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**Directors report of a Programme for Promoting
Nuclear Non-Proliferation (PPNN) International
Briefing Seminar for Senior Diplomats**

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Summarizes agenda and issues for upcoming Briefing Seminar for Senior diplomats organized by the PPNN.

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PROGRAMME FOR PROMOTING NUCLEAR NON-PROLIFERATION (PPNN)**ISSUES AT THE 1995 NPT CONFERENCE**

**A PPNN International Briefing Seminar for Senior Diplomats
Arden House Conference Centre of Colombia University,
Harriman, New York State
March, 10-12, 1995**

PROGRAMME DIRECTOR'S REPORT**INTRODUCTION**

1. From 17 April to 12 May 1995 a Conference will be held in New York both to review the implementation of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) and to decide on its further duration. PPNN has been organising a series of seminars to brief government officials on issues related to this NPT Conference. The Seminar at the Arden House Conference Centre of Colombia University was the third in this series of international meetings. Details of those who attended, the working groups and the papers presented are contained in a separate General Report on the Seminar.
2. This Report is intended to give a general reflection of issues addressed in the working groups and plenary discussions at the Seminar. It does not claim to be a full summary of those issues or of the opinions expressed about them; rather, it is intended to highlight, for the purposes of further analysis and discussion, some of the issues raised; the main problems for 1995 that emerged from them; and some of the solutions to resolve these issues. *It should be noted that this is not a report adopted by the Seminar participants: it is merely intended as an aide memoir for their private use. Above all, it exclusively represents the views of PPNN's Programme Director, John Simpson, who bears full responsibility for its contents.*
3. One significant issue that may not emerge fully from this report is the common interest of the States parties in keeping the Treaty in existence for the foreseeable future. Both nuclear-weapon and non-nuclear-weapon states have mutual interests in ensuring that no additional states acquire nuclear weapons; providing the means to make sure that this is so; and sustaining an agreed framework within which international nuclear commerce can take place. The existence of these common interests is often obscured by arguments that one or other group of states is more dependent upon the benefits from the Treaty than another, and thus should make more concessions to sustain it.

4. The central issue in 1995 will not be whether the Treaty is worthy of extension: almost all parties accept that it has to be extended unless and until a Treaty on the total elimination of nuclear weapons with similar membership can be negotiated to replace it. Rather, it is the need to strike an acceptable balance between the long-term stability and security offered by an indefinite or prolonged extension of the Treaty and two other concerns:

- i. the desire of a significant majority of the parties to maximise their leverage over the nuclear-weapon states and their close allies for the purposes of achieving total nuclear disarmament, enhanced security assurances and assistance in developing peaceful nuclear programmes; and
- ii. the belief articulated by many parties that to accept an indefinite extension of the NPT logically implies acquiescence to the permanent possession of nuclear weapons by the five nuclear-weapon states, given the lack of a mandatory commitment to nuclear disarmament in the current Treaty.

5. In the course of the Seminar many substantive and procedural issues were addressed. These are listed below in no particular order of significance.

SUBSTANTIVE ISSUES

i. Regional Concerns

6. The demands by Arab states and others that Israel accede to the NPT, and thus move the Treaty towards universalisation, is potentially one of the most significant substantive issues that will be addressed by the Conference. Israel has not been prepared to discuss its nuclear programme in the Arms Control and Regional Security (ACRS) Working Group which forms part of the Peace Process. As a consequence, an Egyptian-Israeli bilateral exchange was initiated in August 1994 centred around Egyptian demands that Israel commit itself to negotiate a NWFZ in the Middle-East; that it rapidly accedes to the NPT; agrees to mutual inspection of its nuclear facilities; and joins a CTBT and a Fissile Material Cut-Off agreement. Although some Arab states have already told the US they are committed to indefinite extension of the NPT, the Arab League will meet on 22-23 March 1995 to attempt to agree a unified position on the duration of the Treaty and the accession of Israel to it. The minimum actions by Israel that would allow the Arab states to support a long extension of the Treaty appear to be a commitment to join the NPT by a

specific date and agreement on inspecting the unsafeguarded Israeli nuclear facilities at Dimona. An agreement among the P5 on new security assurances, including positive ones, is unlikely to affect this situation.

7. Another significant regional issue is likely to be the situation on the Korean Peninsula. Differing views exist over the utility and value of the US/DPRK agreed framework, which appears to have averted a potential major conflict in the region, and over the potential impact of any withdrawal of the DPRK from the NPT. Some implementation of the DPRK/US agreed framework has occurred, but there are indications that the DPRK might cease to conform to this framework when the six month target set for signing the contract for the DPRK's new light-water reactors is reached on 21 April 1995. This contract is unlikely to be signed at that point as the DPRK is refusing to accept their supply from the Republic of Korea, the only possible vendor. In addition, the special status the DPRK claims in relation to the NPT and the associated IAEA INFCIRC/153 safeguards agreement is not recognised by the IAEA, from which the DPRK has withdrawn.

ii. Disarmament and Article VI of the NPT

8. The current era is one where de facto nuclear disarmament is taking place but multilateral negotiations and agreements are lagging behind the national policies of the majority of the nuclear-weapon states. Most of them have implemented moratoriums on testing and fissile material production, while the nuclear arms race, if it is defined as the nuclear competition between the US and the USSR, has ceased to exist. Another significant development has been the removal of nuclear weapons from many states which previously had them on their territory, and from the high seas. At the same time, an evolution in thinking is required to deal with the changing strategic environment, and although this has started, few overt results are currently visible. Integrated policies to achieve both disarmament and non-proliferation of nuclear weapons and capabilities are one possible result from this process.

9. A CTBT has traditionally been seen as the key indicator of the willingness of the nuclear-weapon states to fulfil their commitments under article VI of the NPT. It was the priority item on the disarmament agenda when the Treaty was negotiated in 1968, and this has been reaffirmed at subsequent NPT Review Conferences. Commitments exist to complete the CTBT negotiations by the end of 1996. However, the new strategic environment means that some states might now have different priorities in relation to the NPT review process. For example, some Middle East states might regard universalisation of the Treaty as having precedence

over the CTBT.

10. A major point of contention at the NPT Conference seems likely to be the conflict between the demands from some states for acceptance of a specific time frame within which formal disarmament agreements will be negotiated, together with an end-date for the process, and the reluctance of the nuclear-weapon states to accept such mechanistic constraints and commitments. At a minimum, all the nuclear-weapon states will be expected to reaffirm their commitment to nuclear disarmament as an objective of policy "at an early date", while the three smaller nuclear-weapon states may be asked to indicate their willingness to participate in future arms reduction negotiations.

iii. The UN Security Council and Compliance Issues

11. An emerging issue of great significance is that of monitoring and enforcing observation of NPT commitments, particularly in situations where the compliance situation is ambiguous. A proposal has been made for the UN Security Council to appoint a rapporteur to monitor the nuclear proliferation situation and the functioning of the nuclear non-proliferation regime on a non-crisis basis. This would allow governments to institutionalise international efforts to prevent proliferation. Some oppose this proposal on the basis that this is a matter for NPT parties, not the UN Security Council, and it would be a bad precedent for the parties to relinquish their rights in this matter to the Security Council, and especially to its five permanent members. In addition, the IAEA has an interest in this matter as it has indicated a willingness to take on such tasks.

iv. Security Assurances

12. Strengthened Security Assurances have been demanded to reinforce the non-proliferation regime, as there appeared to be few, if any, circumstances in which nuclear weapons might be used in the new strategic environment, and thus no obvious reason why the de facto situation should not be formalised. Unfortunately, the problems caused by threats from other weapons of mass destruction, such as chemical and biological weapons, has complicated thinking on this matter, and are partly responsible for the reluctance of the nuclear-weapon states to take action in this area.

13. A new development has been the Security Assurances offered by four of the nuclear-weapon states to the Ukraine, which include references to economic security. It remains unclear whether they should be regarded merely as a recycling of existing assurances, or the basis for

new initiatives in this area.

14. The development of further NWFZ's will have the effect of offering more NPT parties unconditional Security Assurances, and serve to highlight both those which are being discriminated against by the nuclear-weapon states and the overt reasons, or lack of them, for such discrimination.

15. While it may be possible to produce a new Security Council document on Security Assurances which will strengthen both negative and positive security assurances before the NPT Conference, it will not incorporate the approach that China is advocating. Also, some argue that it does not have the same weight as a treaty, as the effect of the Security Council veto provisions could not be eliminated.

v. Access to Peaceful Nuclear Technology

16. One major area of difficulty over access to nuclear technology is the prohibitive costs of acquiring large nuclear power reactors. Nuclear power now only appears economically viable in states with small territories but large populations and high demand for electricity. 30 states operate reactors for electricity production and over 50 for research purposes. The number of countries which are being positively denied access to these technologies by export controls, as against being self-deterred from using them due to the high costs, appears to be few in number.

17. The Zangger Committee performed a positive role in clarifying when IAEA safeguards were mandatory in trade with non-NPT parties. The Nuclear Suppliers Group, by contrast, provided guidelines for supplier states to deny technology to any other state on the basis, among other things, of political judgements about its propensity to proliferate. The Group's existence and operation did not directly flow from the NPT. The key issues in this area now appear to be whether export controls could be enhanced by more effective exchanges of information on denials, and whether the secrecy surrounding the application of these controls could be reduced by bringing recipients into export control discussions.

18. For many countries issues such as the shipment and dumping of nuclear waste may be their most significant concerns at the Conference, if only because this is the sole nuclear issue that appears to directly affect them. This may convert a safety issue into a major political one.

vi. IAEA Safeguards

19. Safeguards can never be 100% effective, and thus methods should always be sought to improve their application in order to more effectively detect, and thus deter, clandestine activities. Regional safeguards systems might enable more rigorous verification measures and constraints to be applied to states than is possible through global mechanisms: a regional ban on fuel reprocessing facilities in the Middle East would be a good example of this. Similar special measures might also be needed in specific situations, such as the verification of stockpiled material and its past production, under a fissile material cut-off agreement.

PROCEDURAL ISSUES**i. The Output from the Conference**

20. The Conference is expected to produce two results: a Final Declaration reviewing the implementation of the NPT and a decision on its duration. It is hoped that both can be produced by consensus, but the alternative would be to incorporate a consensus Final Declaration and a duration decision taken by vote into the Final Document of the Conference. Above all, the two results must not be so inextricably interlinked that it is impossible to take a duration decision in the absence of an agreed Final Declaration.

ii. The Duration Options

21. Considerable legal uncertainty surrounds some of the duration proposals being discussed. The significance of this uncertainty is that some national legislatures may take the view that their adoption involves an amendment to the text of the NPT, and thus those proposals can only be implemented through the operation of the formal treaty amendment procedure at both the international and national level, rather than by a decision of the Conference. It has been suggested that any proposal for a single fixed period, followed by a conference to decide whether the Treaty will be further extended, or a proposal for an extension for fixed periods which appears to involve a positive decision to extend the Treaty at the end of any of them, would fall into this category.

iii. Voting Mechanisms for the Duration Decision

22. Working out a voting mechanism for the duration decision that does not appear to favour one option over others proved to be the most difficult issue confronting the PrepComs, and as a consequence no

agreement has yet been reached on this other than acceptance that the standard UN General Assembly voting procedure is inappropriate. What was unforeseen was the complexities that emerged during the search for a mechanism that all parties can accept as offering a "level playing field".

23. A proposal for an initial vote to choose between the three options specified in Article 10.2 of the Treaty raised concerns that states would have to choose between options which lacked the detail for an informed choice to be made between them. For example a single 50 year fixed period might be seen as preferable to an indefinite series of 5 year fixed periods. This problem would be overcome if options proposed were specified in detail and the choice made between all of them.

24. Another proposal was to specify all options, and then eliminate the one with least support in successive rounds of voting. This was seen to run the risk of eliminating possible compromise options, and polarising the parties into two groups favouring radically different options, with neither prepared to accept the others preferred choice. One method of overcoming this problem would be by either retaining all options proposed in all rounds of voting, or allowing the President of the Conference to continue to seek support for a consensus extension decision.

25. The method of voting has also been seen to be a significant element in the voting mechanism. A secret ballot is favoured by many states as it would reduce their exposure to pressure to vote in a particular direction, and also free them from their overt geographic or alliance obligations and pledges. It would also mean that the voting mechanism would need some method of reducing the extension options proposed by parties, as otherwise there would be little movement between successive rounds of voting. A ballot followed by publication of state preferences is seen to facilitate negotiations to persuade key states to change their preferences between votes, and thus inject the dynamism into the process that may be necessary to produce a result. A roll-call ballot is seen to have the undesirable characteristic of causing those who had yet to vote to be influenced by the trend in voting, and thus to lead them to move their votes towards the apparently winning side (the bandwagon effect).

26. One suggestion to provide an initial gauge of support for specific options is to place no limit on the number of co-sponsors for extension proposals. This might make amendments to proposals difficult to agree, however, unless proposals were resubmitted after each round of voting, and new proposals could be added.

27. At least one delegation has argued that the extension decision should take place before the drafting committee begins its work (i.e. in the second week of the Conference). Other proposals have involved voting being resorted to five days before the end of the Conference. These proposals would allow the maximum time to reach a decision on extending the Treaty. This in turn raises questions of whether set periods of time should separate rounds of voting (e.g 24 hours) and whether the voting should be scheduled to allow for several rounds of voting with opportunities for the President to negotiate a consensus decision between rounds of voting; or whether it should take place in the last hours of the Conference with the shortest possible periods between each vote and no attempt to reach a consensus decision between rounds of voting.

28. What appeared to emerge from the discussions was two distinct types of proposal. One involved all options proposed being voted on in successive rounds of open balloting over a short period of time at the end of the Conference, with the knowledge of which parties had voted for which options leading to lobbying of parties to change positions, and thus induce dynamism into the voting process. The second involved a more complex two-stage process extending over approximately 5 days, with initial rounds of secret balloting among all the proposed options being followed by a second stage in which the options having least support were progressively eliminated.

29. The method of voting is to be addressed at an informal inter-sessional meeting on 14 and 15 April. If no consensus can be reached on this matter at that meeting, discussion would have to continue during the Conference, where it would consume valuable time and might result in the eventual choice being made by majority vote.

iv. Friends of the President

30. Two distinct views appeared to exist on the functioning of such an informal group. One was that private soundings by its members could result in more accurate judgements on state support for proposals, in contrast to public discussions in an open working group. Another was that members of such a group might get conflicting or inaccurate messages from delegations, and might have personal stances which could colour their evaluations and judgements. However, if the Friends could identify a package of elements that could result in a consensus decision on duration, and the President then put this to a vote, they would have performed an invaluable role. For such an outcome would make agreement on voting rules unnecessary, and this appears to many to be the most attractive method of reaching a decision.