the states parties were unable to achieve consensus on a final document.⁴ During the 2017 meeting, the parties largely refrained from debating long-standing differences over arrangements for establishing a weapon of mass destruction-free zone in the Middle East and over the perceived lack of progress towards nuclear disarmament by the five NPT-defined nuclear weapon states.⁵ These differences had been the principal sources of contention that had prevented the adoption by consensus of a final document at the 2015 Review Conference.⁶

During the 2017 Preparatory Committee discussions, there was general agreement among the states parties on many issues related to the three pillars of the NPT: nuclear disarmament, non-proliferation and nuclear energy. Many states expressed support for bringing into force the 1996 Comprehensive Nuclear-Test-Ban Treaty (CTBT); convening a panel of experts on a fissile material cut-off treaty (FMCT); promoting International Atomic

¹ For a summary and other details of the NPT see annex A, section I, in this volume. In order to strengthen the treaty's review process, the 1995 NPT Review and Extension Conference decided that preparatory committee meetings would be held in each of the 3 years leading up to the 5-yearly review conferences. The purpose of the preparatory committee meetings is to 'consider principles, objectives and ways to promote the full implementation of the Treaty, as well as its universality, and to make recommendations thereon to the Review Conference'. 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, NPT/CONF.1995/32 (Part I), New York, 11 May 1995, Decision 1, para. 4.

² United Nations Office for Disarmament Affairs (UNODA), '2017 Preparatory Committee for the 2020 Nuclear Non-Proliferation Treaty Review Conference', [n.d.].

³ See Elbahtimy, H., 'More heat than light: Reflections on the 2017 NPT Prepcom', Commentary, European Leadership Network, 26 June 2017.

⁴ The NPT review conferences in 1980, 1990 and 2005 also failed to reach consensus on a final document.

⁵ The NPT designates a state as a nuclear weapon state if it exploded a nuclear device before 1 Jan. 1967. The 5 NPT-defined nuclear weapon states are China, France, Russia, the UK and the USA.

⁶ Meier, O., *The 2015 NPT Review Conference Failure: Implications for the Nuclear Order* (German Institute for International and Security Affairs: Berlin, Oct. 2015).

Energy Agency (IAEA) safeguards, including comprehensive safeguards agreements and the IAEA Model Additional Protocol; and reaffirming the right of states parties to peaceful uses of nuclear energy under Article IV of the NPT.⁷ There was also consensus support for a statement condemning the continued nuclear weapon and ballistic missile tests by the Democratic People's Republic of Korea (DPRK, or North Korea).⁸

One key issue that emerged during the discussion concerned the potential impact of the proposed treaty prohibiting the possession of nuclear weapons, which was under negotiation at the time (see section I). Specifically, questions were raised about whether a nuclear weapon ban, once in place, would distract attention from disarmament efforts under the NPT and might widen existing divisions among the states parties to the NPT. There were also questions about whether countries might choose to prioritize ways to implement the proposed ban treaty, through the development of protocols, verification mechanisms or other follow-on actions, at the expense of measures under the NPT.⁹

As the Preparatory Committee meeting drew to a close, the chairman prepared a factual summary of the meeting's deliberations that was later circulated as a working paper.¹⁰ During the final plenary session, the states parties had the opportunity to comment on the summary. Their remarks generally reaffirmed support for the principles and goals of the NPT but also highlighted long-standing differences in views about the nature of the main challenges facing the NPT regime.¹¹ In the light of these unresolved differences, some observers renewed calls for consideration to be given to procedural changes in the review process, including the required adoption by consensus of a final document at the end of a review conference, so that disagreements over certain issues do not lead to the breakdown of the conference.¹²

⁷ Preparatory Committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, First Session, 'Chair's factual summary (working paper)', NPT/CONF.2020/PC.I/WP.40, 25 May 2017.

⁸ Preparatory Committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, First Session, Joint statement on 'Democratic People's Republic of Korea's nuclear challenge to the Treaty on the Non-Proliferation of Nuclear Weapons', NPT/CONF.2020/PC.I/13, 11 May 2017.

⁹ Pitts-Kiefer, S. and Williams, I., '2017 NPT PrepCom: Sleepy conference masks continuing tensions', PrepCom Primer, Nuclear Threat Initiative (NTI), 15 May 2017.

¹⁰ Preparatory Committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, NPT/CONF.2020/PC.I/WP.40 (note 7).

¹¹ Preparatory Committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, First Session, 'Summary record of the 16th meeting', NPT/CONF.2020/PC.I/SR.16, 28 July 2017.

¹² Cronberg, T. and van der Meer, S., 'Working toward a successful NPT 2020 Review Conference', Policy Brief, Clingendael–Netherlands Institute of International Relations, Sep. 2017.

Preparations for opening future negotiations on a fissile material cut-off treaty

The fissile material cut-off treaty is a proposed international treaty to prohibit the further production of fissile material for use in nuclear weapons or other nuclear explosive devices.¹³ In 1995 the Conference on Disarmament (CD) approved a mandate for an ad hoc committee to negotiate, without preconditions, 'a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices'.¹⁴ However, the CD was subsequently unable to adopt a programme of work for all but two of its subsequent sessions. This was due primarily to procedural reservations from Pakistan arising from its position that fissile material stockpiles existing at the time an FMCT is agreed should be covered by the treaty. To date, no substantive negotiations have taken place, and the terms of the proposed treaty have yet to be defined.

In December 2016 the United Nations General Assembly adopted a resolution urging the CD to agree on and implement a balanced and comprehensive programme of work that includes the immediate commencement of negotiations on an FMCT on the basis of the 1995 mandate.¹⁵ The resolution requested the UN Secretary-General to establish 'a high-level fissile material cut-off treaty (FMCT) expert preparatory group' with a membership of 25 states, which would operate by consensus to consider and make recommendations on substantial elements of a future non-discriminatory, multilateral and internationally and effectively verifiable FMCT (i.e. on the basis of the 1995 CD mandate). The group's deliberations would draw on earlier work in this field, in particular the 2015 final report of the group of governmental experts established by the UN Secretary-General on possible elements for an FMCT.¹⁶

After its establishment, the high-level FMCT expert preparatory group met for informal consultations at the UN headquarters in New York on 2–3 March 2017.¹⁷ The purpose of the meeting was to engage all UN member

¹³ On the FMCT see, inter alia, Nuclear Threat Initiative, 'Proposed fissile material (cut-off) treaty (FMCT)', 31 May 2017.

¹⁴ Conference on Disarmament, 'Report of Ambassador Gerald E. Shannon of Canada on consultations on the most appropriate arrangement to negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices', CD/1299, 24 Mar. 1995.

¹⁵ UN General Assembly Resolution 71/259, 'Treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices', adopted 23 Dec. 2016, A/RES/71/259, 11 Jan. 2017.

¹⁶ United Nations, General Assembly, 'Group of governmental experts to make recommendations on possible aspects that could contribute to but not negotiate a treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices', A/70/81, 7 May 2015.

¹⁷ United Nations Office at Geneva, 'High Level Fissile Material Cut-Off Treaty (FMCT) Expert Preparatory Group', 28 July 2017. The high-level group is composed of experts from the following 25 countries, invited by the UN Secretary-General on the basis of equitable geographical rep-

states in discussions about several issues that were left unresolved in the 1995 mandate and that will be addressed in future negotiations. These concerned definition of the fissile materials to be covered; the scope of a future treaty—specifically, whether the treaty’s provisions will apply to stocks of fissile material produced prior to its entry into force; verification and monitoring requirements; and associated legal and institutional arrangements.¹⁸

The expert group held its first formal session on 31 July–11 August 2017 in Geneva.¹⁹ A second session will be held in 2018. The group will present a final report to the UN General Assembly in September 2018, which will elaborate options to be considered in future negotiations on an FMCT.

Comprehensive Nuclear-Test-Ban Treaty entry into force conference

As of 31 December 2017 the 1996 Comprehensive Nuclear-Test-Ban Treaty had been ratified by 166 states and signed by an additional 17 states.²⁰ However, the CTBT cannot enter into force until all 44 of the states listed in Annex 2 to the treaty have ratified it, and eight of these states—China, Egypt, India, Iran, Israel, North Korea, Pakistan and the United States—have yet to do so.²¹ In September 2016, on the 20th anniversary of the CTBT, the UN Security Council affirmed that ‘entry into force of the Treaty will contribute to the enhancement of international peace and security’ and urged all of the states listed in Annex 2 to ratify the treaty ‘without further delay’.²²

On 20 September 2017 a Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty (the so-called Article XIV conference) was held at the UN headquarters in New York.²³ This was the 10th such conference held since the CTBT was opened for signature in 1996.

The conference reaffirmed ‘the vital importance and urgency of the entry into force of the CTBT’ and reiterated ‘that the cessation of all nuclear

resentation: Algeria, Argentina, Australia, Brazil, Canada, China, Columbia, Egypt, Estonia, France, Germany, India, Indonesia, Japan, Mexico, Morocco, the Netherlands, Poland, Russia, Senegal, South Africa, South Korea, Sweden, the UK and the USA.

¹⁸ For detail about these issues see Kile, S. N. and Kelley, R., *Verifying a Fissile Material Cut-off Treaty: Technical and Organizational Considerations*, SIPRI Policy Paper no. 33 (SIPRI: Stockholm, Jan. 2012).

¹⁹ United Nations Office at Geneva, ‘High-Level Fissile Material Cut-off Treaty (FMCT) Expert Preparatory Group concludes its first session’, 11 Aug. 2017.

²⁰ For a summary and other details of the CTBT see annex A, section I, in this volume.

²¹ The CTBT will enter into force 180 days after it has been ratified by these 44 states, which were members of the CD with nuclear power or research reactors on their territories when the treaty was signed. As of Dec. 2017 India, North Korea and Pakistan had not signed the treaty. The other 5 of these 8 states had signed but not ratified.

²² United Nations Security Council Resolution 2310, 23 Sep. 2016. See also Rauf, T., ‘“Unfinished business” on the anniversary of the Comprehensive Nuclear-Test-Ban Treaty’, Commentary, SIPRI, 26 Sep. 2016.

²³ Article XIV of the CTBT provides for the convening of a biennial conference by the states that have deposited their instruments of ratification (other states may participate as observers) to ‘consider measures to facilitate the early entry into force of the treaty’.

weapon test explosions and all other nuclear explosions . . . constitutes an effective measure of nuclear disarmament and non-proliferation'.²⁴ It discussed a number of steps and measures to promote the early entry into force and universalization of the treaty. These focused primarily on education, training and public outreach initiatives. They also involved support for the work of the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO) in completing the treaty's verification regime.²⁵ The conference's final declaration noted that the verification regime, in addition to its treaty-defined mandate, had demonstrated its utility in 'bringing tangible scientific and civil benefits', including for tsunami warning systems and possibly other disaster alert systems.²⁶

The conference's deliberations took on added urgency in the wake of North Korea's sixth nuclear test explosion, purportedly of a thermonuclear device, which was carried out on 3 September.²⁷ The final declaration condemned the test, and all previous North Korean nuclear tests, 'in the strongest terms'. It urged North Korea not to conduct any further nuclear test and to fully and immediately comply with all relevant UN Security Council resolutions. The declaration also expressed appreciation for the effectiveness of the CTBT verification regime in responding to North Korea's nuclear tests.²⁸

²⁴ Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty, 'Report of the conference', CTBT-Art.XIV/2017/6, 16 Nov. 2017, Final declaration, paras 1, 5.

²⁵ The CTBT verification regime consists of an International Monitoring System (IMS), which will consist of a global network of 321 monitoring stations and 16 laboratories to detect evidence of a nuclear explosion; and an International Data Centre (IDC) to process and analyse the data registered at the monitoring stations and transmit it to member states. CTBTO Preparatory Commission, 'How the International Monitoring System works'.

²⁶ Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty (note 24), Final declaration, para. 8. See also Venturini, G., 'The CTBTO PrepCom at twenty: Beyond the CTBT?', *Nonproliferation Review*, vol. 23, nos. 3–4 (2017), pp. 345–56.

²⁷ See chapter 6, section XI, in this volume.

²⁸ Conference on Facilitating the Entry into Force of the Comprehensive Nuclear-Test-Ban Treaty (note 24), Final declaration, para. 6.