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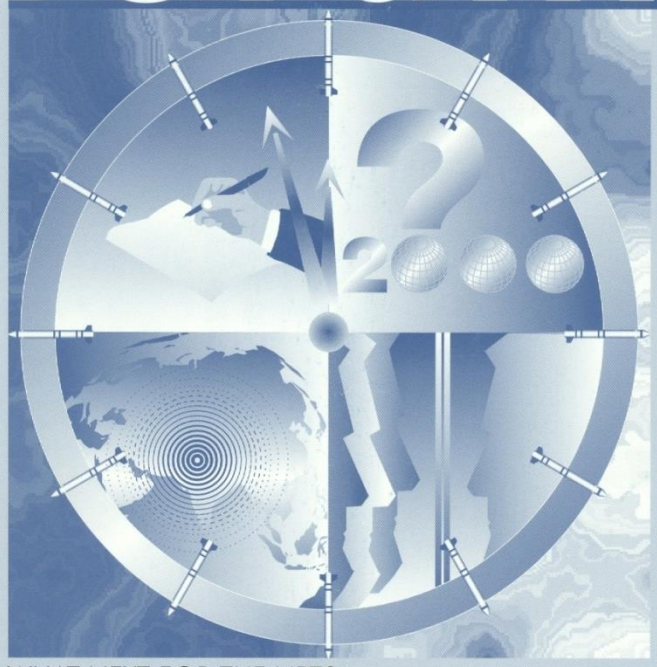

WHAT NEXT FOR THE NPT?

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Nuclear Disarmament, 1995–2000: Isn't it pretty to think so?[1]

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At the end of Ernest Hemingway's *The Sun Also Rises*, the leading female character bids farewell to her male friend and remarks that things could have been better. "Yes," he replies, "Isn't it pretty to think so?" At the end of the twentieth century, those words could serve as well as the epitaph for the Treaty on the Non-Proliferation of Nuclear Weapons (NPT).

For forty years the NPT was at the center of the nuclear non-proliferation debate. After the 1995 NPT Review and Extension Conference, however, the Treaty has lost much of its relevance. In one sense, it has fallen victim to its successful indefinite and unconditional extension. Its temporary nature —a key provision when it was negotiated in the late 1960s and throughout the first four review conferences— ceased in 1995. The five-year reviews, now supposedly enhanced and more action-oriented, are today of little interest to the nuclear-weapon States (NWS). They have what they wanted in 1970 and but only obtained in 1995 — locking the non-nuclear-weapon States (NNWS) into a permanent legal instrument. Vertical proliferation is in the exclusive hands of the NWS. In another sense, the NPT has outlived its usefulness as a horizontal non-proliferation tool since all NNWS with nuclear aspirations have joined the Treaty.

Issues relating to the proliferation of weapons of mass destruction and their delivery systems dominated disarmament discussions during the second half of the twentieth century and will probably continue to do so well into the twenty-first. Although agreements exist for the elimination of bacteriological (biological) and chemical weapons, the goal of ridding the world of nuclear weapons is as remote as ever. Our purpose is to describe the situation regarding nuclear disarmament since the 1995 NPT Review and Extension Conference and to identify those developments over the past five years that could affect the 2000 Review Conference. Our principal conclusion today, as it was ten years ago, is that the various components of the present nuclear non-proliferation regime, including the NPT, are in need of a comprehensive review; tinkering with them will not be enough; the regime has to be overhauled completely. And yet, most NPT Parties continue to cling to the Treaty, as if nothing has changed since 1970.

To begin with, few will challenge the assessment that the prospects for genuine nuclear disarmament are now far worse than a decade ago. The reasons for this sad state of affairs range from broad political, economic and social questions to the specific attitudes of the governments most directly involved. These can be summed up as follows:

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- Like so many other morally correct causes, nuclear disarmament is a victim of a general malaise that is affecting most of the planet. Immersed in a culture of violence, the world is reluctant to pursue a culture of peace.
- Those who should seek the elimination of nuclear weapons, and are legally bound to achieve that goal, refuse to do so. They continue to fuel the arms race and the arms trade. Leaders do not lead, and many politicians simply do not care about nuclear disarmament.
- Multilateral disarmament fora, like the United Nations itself, are undermined by the principal military powers.

For those who considered the end of the Cold War a harbinger of a better, less confrontational and violent world, the past decade has been very disappointing. To some, the Gulf War was proof that the major international players were ready and willing to implement the collective security provisions of the United Nations Charter. It was seen as the beginning of a new world order similar to that envisioned by the UN's founders. But the Gulf War turned out to be an exception in a decade riddled with UN failures in Africa and Yugoslavia. Even in Iraq, where military action was successful, the UN has yet to certify the end of Baghdad's pursuit of mass destruction weapons.

Having lost its Cold War anchor, the international community has been unable to set a new, more promising, collective course. Confusing and often contradictory trends seem to guide political action. Double standards are applied and international law is flouted. Worse still, breaking the rules is then justified for supposedly moral considerations.

Over the past few decades, but especially since the fall of the Berlin wall, many governments have embraced economic liberalization and political democratization. While the latter is most welcome, the former has had its share of critics.

Almost all countries have espoused the Reagan-Thatcher view of the world — the idea that neo-liberalism is the answer to all problems. This market fundamentalism has been pursued by politicians of all stripes in the Western democracies and embraced by the former Soviet bloc and developing nations with the zeal characteristic of converts. Although that enthusiasm is now tempered by some of the social problems globalization has engendered, politicians continue to govern with one eye on the stock market and the other on the polls. Society has replaced the notion of thrift with that of rampant consumerism. And politicians have encouraged this by setting aside any semblance of convictions and ideas in favor of a pragmatic approach that will allow them to remain in power. But, pragmatists to what end?

Over the past two centuries, but more so in the second half of the twentieth, a single lifetime has been enough to witness rapid material progress derived from technological advances. But ethical thinking has not kept pace with technological development. Principles and lofty goals have given way to so-called pragmatism. And therein lies part of the problem.

In many countries there is an abundance of information and a paucity of ideas. And much memory has been lost. Politicians seem more interested in the idea of staying in power than in

the staying power of ideas. Politics resembles a pinball machine — the aim is to stay in the game as long as possible, ricocheting off the light bulbs and accumulating points.

In the economic and social spheres, pragmatic politicians have opted to abandon their electoral platforms and follow the policies of their predecessors with only small deviations. To many observers, Tony Blair's Third Way and Gerhard Schröder's *Neue Mitte* (New Middle) are nothing more than a variation of Thatcherite neo-liberalism. And they are not exceptions.

In the nuclear field, developments since 1995 are no brighter. Again take the cases of the United Kingdom and Germany. In 1980 the UK's Labour Party adopted a non-nuclear defense policy. After the 1987 election defeat —which political analysts attributed in part to its defense stance— Labour, with Neil Kinnock and later, and more vigorously, with Tony Blair, espoused nuclear deterrence and again embraced NATO. In July of 1998, Prime Minister Tony Blair submitted his strategic defense review to the House of Commons. That White Paper contained some encouraging proposals and reflected a certain amount of NGO input. That is how things should be. But Prime Minister Blair's Government underplayed its importance, giving it little publicity. Labour's stance on nuclear issues has long been ambiguous. From a forthright espousal of unilateral disarmament decades ago it has now moved closer to the Tories. It would seem that calls for vigorous nuclear disarmament were actually hindering Labour's electoral prospects. That is most depressing.

Traditionally, Germany's Social Democrats have favored nuclear deterrence. However, in the fall of 1998, when Gerhard Schröder decided to form a government with Joschka Fischer's Green Party, he faced an immediate problem. The Greens insisted on shifting Germany's nuclear posture towards nuclear disarmament. But on this and other issues, the Chancellor prevailed and the Greens had to retreat.

Despite the end of the Cold War, NATO's nuclear stance, as reiterated at its fiftieth anniversary summit, has not changed. As the Kosovo intervention proved, it is no longer a purely defensive organization. It is now ready to operate "beyond the Allies' territory" and will continue to rely on nuclear weapons.[1] Its first-use posture is gaining more support as Alliance membership expands. Russia has also espoused that doctrine. Of similar concern is the trend that NATO nuclear doctrine has also begun to influence the non-NATO members of the European Union. In their quest for a common foreign policy, once neutral EU members such as Austria and especially Finland are moving very close to their European Union NATO partners.[2] Javier Solana, NATO's former Secretary-General, is now charged with developing further the EU's common foreign and security policy and the role of nuclear weapons is bound to play a major role in his consultations with countries such as Ireland and Sweden.

What can Ireland and Sweden do? They are keen to keep their distance from NATO. For one thing, they are the only EU members that have supported the three UN General Assembly follow-up resolutions regarding the 1996 International Court of Justice's advisory opinion on

the legality of the threat or use of nuclear weapons, one of the most important events since the 1995 NPT Conference.[3] For another, they were among the eight initiators of the New Agenda coalition's proposal to pursue nuclear disarmament.[4] Despite the New Agenda's modest content, NATO rejected it.[5] With the exception of Denmark, Iceland and Norway, NATO members have also vigorously opposed all resolutions relating to the ICJ's advisory opinion. So much for the rule of law.

What can other countries do? It seems not much. Although the leaders of many nations speak publicly about the need to eliminate nuclear weapons, they are relatively quiet about this subject when they meet in private with their NWS counterparts. They are obviously more interested in other items of their bilateral agendas.

The main obstacle to nuclear disarmament is, of course, the attitude of the NWS governments. The challenge is great. Only governments can negotiate treaties and those of the NWS do not seem ready to embark on a course of genuine nuclear disarmament leading to the elimination of nuclear weapons. UN General Assembly resolutions have no impact on their mind set. The opinion of the International Court of Justice makes them, and many of their allies, uncomfortable but not enough to change their policy. They can see the importance of defending just causes and preventing the massive violation of human rights. They are moved to promote reconciliation and peace processes in such places as Northern Ireland and the Middle East. They call for a more secure and peaceful world. And yet, they insist on retaining nuclear weapons despite what it means in terms of proliferation.

The five so-called "recognized" NWS hold basically the same position. It is nuanced in terms of their technological development. All five are making some adjustments to their respective nuclear arsenals and are moving mostly towards smaller, more efficient weapons systems. However, their basic attitude towards nuclear weapons remains unchanged. All five continue to ignore their treaty obligations to pursue and conclude negotiations aimed at the elimination of nuclear weapons.

When it comes to Israel, the NWS opt for a double standard on non-proliferation and ignore the question. When India and Pakistan conducted a round of nuclear tests in 1998, the NWS reacted by repeating the same old line of "Do as I say and not as I do." They refuse to accept the new situation in the Subcontinent and think that they can wish away the nuclear weapons of those two States. At their behest, the Security Council called on India and Pakistan to join the NPT as non-nuclear-weapon States. That is no way to deal with this deplorable development. Or take their attitude to the CTBT. The United States, for example, urges India and Pakistan to sign a treaty it has not yet ratified itself.

The 1995 NPT Review and Extension Conference neatly divided the last decade of the twentieth century. And it was there, at that Conference, that the NNWS Parties surrendered. In matters nuclear, the NPT as a disarmament tool ended in 1995 and gave way to a different, irrelevant and stillborn NPT.

The first part of the decade witnessed some unusual developments. As the 1995 Conference approached there was a flurry of new parties, including China and France. The latter, together with many of the latecomers, had fiercely resisted joining the NPT. And all of this occurred in the wake of the 1990 Review where it was obvious that the three Original Parties, but the United States in particular, had little or no intention of fulfilling their Article VI obligations.

Then came one of the most intense campaigns to ensure the indefinite and unconditional extension. Led by the United States, it lobbied governments at all levels. With the Non-Aligned Movement (NAM) in disarray and the Western neutrals undecided, the successful outcome of that campaign was a foregone conclusion. The NNWS decided to surrender the little leverage the temporary nature of the NPT gave them. In an ingenuous act they traded something for nothing. Article X.2 embodied the essence of the debate and the nature of the bargain. Now it is gone. Before 1995 the message of the NNWS was "We will not go nuclear but you must disarm." After 1995 it is "We will not go nuclear but you can do as you like."

On the eve of the 1995 Conference, the media displayed a renewed interest in nuclear non-proliferation beyond the issues of horizontal proliferation. *The Washington Post*, for example, ran a series of front-page articles describing the history and fundamental questions regarding the NPT. But its prediction that there would be a confrontation between the NWS and NNWS on the link between nuclear disarmament and the indefinite extension proved incorrect. Long before the 1995 Conference opened the NPT's indefinite extension was backed by the required majority. Put together by some NWS, that majority included countries from all regions and quite a few from the NAM. The Treaty's indefinite extension was therefore a foregone conclusion.

The NPT's indefinite extension was achieved with surprising ease. No country or group of countries ever challenged the decision. In speeches many delegations criticized the NWS, but none then acted accordingly. As so often occurs in international conferences, one thing is a speech for home consumption, and quite another is action in defiance of a carefully orchestrated decision. Some will justify their acceptance of the NPT's indefinite and unconditional extension in terms of the proliferation "scare." The Iraqi example and the situation in the Democratic People's Republic of Korea, on the one hand, and in Belarus, Kazakhstan and the Ukraine, on the other, seemed to call for "an enduring NPT." Indeed, it seemed that just when it appeared that the NPT regime was consolidating, the Soviet Union broke up and there appeared three new so-called de facto NWS. Then, in this now uni-polar world, there was a campaign of "friendly persuasion." Witness the UN Security Council in recent years. Indeed U.S. influence in multilateral security fora is now largely uncontested and often unquestioned.

The 1995 Conference was organized in such a way that the discussions were diffused: the Parties embarked on a process of review which was separate from the debate on the extension

decision. Once the outcome was certain, the media lost interest while the NGO community (so visible in other world conferences) was kept at bay.[6] There was as well the increasingly ambiguous attitude towards nuclear weapons of a growing number of NNWS, especially in Europe. Finally and for different reasons, the NAM demonstrated an unusual degree of docility at the Conference.

In the end, however, the NPT was extended indefinitely and unconditionally for the same reason that so many other unusual things now take place in multilateral fora: the overwhelming role of the United States. Since 1991, the United States has exercised its veto power in the Security Council only three times, compared to 60 during the previous decade.

At the Conference on Disarmament in Geneva, negotiations on a number of issues are at a standstill. After the CTBT, it entered one of its periodic dormant phases. Again, the Conference is the victim of a lack of political will, which is part of a general neglect of international organizations and part of a perennial attitude of only negotiating disarmament treaties that will disarm the unarmed. The thought of negotiating genuine nuclear disarmament measures in the Conference has probably never crossed the mind of policy-makers in the NWS.

The attitude of some of the principal international players towards the Conference on Disarmament reflects their broader disregard for multilateral organizations in general and the UN in particular. Since 1995, the negative attitude of certain countries has continued. In the case of the United States, this has given rise to instances of what American football rules call "unnecessary roughness" and which translates into contempt for others and a disregard for norms to which it has subscribed. As Boutros Boutros-Ghali has documented, the U.S. makes increasing demands on the UN and then undercuts its effectiveness.[7] For those who have traditionally supported and admired much about the U.S., it is disheartening.

And then there is NATO's intervention in Kosovo and bombing of Serbia, carried out without Security Council authorization. Some described NATO action in Yugoslavia as a new morality, with no national self-interest. But where is the new morality in other cases of massive human rights abuses? Moreover, U.S. and/or NATO military intervention has left a series of unresolved conflicts due to an absence of creative diplomacy in the wake of such action.

What will it take to move the NWS towards the elimination of nuclear weapons? Will it be an accident? A limited nuclear exchange? On other, seemingly intractable issues change has come about rather quickly. Two seemingly disparate examples will serve to make this point. First, there is the concrete example of political action undertaken in the light of mounting public opinion, as in the case of the anti-personnel landmines. Here, public figures took the high moral ground and pushed their governments to accept a total ban on these inhumane weapons. Second, there is the unrelenting push to establish the principle of humanitarian intervention regardless of sovereignty concerns.

In the field of nuclear disarmament there is plenty of room for leadership and unilateral action by the NWS. Unilateral steps, such as those envisioned years ago by Labour in the United Kingdom and by others elsewhere, would be a good starting point.[8] Another, perhaps more realistic, course would be to engage in an informal dialogue in Geneva regarding all aspects of the question of the proliferation of weapons of mass destruction and their delivery systems. This was tried in the early 1990s and it could produce greater confidence and expertise among the delegates which, in turn, might translate into greater confidence and expertise among their respective governments.

One last thing: perhaps it is time to do away with the automaticity of NPT review conferences. They do not lead to much. And the few results obtained could be achieved elsewhere and at a lower financial cost. Each review conference is preceded by a long preparatory process which concentrates on organizational matters, leaving substantive issues for the conferences themselves where discussions center on the nuclear disarmament provisions. At each review conference the goal has been to reach agreement on a common assessment of how the NPT is being implemented by its Parties. But agreement is by consensus (which any Party can block) and thus reflects the lowest common denominator. One of the mysteries regarding the NPT is how the Parties agreed to work by consensus at the review conferences while the extension decision was to be taken by a simple majority. Review conferences have become a drafting exercise where the crafting of a document becomes paramount and wordsmithing replaces serious negotiations and serves to paper over differences.

When the NWS and many of their allies speak of nuclear non-proliferation they are thinking of *horizontal* proliferation only. The NPT's Article VI and vertical proliferation is not on their mind. And that is the way it has been for thirty years. At the first Review Conference in 1975, I remember remarking to Ambassador Alfonso García Robles during the general debate that many speakers from East and West referred to the Treaty as if it was merely about the non-horizontal proliferation of nuclear weapons. And that, unfortunately, is still their attitude on the eve of the sixth review conference. But things have changed.

The situation regarding the non-proliferation of nuclear weapons is today much more complicated than it was ten or twenty years ago. The technology for their manufacture has been improving and what was once the monopoly of one, later two, three and eventually five nations has now become accessible to many. What you invent today to enhance your security has a tendency to reappear later elsewhere as a threat. The development of different and more sophisticated weapons and weapons systems, including missiles and missile defense, has a way of boomeranging. They seem to offer security until they are developed by others. The cycle then repeats itself.

Most would agree that the achievement of an internationally safeguarded nuclear-weapon-free world would have been a lot easier at the end of 1945 than it is now or will be in the next

century. The nuclear non-proliferation agreements of the last thirty years have been one way to approach the problem. The idea that one must limit the number of players has also been pursued through export control regimes. But in the nuclear field, the problem of curbing technology transfers has been greatly complicated over the last decades by the emergence of more and more suppliers of nuclear technologies. The NWS have long lost their monopoly in this regard.[9] History is full of examples of technological advances spreading in the most unexpected ways and the story of nuclear proliferation is a prime example.

The question of the proliferation of weapons of mass destruction and their delivery systems in all its aspects is the most important item on the multilateral agenda. And yet countries refuse to tackle it in an honest, comprehensive way. They continue to attempt to patch up the present system. They do so by trying to bolster the verification system of the Biological Weapons Convention. And this is also true in the nuclear non-proliferation field.

The NPT and the nuclear-non-proliferation regime in general are in need of serious, collective rethinking. Perhaps this will lead nowhere but it must be attempted. And here are some reasons for doing so. How long is the international community willing to continue applying a double standard in matters of nuclear proliferation? In the UN General Assembly's recent resolutions on the International Atomic Energy Agency's report, there are, as in past years, clear and unequivocal references to the DPRK and Iraq, yet weak and ambiguous references to Israel. In the resolution on the "Role of science and technology in the context of international security and disarmament" (53/73) the UN General Assembly urged "Member States to undertake multilateral negotiations with the participation of interested States in order to establish universally acceptable, non-discriminatory guidelines for international transfers of dual-use goods and technologies and high technology with military applications." All but seven of the 33 Nuclear Supppliers Group members that are also UN members voted against that resolution. How does this square with the pertinent provisions of the NPT?

How much longer shall we continue to ignore that the international situation is not a static one? Have we not accepted that the five permanent members of the UN Security Council are perhaps no longer representative of the world's present distribution of power —military, economic and political? Should we not face the facts and stop pretending that nuclear proliferation ended in the late sixties? UN Members are adept at finding euphemisms. In UN-speak, India, Israel and Pakistan are now referred to as "those three States that are nuclear-weapons capable and that have not acceded to the NPT." When referring to these NPT "holdouts," the European Union only mentions India and Pakistan by name, and urges them to adhere to the NPT "as it stands," i.e., as NNWS.[10] The United States follows a similar tack and also remains silent regarding Israel. The United States has also called on all States to "cooperate with export control regimes to prevent proliferation of mass destruction weapons and their delivery systems."[11]

Such attitudes and measures are not conducive to the harmonization of efforts to prevent the proliferation of nuclear weapons. Taken in isolation from the broader concerns of international peace and security and implemented in an environment where non-State commercial interests are prevalent, export control regimes appear simply as an exercise in technology denial, an exercise doomed to failure.

What we must seek in the next century is a genuine, non-discriminatory nuclear non-proliferation regime. For this the international community —including all *de jure* or *de facto* NWS— should begin an honest and constructive dialogue on all aspects of the question, including export control regimes and nuclear disarmament. The present nuclear non-proliferation regime should be overhauled. Tinkering with its various components may buy us time, but the long-term solution lies elsewhere.

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[1] Washington Summit Communiqué, 24 April 1999, NATO Press Release NAC-S(99).

[2] The author has explored this subject in "Europe's nuclear family," *The Bulletin of the Atomic Scientists* (Chicago), Vol. 54, No. 1 (January/ February 1998), pp. 35–37.

[3] Ireland and Sweden abstained, together with Austria, on the original General Assembly request for an advisory opinion (resolution 49/75 K of 1994), while all other EU members opposed it. But they have voted in favor of resolutions 51/45 M, 52/38 O and 53/77 W, while Austria and Finland, as well as Denmark, abstained. The ICJ rendered, among others, the following unanimous opinion: "There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control" (*Communiqué* No. 96/23, p. 2). The most comprehensive study to date of that advisory opinion is Laurence Boisson de Chazournes and Philippe Sands (eds.), *International Law, the International Court of Justice and Nuclear Weapons*, Cambridge: Cambridge University Press, 1999.

[4] The other six are Brazil, Egypt, Mexico, New Zealand, Slovenia and South Africa.

[5] Seven (Czech Republic, France, Hungary, Poland, Turkey, United Kingdom and United States) voted against the proposal and the other twelve abstained.

[6] NGOs were certainly more active than at previous meetings (held in Geneva) but their access to conference rooms and delegates was restricted. When it comes to the NPT, some NWS and Western European countries prefer to distance themselves from NGOs. This attitude is very different from the one they adopt towards those NGOs dealing with human rights or environmental issues. In these matters they welcome and even encourage the active participation of NGOs in their meetings.

[7] *Unvanquished: A U.S. – U.N. Saga*, New York, Random House, 1999.

[8] UN, *Unilateral Nuclear Disarmament Measures*, New York, 1985, 18pp.

[9] A 1988 study predicted that by the year 2000 there would be around forty countries technically capable of producing nuclear weapons (*Discriminate Deterrence*, Report of the Commission [co-chaired by Fred C. Iklé and Albert Wohlstetter] on Integrated Long-Term Strategy, Washington, D.C.: GPO, 1988). And that prediction has probably proved correct.

[10] EU statement to UN General Assembly First Committee, 12 October 1998.

[11] Statement to UN General Assembly First Committee,14 October 1998.