

The 20th United Nations Conference on Disarmament Issues

Speaking Notes: Ambassador Don MacKay, New Zealand Ambassador for Disarmament

“2010 Nuclear Non-Proliferation Treaty Review Conference: Crafting a Consensus”

It's a pleasure to speak at this 20th United Nations Conference on Disarmament Issues, in Saitama City, which has as its focus “Nuclear Disarmament, Non-proliferation, and Peaceful Uses of Nuclear Energy; Trends and Challenges”.

I have been asked to speak on the topic of the “2010 Nuclear Non-Proliferation Treaty Review Conference: Crafting a Consensus”.

New Zealand's national approach to the NPT is I think pretty well known. We come to it as a country that is committed to nuclear disarmament, and I think with impeccable nuclear disarmament credentials. We are a member of the New Agenda Coalition (the NAC), which has as its *raison d'être* promoting the nuclear disarmament obligations (Article VI) of the NPT. New Zealand also has an unshakeable commitment to preventing horizontal nuclear proliferation, and I think has impeccable credentials in that respect as well. We want to uphold and strengthen the implementation of the NPT in all its respects.

Most others in this room will share those ambitions.

So far, so good. But how do we get there? How can a consensus at the 2010 NPT Review Conference help?

Let me share some personal thoughts as a participant in the NPT process, both in the past, and more recently.

First, with regard to the topic I am speaking to, I don't believe that simply crafting a consensus in 2010 is in itself sufficient. It needs to be a consensus that actually adds value, and strengthens the implementation of the NPT. Because of the difficulties that we have had at NPT Conferences recently – the 2005 Review Conference and various prepcoms – there is sometimes a view that avoiding a breakdown, or a dust-up, is in itself a sufficient outcome. In other words, a consensus outcome is sufficient even if it doesn't do anything. I think that is a very damaging approach for the NPT. Any treaty which is of indefinite duration, and which has a detailed review process, like the NPT, needs to have value added from that process. It needs to be an evolving process, which is seen as responsive by its member States. To have consensus as an end in itself spells problems for the NPT. Not through some huge breakdown, but more by death from a thousand cuts. I'll get onto what sort of outcomes might add value, later.

Secondly, where we really need a consensus now is on some rather more fundamental issues concerning the NPT. There seems, for example to be no consensus on the current state of health of the NPT, which in turn makes it very difficult to get a meaningful consensus on what should be done to underpin it. I often hear colleagues expressing concern about the state of the NPT, suggesting that it is damaged and worrying about its longevity. Those pessimistic comments tend to come from non-nuclear-weapon States. On the other hand, I hear comments from others that the NPT is doing just fine, and all that is needed is more rigid compliance by non-nuclear-weapon States with their non-proliferation obligations. Those comments tend to come from nuclear-weapon States.

Which brings me to my next point, and that is the apparently fundamental difference in perspective – and lack of consensus – between non-nuclear-weapon States and nuclear-weapon States as to how they view the NPT and its implementation.

Non-nuclear-weapon States generally view the NPT as a work in progress, leading to nuclear disarmament. In other words, article 6 is in essence a transitional provision, which recognises that some States will possess nuclear weapons, in diminishing numbers, and the rest of us will not, as we move to complete nuclear disarmament.

Increasingly, however, at least some nuclear-weapon States are perceived as essentially seeking to maintain the status quo, with continued possession of nuclear weapons on their part, while emphasising and enforcing the non-proliferation obligations of non-nuclear-weapon States. The heavy emphasis by some nuclear weapon states over recent years on the non-proliferation obligations of the treaty, and downplaying the disarmament obligations (including the occasional provocative statement that there is no obligation to get rid of nuclear weapons until the last sword has been turned into a ploughshare), has reinforced this perception.

There is also a worrying perception on the part of some non-nuclear-weapon States that they are getting nothing out of the NPT, and that they have given up a great deal by it, combined with a diminishing sense of “ownership” of the treaty. I think this was reflected, in the muted response of many non-nuclear-weapon States to the nuclear tests by North Korea, for example in the First Committee. I don’t happen to think that the assessment on which this is based is true – and will say more about it later – but it’s extremely damaging to the NPT.

We therefore have a situation where nuclear-weapon States and non-nuclear-weapon States are largely talking past each other, rather than with each other, which is also quite worrying – and damaging –for the NPT.

My fourth point, is another fundamental issue on which we really need a consensus, and that is the status of outcomes from NPT Review Conferences. Again, one hears quite different views on this. Non-nuclear-weapon States tend to view Conference outcomes as having a very high political status, and see them as part of the evolving and living NPT system. Conference outcomes embellish and inform the Treaty provisions and help keep the NPT living and relevant. While they don't have legally binding status as such, they do have considerable significance attached to them by non-nuclear-weapon States, whether as part of the 1995 package or as part of the 2000 package including the 13 steps.

On the other hand, at least one nuclear-weapon State perspective has been to diminish the status of these outcomes, and even the package of decisions of the 1995 Review and Extension Conference (apart from the decision to indefinitely extend the treaty). By this view, these decisions and outcomes of previous conferences are of exhortatory value only, to be followed or ignored at will, and often of no real effect beyond the conference that adopted them.

The lack of consensus over such a fundamental issue is quite corrosive for the NPT. At the very least, it opens up the way to perceptions of bad faith on the part of States when they have quite different views of the status of outcomes. It also leads to huge frustrations on the part of non-nuclear weapon States, which have made concessions in return for outcomes (e.g. in 1995) only to have the status of those outcomes diminished. To suggest that the 13 Steps - or even the 1995 outcomes - were just a nice idea at the time and can now be passed over is very damaging to the NPT and its processes.

It also raises questions whether the amount of time and resource that go into negotiating Review Conference outcomes by consensus, is warranted, if those outcomes may have no particular significance past the point in time at which they are negotiated.

If it is to stay relevant, and invigorated, the NPT review process needs to produce enduring outcomes. We really need a common understanding - a consensus - on the relevance and status of decisions and outcomes from the Review Process.

If the 2010 Review Conference can help resolve some of these more fundamental issues, on which there is currently no consensus, I think it will have contributed a great deal to strengthening the NPT. But there are some other things it can do as well.

I said earlier that non-nuclear-weapon States and non-nuclear-weapon States seem to spend a lot of time talking past each other at the NPT. I've also referred to the frustration on the part of many non-nuclear-weapon States. Let

me also say that nuclear-weapon States seem to be pretty frustrated at times too. This is particularly so when they don't see themselves being given credit for reductions in their nuclear arsenals.

I should acknowledge that there has been a welcome improvement in the quality of information provided by most of the nuclear-weapon States with regard to their nuclear arsenals, over recent years. Greater transparency has been evident not only in the NPT context but also, for example, in the Conference on Disarmament. Greater transparency is not common to all the nuclear-weapon States however – practice varies widely. Coupled with this, is the complaint from nuclear-weapon States that non-nuclear-weapon States fail adequately to recognise what they have done in nuclear disarmament.

There is however strong resistance by nuclear-weapon States to any sort of mechanism for, or institutionalising of, transparency regarding the provision of information on nuclear arsenals and nuclear reductions in the NPT or anywhere else. The strong nuclear-weapon States resistance to the proposed initiative on nuclear accounting in the First Committee last year was a classic example of that, as were similar positions that were taken in the informal discussions in the CD last year.

One of the things that we all learn from the practice of multilateral diplomacy is that if something is going to add value and to endure, there needs to be a strong sense of partnership and ownership on all sides. The NPT itself was born of a shared partnership and ownership, to rid the world of nuclear weapons, through nuclear disarmament, and non-proliferation, coupled with peaceful uses of nuclear energy. That sense of shared partnership and ownership has been gradually fraying.

The reality is that figures drip fed by some nuclear-weapon States, when it suits them, are not going to have the same credibility and acceptance by non-nuclear-weapon States as information transparently provided by all nuclear-weapon States under a mechanism or structure established in partnership between the nuclear-weapon States and the non-nuclear-weapon States. One wonders why the nuclear-weapon States – at least those already providing information – would not want to establish such a mechanism? What strategic assessment has gone into the decision to reject any such possibility out of hand? After all, a structured information mechanism would help states make an objective assessment of compliance with article 6 obligations, from common baselines and benchmarks should get nuclear-weapon States some of the credit they not unreasonably expect for what they have done. It would help reduce some of the corrosiveness of the NPT from the strong perception by some non-nuclear-weapon States that Article 6 obligations are not being complied with, and that this is increasingly a treaty of lopsided outcomes.

I fear that the answer lies in a presumption, on the part of at least some nuclear-weapon States, that these are their nuclear weapons, and are no one else's business, and they'll not be required to provide information about them or be told what to do with them. This may sound crude, but that's basically what we were told by some nuclear-weapon States colleagues when New Zealand led on the initiative on reducing the alert status of nuclear weapons in the First Committee last year.

Here again, we can identify an absence of consensus between nuclear-weapon States and non-nuclear-weapon States, which impacts on the NPT.

The fact is that most non-nuclear-weapon States do consider that they have a legitimate interest in the salience, numbers and operational status of nuclear weapons, notwithstanding that those weapons are the property of and in the possession of other States. We all clearly share a practical security interest in these matters, given the potentially catastrophic consequences for all humankind of the use of these weapons. We don't believe that the owner of a nuclear-weapon has the exclusive right to know that it is safe and secure (and won't be used).

The fact is that this is our business, and the disarmament bargain in the NPT specifically makes it our business. Just as the nuclear-weapon States keep seeking correctly to invoke the partnership with non-nuclear-weapon States in dealing with horizontal non-proliferation, we need to approach nuclear disarmament with a greater sense of partnership between nuclear-weapon States and non-nuclear-weapon States.

Further commitment by the nuclear-weapon States to reduce the alert status of nuclear weapons would be a valuable consensus outcome from the 2010 Review Conference. In our view, its time has come, particularly with new START negotiations underway between the United States and Russia. It was, after all, one of the (so far unimplemented) consensus outcomes of the 2000 review conference, the 13 steps, which takes us full circle back to the ambiguous status of review conference outcomes, and the level of commitment to them...

I cannot overemphasise that it is essential for us to strengthen the sense of ownership of the NPT, particularly by non-nuclear-weapon States. On the one hand, this requires the nuclear-weapon States to more clearly demonstrate their commitment to their article 6 obligations – to their part of the deal - and I have referred to ways in which they could do this. On the other hand, it requires a reality check by non-nuclear-weapon States as well. Too often non-nuclear-weapon States say that they are getting nothing out the NPT, because of what they consider the lop-sided nature of the obligations, the slow rate of progress on nuclear disarmament, and the over focus of some nuclear-weapon States on the non-proliferation obligations.

The fact is, however, that all States, both nuclear-weapon States and non-nuclear-weapon States, benefit from the non-proliferation obligations of the NPT and have the same shared interest in ensuring their effective implementation. The non-proliferation obligations are not something entered into between the nuclear-weapon States on the one hand and the non-nuclear-weapon States on the other, but are between all parties to the NPT vis à vis each other. We all benefit from the stability that nuclear non proliferation brings, and we all have an enduring interest in ensuring that all non-nuclear-weapon States firmly adhere to their non-proliferation obligations. Too often non proliferation is viewed as an issue between nuclear-weapon States and non-nuclear-weapon States, and we need to move away from woolly and shallow thinking of this sort.

But undoubtedly the NPT would be strengthened if there were other, clear, benefits for non-nuclear-weapon States from their membership as well. This is particularly so at a time when the NPT faces a range of challenges. What might these other benefits of NPT membership be? Well, to think expansively, we could perhaps negotiate an overarching Negative Security Assurance under the umbrella of the NPT. Or we could work to move forward the Middle East decision that was such an integral part of the 1995 indefinite extension for many countries. We could even look at implementing the various outcomes from the 2000 Review Conference. After all, they too were Review Conference outcomes that were adopted by consensus.