

WebMemo



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The Misleading Messages from the Nonproliferation Treaty Review Conference

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On May 28, the Nonproliferation Treaty (NPT) Review Conference at the United Nations concluded with the adoption of a Final Document that ostensibly reaffirms the importance of the NPT.

Unfortunately, the Final Document is unfocused and actually undermines the NPT—thereby weakening the broader nuclear nonproliferation regime.

Obvious Shortcomings. The reason for the Final Documents shortcomings is clear: It allows its readers to conclude that the NPT rests on three equally important conceptual “pillars.” These pillars are:

1. The nuclear nonproliferation obligations of the participating states that are designed to prevent the spread of nuclear weapons;
2. The right to nuclear energy for peaceful purposes; and
3. Worldwide nuclear disarmament.

Despite the assertions of the Final Document, the NPT is designed, first and foremost, to prevent the spread of nuclear weapons. The other two elements of the treaty are not really pillars at all; they are subordinate clauses under the central purpose of nuclear nonproliferation—a fact lost on the drafters of the Final Document.

Given the broad international participation in the review conference, there is a temptation to regard the Final Document’s equal treatment of the nonproliferation, nuclear energy, and nuclear disarmament elements of the NPT as unimportant. In fact, the language pointing to the three pillars as essential and equal components of the nonprolifer-

ation bargain reflected in the NPT is not just misleading—it poses a danger to the security of those nations, including the U.S.

How the Final Document Exacerbates Nuclear Dangers. Giving equal weight to the NPT’s three conceptual “pillars”—nuclear energy, nuclear disarmament, and nonproliferation—will exacerbate the security risks stemming from the proliferation of nuclear weapons. Specifically:

- Peaceful nuclear technology sharing arrangements and technical assistance programs will more easily be diverted to weapons purposes; and
- The U.S. will take difficult-to-reverse steps toward nuclear disarmament based on nothing more than the hope that nuclear proliferation will be globally embraced.

If the right to nuclear technology for non-weapons states under the NPT is no longer seen as a qualified right but an inherent right of all states, the risk of the diversion of the technology to weapons purposes will increase significantly. The NPT gives the non-weapons states the right to obtain nuclear energy for peaceful purposes. This right, however, is necessarily subordinated to the object and purpose of the NPT: preventing the spread of nuclear weap-

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ons. If the meaning of the NPT, however, is twisted to recognize an inherent right to nuclear energy, then a non-weapons state would continue to gain access to nuclear technology—technology capable of sustaining and even accelerating a nuclear weapons program.

The Final Document, at a minimum, distorts the meaning of the NPT in precisely this fashion. It will also certainly provide countries like Iran an avenue for arguing that they deserve to obtain nuclear technology regardless of evidence that they are seeking nuclear weapons through their “peaceful” nuclear program.

The goal of worldwide nuclear disarmament is an aspiration expressed in Article VI of the NPT. The Final Document of the review conference, however, implies that nuclear disarmament is as central a purpose to the NPT as nonproliferation. Further, the Final Document implies that the two purposes should be pursued concurrently.

The danger stemming from this approach is that it leaves it unclear what disarmament steps the U.S. and the other *de jure* nuclear weapons states under the NPT must take where the nonproliferation goals of the treaty remain unmet. The U.S., for example, could wind up taking steps toward nuclear disarmament that are difficult to reverse while others states are actually increasing their arsenals. Under President Obama’s nuclear disarmament policy, the U.S. will take ever more determined steps toward nuclear disarmament in response to negative trends in proliferation because of the perception that the U.S. must “lead by example” in order to reverse these trends. The Final Document of the review conference feeds this misguided perception. Ultimately, this is a policy that asserts that the U.S. must respond to each negative development in nuclear proliferation with a step toward disarmament.

What the Final Document Should Have Stated.

The weaknesses in the Final Document could have been avoided through the strict interpretation of its provisions. Further, such a strict interpretation is confirmed by the historical context surrounding the negotiation and ratification of the treaty. Under this interpretation, the object of the NPT is to prevent the spread of nuclear weapons. Other provisions of

the treaty should be interpreted as subordinate to this purpose.

Accordingly, the Final Document should have made it clear that only nations that are fulfilling their obligations not to seek a weapons capability have a right to nuclear energy for peaceful purposes. If the Final Document had made this statement, it would have clarified that the right of non-weapons states to nuclear energy is a qualified and limited right. Such clarification would also have preserved broader discretion to supplier states and the International Atomic Energy Agency to withhold access to nuclear technology and assistance to some states under appropriate circumstances.

Regarding nuclear disarmament, the Final Document should have spelled out a sequential approach to the pursuit of nonproliferation and nuclear disarmament goals. Specifically, it should have stated that nuclear disarmament necessarily follows the fulfillment of the treaty’s central purpose: nonproliferation. This means that significant steps toward nuclear disarmament will proceed only after the realization of this central goal, which is a world where only the five *de jure* nuclear weapons states have nuclear arms.

Steps for Congress. Congress can and should adopt a sense of Congress resolution that identifies the two core weaknesses of the Final Document. The resolution should go on to express Congress’s disappointment that the Obama Administration did not fight to include language in the Final Document stating that:

- The right to nuclear energy under the NPT is a limited and qualified right; and
- Substantive steps toward nuclear disarmament will be undertaken by the U.S. only after the nonproliferation goal of the NPT has been achieved.

The resolution should conclude by urging the U.S. to insist on the inclusion of these statements in the Final Document that is all but certain to be under consideration at the next NPT review conference.

A Vital Tool. The NPT can and should remain a vital tool for protecting the U.S. and its allies against the spread of nuclear weapons. Indeed, a proliferated world would be a much more dangerous world

for the U.S. and its allies. This is why it is so discouraging to see the results of this review conference. The Final Document is a clear attempt to twist the meaning of the treaty so that it is easier to turn it against the U.S. and its security interests.

Unfortunately, the Obama Administration has acquiesced to these attempts at the review conference. The next review conference will not take place

until five years from now, but it is already clear that a successful outcome then will depend on undoing the damage that was done at this conference.

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