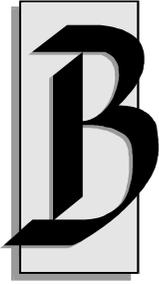


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The United States and Europe at the NPT Review Conference

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The United States and the states of Europe occupy a special place in the nuclear world. They include three official nuclear weapons states and a host of others under the protection of NATO's nuclear umbrella. They produce sixty-five percent of the world's nuclear power, and include major developers and exporters of nuclear technology. They are acutely threatened by the twin prospects of nuclear terrorism and nuclear proliferation. And perhaps uniquely amongst nations, their combined political, economic, and military power presents them the opportunity to effectively confront these challenges.

Indeed, despite frequent discord, the United States and its European partners share a raft of common goals and more consensus on methods for achieving them than is often realized. When they attend the 2005 Nuclear Non-Proliferation Treaty (NPT) Review Conference, to be held at the United Nations from May 2 to May 20, 2005, they will all find much more in common with each other than they will with most of the rest of the world. They will be most successful in achieving their goals if they work together to promote common solutions in areas of shared interest—and there are many. They will also do well to be wary of potential splits—particularly on Iran and the Middle East—and invest in efforts to ensure that their combined strength is not sapped by charged but isolated disagreement.

Even if splits occur, they may not be of the sort one might expect, with the United States on one side and Europe (perhaps without Britain) on the other. That alignment may materialize around Iran, where Britain, France, and Germany have established a common position to seek a diplomatic solution, while the United States has remained largely on the sidelines. But not all arms control alliances amongst these four largest transatlantic players have developed this way. At the review conference, the United States and France will share similar positions on nuclear disarmament and the role of nuclear weapons in national security policy, while Britain and Germany will have more in common with each other, being more supportive of disarmament in general. Seeking to control nuclear technologies, the United States and Germany have had much

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in common, originally proposing the farthest-ranging restrictions, with Britain at the other extreme and France somewhere in between—though there has been significant convergence since.

To understand the space for common strategy at the review conference and the potential for internal fracture, four areas are critical: disarmament, technology, compliance, and the Middle East.

Disarmament

Article VI of the NPT, which commits states to “good faith” negotiations on complete nuclear disarmament, was something of an afterthought when the treaty was negotiated, but has been a political flashpoint ever since. In 2000, the nuclear weapons states were forced to confront this head-on and ultimately made an “unequivocal undertaking... to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament,” backed up by political agreement on a thirteen-point agenda for disarmament. Since then, the United States has rejected several of the thirteen points, as has France. But while neither the United States nor most European states are likely to emphasize disarmament, non-Western countries may make disarmament and the thirteen points a centerpiece of discussion.

Four elements of the thirteen-point program are likely to be the focus of debates: the Comprehensive Test Ban Treaty, the Fissile Material Cutoff Treaty, nuclear weapons doctrine, and bilateral disarmament.

The Comprehensive Test Ban Treaty (CTBT) —endorsed at the 2000 review conference, but since rejected by the Bush Administration—figures to be prominent. The United States is likely to be alone and opposite all of Europe in opposing calls for universal CTBT ratification. The most realistic prospect for common ground may be in affirming the continuing moratorium on nuclear testing. Though the United States has taken steps in recent years to shorten its lead-time for nuclear testing, its officials insist they have no explicit plans to renew testing.

The 2000 conference also called for reduced prominence of nuclear weapons in the security doctrines of the nuclear weapons states, something some states will argue is contradicted by new weapons research programs and targeting doctrines of several nuclear weapons states, including the United States, France, and Russia. The United States and France will likely approach this debate defensively; it is difficult to imagine any compromise outcome.

Since 2000, several roadblocks to negotiation on a Fissile Material Cutoff Treaty (FMCT) have been breached. Remaining disagreements, however, are likely to be debated at the review conference. Much debate over the FMCT, intended to halt the production of materials for nuclear weapons, is likely to address the treaty’s finer details, particularly transparency and verification. The United States has endorsed an FMCT, but has insisted it not be verified on the grounds that effective verification is impossible, and thus any verification scheme would offer

false comfort.¹ (Critics also charge that the Bush Administration is simply ideologically averse to verified arms control.) Others, including most Europeans, note that an FMCT would provide a home within the nonproliferation regime for India, Israel, and Pakistan. They argue that intrusive FMCT verification would provide important access to those states' weapons complexes. The NPT parties will not resolve their positions by the end of the review conference; that is what FMCT negotiations are for. Nonetheless, the conference will provide an opportunity to discuss FMCT options within a larger framework.

For many parties to the NPT, the greatest disarmament problem is the arsenals of the five leading nuclear powers, particularly those of the United States and Russia, but also those of France and Britain. All participants in the Review Conference are likely to endorse the reductions stipulated in the 2002 Moscow Treaty, which mandated deep cuts in deployed forces, but agreement will likely end there. Some will emphasize a need for verification, detailed timelines, and requirements that reductions be irreversible. But with the Moscow Treaty already set, the possibility of a compromise critique appears remote.

The states parties will also look ahead and want to prescribe a future path for disarmament. Whether that simply describes the road to implementing the Moscow Treaty—which Washington is likely to prefer—or whether it promotes further efforts—probably the preference of most states—may be the first debate. An unspecified commitment to explore further reductions may be negotiable, but a firm commitment may not be feasible.

Nuclear Energy

The 2000 NPT Review Conference said relatively little about Article IV of the treaty, which affirms a right of states parties to pursue nuclear energy for peaceful purposes (conditional on their compliance with the remainder of the NPT.) But Article IV is likely to play a far more prominent role in the 2005 Review Conference and provides the best opportunity for a common U.S.-European front. Nuclear weapons developments in Libya, North Korea, and Iran, all of which involved the use of civil nuclear energy as cover—along with discovery of the Pakistan-based A.Q. Khan nuclear trading network, which aided all three states—have prompted many states to rethink the basic nuclear technology bargain. With the United States and many European states positioned both as leading suppliers of nuclear technology and also among the most concerned about its illicit use, this area is likely to be a priority for U.S.-European strategy.

Debate is likely to center on proposals for inspections and for restricting nuclear technology.

The value of intrusive inspections appears to have been validated by the past five years, in North Korea, Iraq, Iran, and South Korea. In particular, there is a growing consensus in the Western group that the Additional Protocol, which facilitates intrusive nuclear inspections, is necessary for the proper application of safeguards, a consensus that the Review Conference can be used to

¹ Wade Boese, "Bush Shifts Fissile Material Ban Policy," *Arms Control Today*, September 2004.

promote.² Exactly how to implement such a standard may be the subject of debate. The most innocuous approaches to imposing the Additional Protocol would operate through export controls—the U.S. and European governments have proposed making ratification of the Additional Protocol a condition of nuclear supply. This approach has the distinct benefit of being implemented solely by like-minded states; it might also form the foundation for expanding restrictions later. Rather than working through export controls, states might also consider measures that would place the burden on recipients of technology.³ They might consider a common statement that the minimum acceptable level of safeguards for NPT members includes the Additional Protocol.

Iranian pursuit of a broad nuclear technology program has also drawn attention to the dangers involved in the widespread proliferation of uranium enrichment and plutonium reprocessing technologies. The United States and Europe have already agreed on the need to confront this problem, but positions have not yet entirely converged. The United States initiated the debate in early 2004 by proposing enrichment and reprocessing technology be restricted to those states already possessing it. Britain countered with a scheme that would restrict access based on states' behavior, rather than based on their current technological position. While neither has formally changed its stance, it is widely believed that the United States has agreed in principle to support the British approach, which now enjoys broad European backing as well. This does not mean that the United States has abandoned its original position entirely—that position is technically compatible with the British one—but it suggests that a common strategy for promoting the compromise approach may be possible.

As the United States and Europe push different options for controlling enrichment and reprocessing technologies, they must also decide (and ideally agree) on exactly what degree of universality they desire. Rules palatable to all NPT states are likely to be relatively weak; conversely, rules acceptable to only a few states are likely to be widely flouted, especially if those in opposition have the technical capacity to do so and will thus become unenforceable.

Compliance and Enforcement

Neither compliance nor enforcement was addressed at a general level in the 2000 Review Conference Final Document; instead, the focus was on North Korea and Iraq. With no shortage of new compliance crises in the past five years, a similar balance might be expected. However, the intense and high-stakes nature of the current problems in North Korea and Iran may make

² Statements made at the 2004 NPT Preparatory Conference, available at “Statements to the 2004 PrepCom” [accessed January 1, 2005 at www.reachingcriticalwill.org/legal/npt/prepcom04/statements.html]. Also see *G-8 Action Plan on Nonproliferation*, June 9, 2004 [accessed November 27, 2004 at http://www.g8usa.gov/d_060904d.htm].

³ German proposals have gone farthest in this direction; see “Compliance,” working paper submitted by Germany to the Third Session of the Preparatory Committee for the 2005 Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons, New York, April 29, 2004.

broad yet meaningful consensus less likely, and thus, paradoxically, shift any common statements back to general approaches to compliance and enforcement. Most NPT members agree that the review conference is not the right context for addressing North Korea's nuclear program; Iran may be discussed more, but primarily in the context of the broader Middle East.

Article X of the NPT, which governs withdrawal from the treaty, will likely attract sustained attention from the United States, particularly from Europe. Many have raised alarms about the technical ease with which states can withdraw from the NPT under that provision, which allows states to withdraw from the treaty on ninety days notice in the face of "extraordinary events." There is a broad consensus amongst the United States and European states that withdrawal should not be so simple. The most obvious remedial step would be to revise or reinterpret Article X. The United States, however, appears averse to explicitly limiting withdrawal options; this reflects a general unease with assuming new restrictions. Most European states have been more flexible, focusing on options for reinterpretation. Those possibilities generally involve clarifying what qualifies as an "extraordinary event" allowing for withdrawal under Article X, either by delineating a list of criteria or by establishing procedures for the NPT states to reach case-by-case judgments.⁴

Other options would attack the problem indirectly, specifying penalties for any state that left the NPT. Many have taken pains to note that international law holds states accountable for violations committed while party to a treaty, even after withdrawal; this would provide a rationale for maintaining the illegality of North Korea's uranium enrichment program. Other interesting proposals would attempt to deny states the fruits of past NPT membership upon withdrawal.⁵ It is important to be aware that even were the U.S. and Europe to agree on a program of reform in this area, they would meet broad opposition from states unwilling to assume new obligations absent some reciprocal concessions from the Western states.

The Middle East and Iran

Past NPT Review Conferences have focused intense attention on the Middle East, with Iraq, Iran, and Israel figuring prominently. In 2000, the Review Conference extensively detailed its support for a Middle East Nuclear Weapons Free Zone, noting that amongst the region's states only Israel remained outside the NPT; it also asked for regular future updates from NPT states parties on their efforts to that end. In 2005, Iran will almost certainly be the target of intense attention, with revelations since 2002 of Iranian treaty violations, along with European diplomatic efforts to resolve the resulting conflict, figuring prominently.

⁴ See Germany, "Strengthening the NPT against withdrawal and non-compliance," above.

⁵ For examples, see France, "Strengthening the nuclear non-proliferation regime," and Germany, "Strengthening the NPT against withdrawal and non-compliance," above.

The Iranian issue may be difficult, especially for U.S.-European coordination. The United States has essentially refused to engage with Iran, demanding simply that Iran cease its nuclear fuel cycle activities, and attempting to have Iran's case referred to the U.N. Security Council. (It has recently offered small concessions aimed primarily at demonstrating goodwill towards its European allies, rather than a finding a negotiated solution.) France, Germany, and Britain, calling themselves the EU-3, have lead negotiations with Iran, seeking to constrain Iran's fuel cycle facilities by offering economic and political incentives. The Bush Administration has been inconsistent in its attitude towards this effort, normally offering lukewarm rhetorical support without lending substantial material assistance.

What can the United States and Europe expect from the Review Conference on Iran—and in particular, is there any space for a common strategy? If there is to be a consensus document, the best course may be to avoid the issue entirely, since Iran will need to consent to any statement.

Outside negotiations over any statements, productive discussions may be possible. The ideal U.S.-European result going in would be a common strategy, mixing European carrots with U.S. sticks, but finding such a strategy is a separate matter from the Review Conference. However, a common strategy for increasing third-country support for elimination of the Iranian fuel cycle, which both the Americans and Europeans desire, should be possible in the context of the Review Conference.

Alongside the specifics of Iran, some position will have to be found on the issue of a Middle East Nuclear Weapons Free Zone (NWFZ). Though more difficult now than in 2000, a compromise may be possible. Key hurdles to reaching such an end include properly framing the goal—the 2000 Final Document placed a NWFZ in the context of broader Middle East peace, consistent with the Israeli position but preserving the broader objective; a similar compromise will likely be necessary. Another potential hurdle concerns which states will be singled out. The 2000 Document mentions only Israel—this time, will it be acceptable to mention both Israel and Iran, to mention only Israel, or to mention neither explicitly?

Strategy

The key to an effective strategy for the NPT review conference is understanding that the treaty will not rise or fall on the meeting's outcome. Major breakthroughs in New York are unlikely. Any formal changes to the NPT, even any common statements, will require consensus from all the parties in attendance. Though such agreement has been possible at past meetings, it has been the result of years of painstaking preparation—the final review conference has merely completed that process. This time, no such groundwork has been laid. In its absence, more modest goals are appropriate.

This review conference is thus best treated as a forum for concentrating debate. Despite differences in their respective outlooks, the United States and its European partners share much more with each other than with the other NPT parties—and their views have been steadily converging. Rather than approaching the conference aiming to conclude a deal, these partners would do better to use the gathering as a platform for initiating reform. There has indeed been a

failure to prepare for a truly successful conference—and that makes an ambitious agenda extremely dangerous. The United States and Europe would instead do well to seek a new start.