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Stories of the Past

THE 1995 NPT REVIEW AND EXTENSION CONFERENCE: PECULIARITIES, RESULTS AND LESSONS

by Vladimir Orlov,
PIR Director

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Abridged version

By 1995, when the fate of the NPT was going to be decided at the NPT Review Conference, the international community had achieved a certain level of progress in preventing horizontal and vertical nuclear proliferation. Ukraine, Kazakhstan, Belarus and South Africa became non-nuclear weapon states. The development of nuclear weapons in Iraq was stopped. The nuclear ambitions of North Korea were contained. Other *hotbeds* of proliferation have not yet emerged in the early 1990s. The nuclear arsenals of the USA and the USSR were being reduced in accordance with START I. START II was signed. In Geneva, the world was actively working on the draft of the CTBT. Finally, the number of NPT States Parties amounted to 172 by late March 1995 and on the eve of the Conference this figure continued to increase.

There was no doubt that, in these generally favorable conditions, the Treaty would be preserved. At the same time, some dangerous trends indicated that the extension of the Treaty wouldn't be easy, since the main objective was not only to extend the Treaty but to prolong it as far as possible.

US and Russian diplomats urged for indefinite extension, as provided for in Article X paragraph 2 as one of the variants. This is why the representatives of nuclear weapon states (NWS), or let's say of the *North*, who were the major proponents of the longest extension, had to launch an

impressive preparatory campaign. Its visible part was the statements and sessions in the course of the PrepCom meetings in Geneva. The most significant meetings took place in September 1994 and in January 1995.

At the same time, the most important diplomatic activities were those performed in private.

Western and Russian diplomats began to prepare for the Conference in early 1994 and were eager to achieve maximal results: indefinite extension of the treaty with minimal concessions to the Non-Aligned Movement (NAM). The preparation was carried out in Geneva (at the Conference on Disarmament (CD)), in Vienna (in the IAEA Headquarters) and in New York. Firstly, Russia, the USA and Great Britain conducted trilateral negotiations and then, all three parties discussed their plan with the French diplomats. China didn't take part in these consultations and, as one of the participants put it, pretended to be 'a non-nuclear weapon developing state, which has acquired some nuclear weapons by chance.'

The diplomats identified the four key and most probably controversial issues: Article IV (the right of non-nuclear weapon states (NNWS) to harness peaceful nuclear energy without discrimination); Article VI (the NWS commitment to achieve nuclear disarmament at an early date); security assurances to the NNWS; the term of extension.

As far as Article IV was concerned, it was not likely to cause serious complications in the course of the Conference. Examination of the lists of goods which exporters refused to sell to the NNWS, despite their requests, demonstrated that such refusals were isolated instances on the part of Russia and the USA. The informal dialogue included the Indonesian representatives, who agreed that actual reproaches concerning discriminative technological exchange could be confined to minimum; on the contrary, this article was functional thanks to the IAEA endeavors. If there was discrimination in the exchange of technological achievements pertaining to nuclear energy, it resulted from the high price of these technologies. Hence, it was a

matter of financial discrimination; however, it was understood that the NPT didn't provide for the free transfer of nuclear technologies for peaceful use in the developing countries.

As for Article VI, Russian and Western diplomats chose offensive tactics with regard to those states, which were critical of the way the NWS implemented their commitments. All NWS (except China) agreed to prepare national reports on the implementation of Article VI and disseminate them at the Conference. Following the Russian initiative, the parties negotiated a joint statement on disarmament, which was to be disseminated at the Conference¹.

As far as full-fledged legally binding security assurances were concerned, there was disagreement. In principle, Russia supported the proposal of the NAM to conclude the Convention on Security Assurances. Great Britain didn't oppose the Convention, since this issue had been more a symbolic than a practical one, and therefore, the NWS could afford to make significant concessions. The US diplomats were not enthusiastic about the idea. France strongly objected to the Convention, saying that it ran counter to its national concept of nuclear deterrence. As a compromise, the parties agreed to back the UN Security Council resolution reiterating the commitments on security assurances, above all, the pledge to not use nuclear weapons against the NNWS. The compromise was reached in autumn 1994 but the actual work on the text of the resolution was delayed and was finished only in early April 1995². Doubtless, the UN Security Council resolution tempered the level of criticism at the Conference.

As for the extension issue, the diplomats of the *North* decided at their confidential meetings to push for the indefinite extension of the NPT. Meanwhile, the most heated debate concerned the ways to attain this goal. For instance, Russia proposed initially to discuss the problem of extension and to put it to the vote immediately, on the first day of the Conference, before the actual review of the treaty's implementation (the five-year review is an integral part of the Conference).

Russia believed that the issue of extension should be solved by all participants deliberately, without pressure and fuss; hence, it oughtn't to be put at the bottom of the agenda. However, this position was not endorsed, since the USA and its allies didn't predict that indefinite extension or even long-term extension would be agreed upon easily. They preferred to obtain a clear vision of the positions at the beginning of the Conference and to use this forum to influence the heads of hesitating delegations.

In December 1994, in Geneva, Russia set forth the two-fold initiative. The resolution on the term of the treaty would have been a short document, without preamble (which would have inevitably lead to long debate) and stating only the indefinite extension. Only Great Britain backed this Russian initiative. The USA was concerned that the NAM might issue a collective resolution in response and put it to the vote first. Canada was against the proposal, naming the Russian draft a 'high quality, high risk' idea. Canada stood for cautious and gradual actions before and during the Conference, to increase step by step the number of states supporting indefinite extension. According to Canadian diplomats, it was necessary to convene expanded meetings for that purpose and to invite as many NAM states as possible. Russia strongly opposed this approach. Firstly, it feared a low turnout at such meetings, which might look like the NWS policy was failing. Secondly, Russia believed that there was a split in the ranks of the NAM and, hence, didn't expect a single unified resolution from all the opponents of indefinite extension. Russian diplomats advocated the benefits of lobbying, although they admitted that the USA had more capabilities in this area.

The first attempt of lobbying took place in Budapest in December 1994 in the course of the OSCE session. The two-line initiative was endorsed for the first time. A small working group organized frank discussions in a narrow circle. The group contained representatives of all NWS (except China), Germany, the Netherlands, Canada, and Japan (the latter played the most constructive role). It became clear that 62 states were sure

to back the two-line initiative and 10-12 countries would eventually support the resolution but would adopt a wait-and-see policy. Some problems emerged with the positions of Australia, Canada, and Sweden. They agreed with the indefinite extension but insisted on deleting the words concerning unconditional extension, since it was necessary to seek compromise and to link the indefinite extension to a number of strict conditions binding the NWS to accelerate the process of disarmament. Russia, the USA, France and the UK took a final decision on the two-line initiative only in early April. They believed that it would be logical for Canada to put forward this motion, as the chairman of the informal Geneva working group and as the state most capable of finding common language with the NAM.

Moreover, the diplomats from Russia, the USA and Canada attached importance to the intentions of the South African leadership to set forth its own initiative at the Conference. The participants of the Geneva working group were informed about the South African proposals and encouraged them, taking into account the firm resolution of this country to back indefinite extension. To assure South Africa of their intention, Russian Foreign Minister Andrei Kozyrev and US Secretary of State Warren Christopher sent letters to South African Foreign Minister Alfred Nzo on the threshold of the Conference.

In January 1995, the most probable candidate to preside over the Conference, Amb. Jayantha Dhanapala (Sri Lanka), visited Moscow. In the course of his meeting with the Russian foreign minister he expressed the opinion that the most favorable outcome of the Conference would be to take the decision without voting. He proposed his wording for the resolution: 'As a majority exists among States party to the Treaty for its indefinite extension, the Treaty shall continue in force indefinitely without voting.' Russian diplomats appreciated this formula, calling it *elegant* but doubting at that time that the Conference would be able to avoid voting.

The diplomatic efforts on the threshold of the Conference included persuasion and tough

pressure. Russia had modest pressing capabilities and, as previously agreed, it began propagandistic work covering the FSU states and Iran. In both cases, the result was generally positive. Moreover, in a few developing countries, Russia's position and its wishes were brought to the attention of the leadership by the Russian ambassadors to these states. As for the USA, its activities were impressive and Washington exerted substantial pressure on such states as Mexico and Egypt, sent ambassadors at large to the majority of allied and friendly countries and counted every new vote for the resolution.

As a result of intensive diplomatic endeavors, the NWS managed to overcome the skepticism about the possibility of indefinite extension. At the same time, on the eve of the Conference, very few diplomats were sure that the initiative on indefinite extension would be able to get, straight off, the required support of half the States Parties to the NPT, i.e. 90 votes as of April 1995.

However, the major defect of the diplomatic activities was the relative neglect of the problem of universality. It was chiefly a matter of a group of Arab states, which called into question the long-term extension if Israel was not going to accede to the NPT. The NWS also underestimated the special position of South-East Asian nations - above all, Malaysia - which, unlike Latin American states, turned out to be susceptible to outright pressure from the developed countries.

Major Groups of States and Conflicts of Interests

An important characteristic of the Conference was the plurality of conflicts about the NPT, which could be combined into two groups: the conflicts of values and the conflicts of interests (with the prevalence of the latter). Nonetheless, the Conference demonstrated numerous conflicts of values and some sharp contradictions between human values and national interests. The former could be found in the declarations of some NAM states (Malaysia, Tanzania, Zimbabwe, Mexico, Venezuela, and Uruguay) and developed countries (Sweden, Switzerland, Ireland, New Zealand, and Austria) concerning the

necessity to achieve a nuclear-weapon-free world and to establish NWFZ in the whole world in the next few decades.

Obviously, these requirements depended on a strict schedule of nuclear arms reduction and elimination by all NWS, the ban on production and elimination of stockpiled weapons-usable fissile material, and the ban on nuclear tests. These demands met the resistance of the NWS diplomats (mainly Russia, France, and the USA), under the pretext that they were unrealistic for financial (the elimination of nuclear arms costs more than their production) and environmental (the technology of elimination should be thought out in tiny detail) reasons³.

Thus, value-driven approaches to nuclear nonproliferation play a leading role in the policy of a small number of states (Sweden, Switzerland, and Ireland). On the whole, as is usually the case in diplomacy, the key factor is the national and grouped interests of the states.

The balance of forces at the conference was quite complicated. There were two large conflicting groups - the *North* (Western developed economies, Japan, Australia, Russia, other CIS states, Central and Eastern European nations), supporting the indefinite and unconditional extension of the NPT, and the *South* (NAM), opposing unconditional extension and doubting the usefulness of an indefinite treaty. At the same time, these groups didn't have a streamlined structure and their membership changed swiftly in the course of the Conference.

The traditional division of the States Parties to the NPT into groups implies the existence of three equally important groups: Western (comprising the states which, during the Cold War, were referred to as the West, although this group contains Turkey, Japan, Australia, and New Zealand); Eastern (Russia, all FSU states and former-Warsaw Pact parties); and NAM. The groups are established to facilitate the solution of the current problems and for representative purposes (nomination of candidates to the

official posts, forming the working groups, etc.).

In the course of the Conference, the shortcomings of such a division were most evident in the work of the Eastern group. The representatives of some Central and Eastern European delegations were not properly informed about the lobby discussions at the Conference. This informative role should have been played by the delegates appointed to the working and consultative groups of the Conference. Obviously, Russia represented the Eastern group in all these organs and received most of the reproaches. Moreover, the diplomats from Eastern and Central Europe argued that they were more eager to participate in the consultative meetings of the EU delegation (i.e. the Western group), since these states were associated members of the Union. But they were not invited to these meetings.

Meanwhile, the Russian delegation succeeded in coordinating the activities of the FSU states. For instance, until the last days of the Conference, the Ukrainian delegation was not ready to sign the final resolution on extension of the NPT. Kiev demanded that some provisions concerning security assurances be included in the laconic text of the resolution. If these demands were accepted, other states would have immediately begun to propose new amendments. The Russian delegation worked in close contact with the Ukrainian diplomats and finally succeeded. Russia had also to exert some pressure on the Moldavian and Azerbaijani delegations at different stages of the Conference. However, the two states didn't have any particular interests at the Conference and their uncompromising policy didn't last long.

The Western group set up a mechanism of two-level coordination. The first general level was occupied by the US and British delegations with a modest role played by France. At the second level, the EU coordinated the efforts of the states. Nonetheless, this group also had its dissidents. For instance, Sweden, Austria, and Ireland refused to sign the joint EU document drafted for Main Committee I and

laid down their own national documents, dealing a serious blow to the prestige of the Western group, although the contradictions didn't go beyond the lobby argument. Finally, the Western group shaped a joint position on the key issue - the NPT extension - although some states (Switzerland, Sweden) had certain doubts.

On the whole, it is fair to say that the Eastern and Western groups shared similar positions. It therefore makes more sense to study the groups divided in accordance with their attitude to the existing nuclear nonproliferation regime.

As far as the third traditional group is concerned, there was not really any political unity among the NAM at the Conference. In formal terms, the group was extremely active: it nominated candidates for positions of responsibility, held regular consultations (more often than the two other groups), etc. However, these activities had only one clear explanation: the NAM was unable to form a single position and, in the course of the Conference, the leaders of the regional powers (Indonesia, Nigeria) tried in vain to restore this unity. The split exacerbated and the emergence of new leaders (South Africa) paralyzed the organizational capabilities of the NAM, which could have used its numerical strength (110 countries against 35 Western and 23 Eastern states) to impose its will on the Conference.

The NAM split was chiefly caused by the problem of indefinite extension. It included the subgroup of *uncompromising states* (Syria, Libya, Malaysia, Nigeria, North Korea); the *radical* subgroup of states agreeing to concessions (e.g. Indonesia, Iran, Egypt, Mexico, Venezuela, Kenya); the *moderate* subgroup, which was ready for compromise from the very beginning (e.g. Jordan, Philippines, Uruguay, Colombia, Sri Lanka); the *new initiative* subgroup headed by South Africa, which publicly disagreed with the NAM's old policy of opposing indefinite extension and proposed its own set of political tools to improve the international nuclear nonproliferation regime; and the *pro-Western* group, which voted in compliance

with the orders from Washington (the Caribbean island states).

The split in the NAM ranks had evident political reasons, since each regional group pursued its own interests. For instance, the Arab states (Syria, Libya, Egypt, Sudan, Lebanon) were striving for universality and sought ways to make Israel accede to the NPT. The Pacific nations (Papua New Guinea, the Federated States of Micronesia, the Marshall Islands) urged for a test ban at the earliest date (this issue became even more topical in connection with the plans of President Chirac to conduct a series of tests in French Polynesia).

Key Problems Facing the Conference

The major problem facing the Conference was the extension of the treaty, which was the focus of much clandestine struggle and intrigue at the Conference. If indefinite extension had been rejected this would have meant a serious blow to the proponents of strengthening the international nuclear nonproliferation regime.

Another important problem was the terms of extension: whether it should be adopted without preliminary conditions, or whether the NPT should be conditioned to a number of measures to improve the review of the treaty in the future and to approve the principles and objectives for nuclear nonproliferation and disarmament as a legally binding document or a policy recommendation.

Much attention was paid to Article VI concerning disarmament issues. It is the concession of the NWS to the NNWS, which in exchange commit themselves to refrain from acquiring nuclear weapons. The implementation of Article VI relates to significant nuclear arms reduction of the NWS; conclusion of the CTBT; conclusion of the FMCT; security assurances to the NNWS parties to the NPT, and the character of these assurances, their legal characteristics. These issues became the major source of confrontation at the Conference between the radical members of the NAM and Western groups, on the one hand, and the NWS on the other.

It was important to analyze the implementation of Article I, - a key NPT provision and the fundamental principle of nonproliferation - i.e., to assess how well the NWS carried out their commitment to refrain from transfer of nuclear-related technologies to the NNWS.

Another topic for debate at the Conference was the implementation of Article IV encouraging international cooperation in the area of peaceful nuclear energy uses, including the exchange of technologies. Despite certain difficulties and conflicts (concerning the construction of an Iranian nuclear power plant (NPP) in Bushehr), the continued efforts of the IAEA contributed to considerable progress in this area. As a result, the problem was not particularly acute at the Conference.

Discussions concerned the establishment of NWFZ, as provided for in Article VII. The establishment of the NWFZ in South Pacific (the Rarotonga Treaty) and in Latin America (the Tlatelolco Treaty), and the plans to create such zones in Africa and South-East Asia, enabled the Conference to welcome the progress achieved and to avoid a heated debate on the matter.

Finally, the Conference focused on the problem of universality, i.e. adherence to the NPT mainly on the part of three *unofficial* NWS (Israel, India, and Pakistan). This task was difficult to accomplish in the course of the Conference. However, the Arab states managed to draw the attention of the forum to this issue, which was quite a timely step.

Results of the Conference

The major results of the Conference were the adoption of the legally binding decision on the NPT extension under Article X (2); the indefinite extension of the treaty; the decision-making without voting, practically by consensus; the approval of the mechanism to improve the review of the NPT implementation in the future; and the adoption of the recommendation to the CD in Geneva to conclude the CTBT no later than late 1996. Another important result was the active participation in the Conference of nearly all State Parties.

The Conference also demonstrated the inability of the NAM group to affect the decision-making (as before, at the UN General Assembly sessions), the emergence of new leaders within the NAM and the redistribution of power in the movement.

The results of the Conference represented success for the diplomatic representatives of the NWS. They (above all, the USA) managed to achieve the maximum: to pass the resolution on indefinite extension and to make no concessions infringing upon their national interests. In fact, the NWS made no additional commitments on any of the topical items of the agenda. The resolution on indefinite extension is a strict legal document, whilst the other three resolutions are political recommendations.

Thus, was the decision on indefinite extension a completely positive contribution to the cause of nuclear nonproliferation and arms control?

On the one hand, it was. According to Roland Timerbaev, 'firstly, the Conference succeeded in achieving consensus without cutting off the critics of the NPT. Secondly, the control over the NPT implementation will be strengthened. Thirdly, the problem of future extension won't be a stumbling block for the States Parties and they will be able to focus on substantive issues of disarmament.'⁴

On the other hand, the specific commitments assumed by the NWS during the Conference were quite modest. Moreover, the Conference failed to answer the following urgent questions: compliance with Article I; the use of fissile material stockpiles, plutonium in particular; the need to enhance the role and capabilities of the IAEA in combating nuclear proliferation; granting legally binding security assurances to the NNWS; and ways to promote universal adherence to the NPT.

One of the positive results of the Conference was the decision-making without voting. This enabled the Conference to avoid the split between the overwhelming majority and the small but persistent minority, which included such large developing countries as Indonesia, Malaysia, Iran, Nigeria, Venezuela, and Egypt. One of the reasons for this consensus, besides objective factors, was the personal role of the President⁵.

It is difficult to discard the argument of a number of developing states opposed to indefinite extension, that this step would hamper the control of the international community over the NWS policy and would enable the unrecognized NNWS (Israel, India, and Pakistan) to stay away from the NPT framework. The first assumption was proved correct after the Conference, when China and France conducted a series of nuclear tests and the Russian State Duma refused to ratify START II. The second thesis is proved with the intensification of the Indian military nuclear activities.

One had to admit that the variant of 25-year rolling periods would have been no less decisive for strengthening the international nuclear nonproliferation regime than the indefinite extension. Presumably, this form of extension (on the one hand, long term and automatic extension; on the other hand, the ability to influence the policy of NWS once every 25 years) would have been the optimal scenario from the point of nonproliferation values.

Naturally, this compromise didn't meet the interests of the NWS. At the same time, it is known that on the eve of the Conference, the leadership of at least two NWS (Russia and China) regarded the 25-year rolling periods as acceptable for their national interests.

The NAM, which on the threshold of the Conference might have shaped a single moderate position on extension and chosen the variant of 25-year rolling periods with a *green light*, lost this chance. The majority of NAM members preferred to take a radical position, provoking the split within the movement, the emergence of the moderate opposition (Mexico, South Africa) and the failure to make a coordinated decision. And only at the end of the Conference did 12 NAM states manage to work out the draft of a moderate resolution, although tactically they were at least two weeks late.

The special positions of a number of states voiced after the adoption of final decisions had no legal force but indicated that in practical terms the indefinite extension did not obtain unanimous support. Hence, if the NWS breach at least one provision of the *co-lateral* resolutions, the opponents of the indefinite extension may explicitly raise their objections.

Finally, the 1995 Review and Extension Conference failed to find a way out of the situation, when a NPT State Party might like to suspend its membership (e.g. North Korea), ignoring the withdrawal procedure provided for in the treaty. Experience proves that in such cases the NPT itself wouldn't be able to play a decisive role, and the further developments would depend on bilateral and multilateral diplomacy, with a vital role played by the USA, bypassing even the UN Security Council.

In other words, one has to admit that the NPT extension was conditional and indefinite.

The general conclusion will be that the international nonproliferation regime was significantly strengthened by the Conference. Nonetheless, the well-thought out decisions on enhancing the review mechanism do not ensure better compliance with the treaty, above all with Articles VI, I and II. The euphoria about the results of the Conference was groundless. According to a definition given at a scientific-practical conference on the results of the NPT extension, 'the operation succeeded, the patient is not dead but in intensive care'⁶.

Some of the 1995 decisions were implemented or taken into account in part or in full in 1996-1999. However, these years were practically lost for the international nonproliferation regime, since the potential originating from the success of the 1995 NPT Review and Extension Conference, to a great extent, was not exploited.

¹ In the course of the Conference, nearly all participants commended the document.

² See: G. Bunn, R. Timerbaev, "Nuclear Nonproliferation Regime and Security Assurances to the Non-Nuclear Weapon States". - *PIR Study Paper*, No. 1, 1996.

³ See: G. Berdennikov. Statement before the First Main Committee, April 21, 1995. - 1995 NPT Review and Extension Conference. Final Document, part III. Summary and Verbatim Records, NY, 1996, pp. 228-230.

⁴ V. Orlov, "The Treaty Has Been Extended Indefinitely: Who Is the Winner?". - *Yaderny Kontrol*, No.6, 1995, June, pp. 2-3.

⁵ S. Kislyak, Interview to the author, 1995, June 25.

⁶ Workshop on the results of the NPT Extension conference. Paper on the key points of the speakers. Monterey, 1995, August 15, p. 1.