PREPARATORY COMMITTEE FOR THE 2005 REVIEW CONFERENCE OF
THE PARTIES TO THE TREATY ON THE NON-PROLIFERATION OF
NUCLEAR WEAPONS

PLENARY SESSION: NUCLEAR DISARMSMAMET
THE ROLE OF REPORTING

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Reporting is a common feature of multilateral treaties and forums including the Security Council. In environment, health, human rights, labour and trade forums, it is a common practice for States to fulfill reporting obligations in order to demonstrate compliance with a treaty’s objectives. Essentially, reporting is a compliance measure per se. Whether as a result of legally binding or political obligations, disarmament and non-proliferation treaties have benefited from reporting.

In terms of building confidence and trust, there is arguably no other forum more in need of comprehensive reporting than the Nuclear Non-proliferation Treaty (NPT). In the current security environment there are grave concerns about the increase in proliferation and repeated calls for more meaningful action towards nuclear disarmament. Reporting offers a valuable means for building confidence and trust to help assuage these concerns and reduce tensions.

At the 1995 Review Conference, the NPT was extended in return for the Nuclear Weapon States (NWS) making a greater commitment to accountability – “permanence with accountability” – and, by all States parties, to work towards a strengthened review process.

The 2000 Review Conference gave some expression to the call for increased accountability through the provision of a requirement to report on Article VI by all States parties. Inter alia, the Conference agreed on the need for:

“Regular reports, within the framework of the NPT strengthened review process, by all States parties on the implementation of Article VI and paragraph 4(c) of the 1995 Decision on “Principles and Objectives for Nuclear Non-proliferation and Disarmament”, and recalling the Advisory Opinion of the International Court of Justice of 8 July 1996” (Step 12)

The obligation to report arose in the context of more urgent calls for the NWS to fulfill their side of the bargain, which lies at the heart of the NPT, and to make meaningful progress towards nuclear disarmament. Step 12 was one of the 12 practical steps towards the “systematic and progressive efforts to implement Article VI and paragraphs 3 and 4(c) of the 1995 Decision on “Principles and Objectives for Nuclear Non-proliferation and Disarmament”. Paragraph 4(c) of the 1995 Decision emphasized the importance of the full realization and effective implementation of Article VI of the “reduction of

1 Examples of disarmament treaties and forums with politically binding commitments to reporting are the Programme of Action to Prevent, Combat and Eradicate the illicit Trade in Small Arms and Light Weapons in All its Aspects, where at last year’s United Nations General Conference on the Programme of Action 100 States submitted reports and the confidence-building measures within the Biological Weapons Convention.
nuclear weapons globally, with the ultimate goal of eliminating those weapons. The advisory opinion of the International Court of Justice found that in regard to Article VI: "The legal import of the obligation goes beyond that of a mere obligation to conduct; the obligation involved here is to an obligation to achieve a precise result – nuclear disarmament in all its aspects – by adopting a particular course of conduct, namely the pursuit of negotiations in good faith."

Bearing in mind the words of the second paragraph to the preamble of the NPT which implore States to consider the “devastation that would be visited upon all mankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples”, it follows that all States parties have a stake in nuclear disarmament. Therefore it is appropriate that not only NWS report on their Article VI obligations, but also that the non-nuclear weapon States report on how they are supporting nuclear disarmament and the Treaty as a whole.

Preparatory process in the lead-up to the 2005 Review Conference. Progress on reporting

Throughout the current preparatory process, the importance of transparency and accountability by the NWS in regard to their Article VI obligations has continued to be emphasised during the discussions on nuclear disarmament and the Strengthened Review Process.

Canada has presented three working papers2 on reporting, which have emphasised the contribution that reporting can make to the bargain at the 1995 Review Conference for “permanence with accountability” and full implementation of the Treaty. Canada has also carried out invaluable work in encouraging all States parties to report. Other States parties have stressed the importance of reporting during the current review process.

The New Agenda Coalition in working paper NPT/CONF.2005/PC(11)/NP.19 stated: "Reports on Article VI should cover issues and principles addressed by the 13 Steps and include specific and complete information on each of these Steps (inter alia, the number and specifications of warheads and delivery systems in service, and number and specifications of reductions; de-alerting measures; existing holdings of fissile materials as well as reduction and control of such materials; achievements in the areas of..."

2 Canada’s working papers were contained in documents NPT/CONF.2005/PC(III)/WP.2, NPT/CONF.2005/PC(11)/WP.2 and NPT/CONF.2005/PC(11)/WP.3.
3 For example Belgium, Netherlands and Norway in working paper NPT/CONF.2005/PC(11)/WP.17, urged the NWS to “commit themselves to provide periodically the aggregated number of warheads delivery systems and stocks of fissile material for explosive purposes in their possession. The nuclear weapon States should provide this information in the form of regular reports under step 12 (Article VI, paragraph 15 of the 2000 Final Document)."
irreversibility, transparency and verifiability). The reports should address current policies and intentions, as well as developments in these areas."

Both Chairs' factual summaries in 2002 and 2003 reflected the increased calls by States parties for the NWS to increase their transparency and accountability in regard to Article VI. Ambassador Henrik Salander, Chair of the 2002 Preparatory Committee, in his summary stated: "The importance of increased transparency with regard to the nuclear weapons capabilities and the implementation of agreements pursuant to Article VI and as a voluntary confidence-building measure to support further progress on nuclear disarmament was stressed."

In 2002, the main point of contention had been on the frequency and modalities of reporting, as indicated in Ambassador Salander’s summary, where it said: "Some States parties suggested that such reports should be submitted, particularly by the nuclear weapons States, at each session of the Preparatory Committee, and should include detailed and comprehensible information, e.g. in a standardized format", in contrast to other States parties that "advocated that the specifics of reporting, the format and frequency of reports, should be left to the determination of individual States parties."

Ambassador Molnár, Chair of the second Preparatory Committee in 2003, in his summary reflected the ongoing call for the NWS to "increase transparency and accountability with regard to their nuclear weapon arsenals and their implementation of disarmament measures." States parties also recognised that "transparency provides valuable means to address and respond to compliance concerns."

Reports have contributed to the Strengthened Review Process by not only increasing transparency and accountability, but also by increasing the dialogue between States parties as picked up in Ambassador Molnár’s summary. "States parties recognised the value of reports and used them in substantive deliberation, in line with their wish for enhanced interaction."

States parties at the 1995 Review Conference agreed that the ‘Review Conferences should look forward as well as back’. In looking back on the 2002 and 2003 preparatory committees, there has been an increase in the number of reports submitted by the non-nuclear weapons States. While the NWS have not submitted reports, some have presented detailed statements and information papers. The more comprehensively the NWS report on their compliance with their disarmament and non-proliferation obligations the more they have the right to expect of reports on Treaty compliance by non-nuclear weapons States. The opportunity and the reassurance that would be provided within a process of overview of reports needs to be harnessed by all States parties. Mexico and New Zealand have already tabled their own reports.
In looking forward and taking into account the serious threats that the NPT is currently faced with, it will be important that both NWS and non-nuclear weapon States demonstrate respect for all of the obligations under the NPT regime. One such way of demonstrating respect for the NPT is for all States parties to fulfill the obligation to report on Article VI.

Given the significant background to the issue of reporting and obligation on the NWS to demonstrate that they are fulfilling their obligation under Article VI to “pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament”, it is appropriate that there should be a recommendation on reporting, thereby operationalising Step 12 under Article VI of the Final Document agreed to in 2000. In this regard the New Agenda’s recommendation on reporting as set out in document NPT/CONF.2005/PC.II/11 stresses the importance of reporting to promote confidence, and the need for reports to include policies, intentions and developments that effect the 13 Steps.