It’s time to draw conclusions

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Introduction

Five years after the adoption of the NPT Action Plan in 2010, Reaching Critical Will’s final monitoring report provides a straightforward review and assessment of the Plan’s implementation. As has been clear with each edition of this report, compliance with commitments related to nuclear disarmament lags far behind those related to non-proliferation or the peaceful uses of nuclear energy. Of the 22 actions related to disarmament, only five have seen definite progress (as compared to 12 of 23 non-proliferation commitments and 11 of 18 related to nuclear energy).

Yet during the same five years, new evidence and international discussions have emphasized the catastrophic consequences of the use of nuclear weapons and the unacceptable risks of such use, either by design or accident. Thus the NPT’s full implementation is as urgent as ever, but 70 years after the use of nuclear weapons in Hiroshima and Nagasaki and 45 years after the NPT’s entry into force, the promise of disarmament remains unfulfilled.

Ahead of the 2015 Review Conference, the NPT nuclear-armed states and some of their nuclear-dependent allies have argued that the Action Plan is a long-term roadmap and that it is should be “rolled over” for at least another review cycle. This is an extremely retrogressive approach to what should be an opportunity for bold action to achieve the goals and objectives of an important international instrument. Those countries that possess or rely on nuclear weapons, as much as any other country, espouse the importance of the NPT for preventing proliferation and enhancing security. Yet these same countries, more than any other states parties, do the most to undermine the Treaty by preventing, avoiding, or delaying concrete actions necessary for disarmament.

Action 1 of the 2010 plan commits all states parties to “pursue policies that are fully compatible with the Treaty and the objective of achieving a world without nuclear weapons.” The majority of non-nuclear-armed states have done so by continuing to contribute to non-proliferation efforts and to exclude nuclear weapons from their security policies. They have also contributed constructively to the conference on the humanitarian impact of nuclear weapons, the open-ended working group and high-level meeting on nuclear disarmament, and other international discussions and initiatives aimed at fulfilling article VI and achieving disarmament. Thus the countries that do not possess or rely on nuclear weapons have done their part to pursue and promote policies consistent with the Treaty and with nuclear disarmament.

It is past time that the NPT nuclear-armed states and their nuclear-dependent allies fulfill their responsibilities, commitments, and obligations— or risk undermine the very treaty regime they claim to want to protect. Their failure to implement their commitments presents dim prospects for the future of the NPT. The apparent expectation that this non-compliance can continue in perpetuity, allowing not only for continued possession but also modernization and deployment of nuclear weapon systems, is misguided. The 2015 Review Conference will provide an opportunity for other governments to confront and challenge this behaviour and to demand concerted and immediate action, in one form or another.

Methodology

Our final installment of the NPT Action Plan Monitoring Report covers the 64-point Action Plan and relevant items from the broader outcome document adopted in May 2010. In addition to...
actions for nuclear disarmament, nuclear non-proliferation, and the peaceful uses of nuclear energy, the report covers initiatives related to the Middle East weapons of destruction free zone, and humanitarian consequences of nuclear weapons. It covers activities from May 2010 to February 2015.

This report, as each of the editions before it, aims to provide factual and clear information on the status of the implementation of the 2010 NPT Review Conference outcome document. The research has been carried out through review of open source information. It is not a full technical investigation of all related facts, but is an attempt to provide an overview of states’ compliance with the Action Plan and to capture the most significant developments since May 2010.

The research has been carried out within the limits of available resources, such as time, publicly available information, and limited responses from states to our requests for information. It is important to note that the Action Plan is a political document and the language is a carefully crafted compromise. Because the Plan includes deliberately vague commitments such as "encourage," "facilitate," and "continue efforts," it has been difficult to measure and quantify progress. In addition, the discrepancies in interpretation of the NPT remain unresolved in this action plan, opening it up for significant differences of opinion on what the actions specifically require. It has been beyond the scope of this project to make a legal analysis of such interpretations, which left us to focus on facts and general trends in order to make our assessment.

One of the biggest challenges we’ve faced in monitoring implementation of the Action Plan is both the lack of clear benchmarks against which to measure progress and the absence of any formal institutional mechanism to carry out the monitoring and to report back to the next NPT Review Conference in an organized way.

In order to assess implementation, we have used a system of “traffic lights” signalling red, yellow, and green. The red traffic light indicates that to date, no concrete progress has been made in implementing the action. The yellow light indicates that while some efforts have been detected, additional progress needs to be made in order to fully implement the action. The green light shows that states are making progress and are currently implementing the action.

Action summaries

Nuclear disarmament

This report gives eleven red lights (no progress); six yellow lights (limited progress); and only five green lights (forward movement) on the 22 disarmament-related actions.

The five NPT nuclear-armed states have not met their limited commitments, which did not even require direct action to fulfil article VI’s obligation of multilateral negotiations to end the nuclear arms race and eliminate nuclear weapons and delivery systems. These states would not agree to any concrete or time-bound measures in 2010 that would have necessitated such negotiations. However, they did commit to “engaging” on matters of global stockpile reduction; tactical nuclear weapons and nuclear “sharing”; diminishing the role of nuclear weapons in security policies; preventing nuclear weapons use and eliminating nuclear weapons; reducing operational status of nuclear weapons; reducing the risk of accidental use; and increasing transparency and mutual confidence. While the five NPT nuclear-armed states have met with each other on a number of occasions since the 2010 Review Conference, it is clear from the reports on their discussions, statements these countries have made at NPT and First Committee meetings, and their “official” reports to the 2014 NPT Preparatory Committee, that they have had only limited discussions on elements of transparency and have focused on developing a glossary of nuclear terms—something that was not even included in the Action Plan.

Non-nuclear-armed states, on the other hand, have initiated and led new meetings and processes related to nuclear disarmament, such as the conferences on the humanitarian impact of nuclear weapons, the open-ended working group on nuclear disarmament, and the high-level meeting on nuclear disarmament. These are all very welcome developments, and can contribute to fulfilling the obligations of article VI and the 2010 NPT Action Plan. Unfortunately, the NPT nuclear-armed state have been extremely reluctant to participate in any new initiatives, calling them “distracting” and undermining of existing efforts. This is not only incorrect, but also disingenuous, since their own efforts to implement the Action Plan or fulfill the decades-old agenda of the so-called “step by step” approach have been so lackluster.

It is positive that the global stockpile of nuclear warheads continues to decrease, although the majority of reductions have been achieved through dismantlement of non-operational warheads or warheads in storage. Ongoing reductions by the United States and Russia under the New Strategic Arms Reduction Treaty are welcome, but are overshadowed by increasing investments in maintenance and modernization of each country’s arsenal. Indeed, all of the NPT nuclear-armed states are planning for or undertaking modernization programmes for their nuclear weapon systems, extending the lives of these systems for perpetuity.1

Meanwhile, tensions between these Russia and the United States, due to the conflict in Ukraine, the enlargement of NATO, missile defence, and ongoing deployment of tactical nuclear weapons, have so far prevented the negotiation of any further bilateral reductions. While reductions have occurred in some of the other nuclear-armed states, they have not been transparent or verifiable, and each continues to include nuclear weapons in their national and sometimes allied security doctrines. In some cases, as with the UK, rhetoric on the validity and utility of nuclear weapon possession has become increasingly alarming and potentially damaging to the non-proliferation regime.2
Nuclear non-proliferation

Although 23 items (actions 23 to 46) deal with nuclear non-proliferation, they are neither particularly strong nor very concrete. They mainly ask states to “stay the course”. As a result, implementation of three actions (those relating to the universalization and export controls) are red, nine are yellow, and twelve are green. Based on this assessment, there has been more success in implementing the actions in the area of non-proliferation than disarmament.

A positive development since the adoption of the 2010 Action Plan has been the negotiations between Iran and the E3/EU+3, which led to the agreement of a Joint Plan of Action. The parties are currently engaged in negotiations to reach a comprehensive agreement; while there have been some postponements of deadlines, those involved still seem to remain committed to the process.

With the very dramatic exception of the Democratic People’s Republic of Korea’s nuclear explosive test in 2013, the non-proliferation aspects of the NPT have been largely respected by the vast majority of NPT states parties. The most concerning developments are those related to earlier decisions to exempt export control waivers to some non-state parties. This has led to nuclear agreements between states parties and non-state parties that violate the letter and spirit of the Treaty and undermine the pursuit of its universalization.

Nuclear energy

The third part of the action plan consists of 18 action items related to non-weaponized nuclear technology, each with varying grades of quantifiable elements.

The most serious development since the adoption of the action plan has been the Fukushima nuclear disaster, which put the issue of nuclear safety at the centre of this section of the action plan. The number of initiatives around the safety of nuclear energy is growing, but still some key challenges remain. While acknowledging the crucial role of international institutions and mechanisms to ensure safety, some states parties have been wary about allowing them a greater role. These states have emphasized the responsibility and role of national agencies to ensure nuclear safety. For example, applying in a more constraining way the principle of peer reviews is opposed by several states, which emphasize the responsibility and role of national agencies to ensure nuclear safety.

According to the research in this report, while the “right” to develop nuclear energy for peaceful purposes and to have the ability to participate in nuclear technology exchange programmes has been well established and reinforced, its implementation among NPT states parties remains uneven. In addition, the issue of safeguards, safety, and security have become critical elements in the peaceful use of nuclear energy. The Action Plan items related to this pillar have achieved the most progress with one red light, six yellow lights, and 11 green lights.

Middle East weapons of mass destruction free zone

One of the most significant challenges to the NPT is the continued failure to implement the 1995 resolution on the Middle East and to uphold the decision from 2010 to convene a conference in 2012 on a weapons of mass destruction (WMD) free zone in the region. In December 2012 it became clear that the conference set for 2012 would be “postponed” and no new date was set.

“We cannot continue to attend meetings and agree on outcomes that do not get implemented, yet to be expected to abide by the concessions we gave for this outcome,” said the Egyptian delegation before it walked out of the 2013 NPT Preparatory Committee. This was the first walkout in the NPT’s history. While the facilitator appointed to organize the conference has convened several informal meetings amongst states of the region and the NPT depository states, a date for the conference has still not yet been set – indicating that this important achievement of the 2010 Review Conference will not be met by April/May 2015. The inability to hold a meeting on this topic could reduce the confidence of many Middle Eastern states that remaining in the NPT is in their interests. It has facilitated a sense of mistrust and frustration that will only continue to escalate if progress is not made on this issue.

Humanitarian impact of nuclear weapons

Yet while progress on disarmament and the Middle East zone remains elusive, effective work to change the landscape surrounding nuclear weapons is ongoing.

The discourse around nuclear weapons is changing. Even in the NPT context, nuclear weapons are now being viewed and described as dangerous and unacceptable weapons. The 2010 NPT Review Conference expressed “deep concern at the catastrophic humanitarian consequences of any use of nuclear weapons.” Since then, these consequences have increasingly become a focal point for discussion and proposed action.

In March 2013, the government of Norway hosted a conference on the humanitarian impact of nuclear weapons. Mexico hosted a follow-up meeting in February 2014, and the Austrian government hosted a third in December 2014. The three conferences held on this topic have increased our collective understanding about what nuclear weapons are and what the impact would be if they were ever used again – either by intent or by accident. The evidence presented by UN agencies, academics, former military officials, and civil society organizations has clearly revealed that the continued possession and deployment of nuclear weapons is a reckless and unsanctionable gamble with the future of humanity and the planet.

In addition to these conferences, governments are also increasingly raising the issue of humanitarian impacts in traditional forums dealing with nuclear weapons. 16 governments delivered a joint statement at the 2012 NPT Preparatory Committee highlighting the catastrophic humanitarian consequences of nuclear weapons and calling on
all states to intensify their efforts to outlaw and eliminate these weapons. 35 governments echoed this call at the 2012 General Assembly First Committee session, while 80 countries at the 2013 NPT Preparatory Committee expressed dismay with the “unacceptable harm caused by the immense, uncontrollable destructive capability and indiscriminate nature of these weapons.” At the 2013 First Committee session, the statement had reached 125 signatures, and 155 in 2014.

Rather than being divisive, as argued by some nuclear-armed states, the humanitarian initiative has provided the basis for a new momentum on nuclear disarmament. It has involved new types of actors, such as the Red Cross and Red Crescent Movement, the United Nations Office for Coordination of Humanitarian Affairs, the United Nations Development Programme, and a new generation of civil society campaigners. The discussion around the humanitarian impact of nuclear weapons has grown into the most positive development around nuclear weapons in many years, and should be fully supported by all states parties to the NPT.

It has also resulted in the Austrian Pledge, which commits its government (and any countries that wish to associate themselves with the Pledge) to “fill the legal gap for the prohibition and elimination of nuclear weapons.” As of February 2015, 40 states have endorsed the Pledge. These states are committed to change. They believe that existing international law is inadequate for achieving nuclear disarmament and that a process of change that involves stigmatizing, prohibiting, and eliminating nuclear weapons is necessary.

Conclusion

This is the end of a review cycle; it is time for conclusions to be drawn. The 2010 NPT Action Plan cannot be considered adequately implemented by the 2015 Review Conference. States parties will have not only undertake a serious assessment of the last five years but will have to determine what actions are necessary to ensure continued survival of the NPT and to achieve all of its goals and objectives, including those on stopping the nuclear arms race, ceasing the manufacture of nuclear weapons, preventing the use of nuclear weapons, and eliminating existing arsenals.

Negotiating a treaty banning nuclear weapons could be instrumental in this regard. A ban on nuclear weapons could address these principles by providing a clear legal rejection of nuclear weapons, in line with the article VI obligations for ending the nuclear arms race and achieving nuclear disarmament. This approach would stigmatize the continued possession of nuclear weapons, creating normative and practical incentives for deeper and faster reductions and the elimination of nuclear weapons, as well as reduce the risk of proliferation and of use.

States concerned with taking such concerted action need to ask themselves how many more times we can sit through sessions of the Conference on Disarmament, Disarmament Commission, First Committee, and the NPT without results. Several initiatives since the 2010 Review Conference have advanced the ongoing international discussion about nuclear weapons and disarmament. States and other actors must now be willing to act to achieve disarmament, by developing a legally-binding instrument to prohibit and eliminate nuclear weapons. This year, the year of the 70th anniversary of the US atomic bombings of Hiroshima and Nagasaki, is a good place to start.
References:

2. See for example: United Kingdom Statement to the UNGA First Committee, delivered on 20 October 2014 or Statement of the United Kingdom to the Conference on Disarmament, delivered on 28 January 2015.
3. Statement at the 2013 NPT PrepCom, delivered by Egypt on 29 April 2013.
5. Joint Statement on the humanitarian dimension of nuclear disarmament to the 2013 NPT Preparatory Committee, delivered by South Africa on behalf of 80 states on 24 April 2013.