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# Reflections on Review Conferences:

## The Non-Proliferation Treaty, The Biological Weapons Convention and The Chemical Weapons Convention

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# Acronyms

<b>BWC</b>	Biological Weapons Convention
<b>COW</b>	Committee of the Whole
<b>CWC</b>	Chemical Weapons Convention
<b>IAEA</b>	International Atomic Energy Agency
<b>ISU</b>	Implementation Support Unit
<b>NPT</b>	Treaty on the Non-Proliferation of Nuclear Weapons
<b>OEWG</b>	Open-ended Working Group
<b>OPCW</b>	Organization for the Prohibition of Chemical Weapons
<b>UNODA</b>	United Nations Office for Disarmament Affairs
<b>WMD</b>	weapons of mass destruction



# Foreword

Izumi Nakamitsu

High Representative for Disarmament Affairs

As the COVID-19 pandemic finally eased, three of the most important multilateral disarmament and non-proliferation treaties held their review conferences within a year of one another, having been postponed previously. These three – the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), the Biological Weapons Convention (BWC) and the Chemical Weapons Convention (CWC) – are the bedrock of the disarmament and non-proliferation regime and pillars of international peace and security. The unprecedented occurrence of their review conferences taking place so close together is an opportunity to consider and analyse trends across all three regimes relating to weapons of mass destruction.

Collectively, weapons of mass destruction have been deemed the most heinous ever invented. The norms against their use are strong for a reason – synonymous with horror, suffering and devastation. Throughout the history of the United Nations, efforts to eliminate these weapons have been among the main priorities of member states. The negotiation of the NPT, the BWC and the CWC represent landmark achievements for multilateralism. They highlight the determination of the international community to strengthen human, national, and collective security.



Sadly, the three review conferences took place in an increasingly antagonistic geostrategic context, riven by decreased interest in dialogue and a marked deterioration in relations between States. Premium has been increasingly placed on weapons, not diplomacy. At the same time, COVID-19 has showed the world how dangerously underprepared we are to deal with biological threats. We have seen the repeated use of chemical weapons, in the Syrian Arab Republic and elsewhere, alongside a failure of accountability for their use. Nuclear sabres are once more being rattled as veiled threats of use are spiking nuclear risks. In parallel, an unprecedented technological revolution has exposed potential vulnerabilities that could drastically increase the devastation wrought by weapons of mass destruction, lower barriers to access and increase likelihood of mistake and miscalculation.

In such a challenging environment, I congratulate Ambassadors Gustavo Zlauvinen, Leonardo Bencini and Henk Cor Van der Kwast. I have the utmost respect for each of these outstanding diplomats. Each approached their task in a spirit of impartiality and transparency, determined to protect and strengthen the treaty under their charge. Their recollections in this report highlight the challenges each of them faced, and the opportunities they were able to foster. From ushering in a new era for the CWC, to prioritizing a more inclusive approach to the NPT, and seeking to shore up the gaps in the BWC's institutional process, each review conference president was a champion of multilateral solutions to global concerns.

The reflections of Ambassadors Zlauvinen, Bencini and Van der Kwast are an opportunity to glean understandings into how, together – and even in the most trying of circumstances – we can strengthen the regime established to eliminate these most devastating of weapons, once and for all. Altogether, they amount to a strengthening of multilateralism, at a time when is so much needed.

# Introduction

## James Reville and María Garzón Maceda

Over the course of less than a year between August 2022 and May 2023, three major treaties focused on weapons of mass destruction (WMD) have undergone a Review Conference process: the tenth Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) in August 2022; the ninth Review Conference of the Biological Weapons Convention (BWC), in November and December 2022; and the fifth Review Conference of the Chemical Weapons Convention (CWC), in May 2023.

These Review Conferences, which are usually held every five years and staggered to avoid overloading the disarmament calendar at any one point, provide an important opportunity for States Parties and stakeholders to consider developments over the previous five years and chart the future course for their respective treaties over the coming five years.

**Table 1. WMD Review Conferences summary information**

	<b>NPT</b>	<b>BWC</b>	<b>CWC</b>
Date and place	1–26 August 2022, New York	28 November–16 December 2022, Geneva	15–19 May 2023, The Hague
Duration	20 days	15 days	5 days
Original planned year	2020	2021	2022
Formal Preparatory Process	Three Preparatory Committee sessions	One Preparatory Committee session divided into two parts (procedural and substantive)	Open-ended Working Group process

Although these treaties and their respective Review Conference processes vary, the experiences over 12 months between August 2022 and May 2023 provide an important snapshot of the state of the WMD treaty regime. As such, there is merit in reflecting on these three processes jointly and exploring the commonalities and differences across three agreements dealing with the world’s most destructive weapons, as well as gathering lessons learned for future work in these fields.



To this end, UNIDIR invited the Presidents of the three Review Conferences to provide their reflections on their respective Review Conference processes. This publication brings together insights from Ambassador Gustavo Zlauvinen (Argentina), President of the tenth NPT Review Conference; Ambassador Leonardo Bencini (Italy), President of the ninth BWC Review Conference; and Ambassador Henk Cor Van der Kwast (the Kingdom of the Netherlands) who presided over the fifth CWC Review Conference. Following a short summary by the editors, the Ambassadors take stock of the preparatory processes and the events that unfolded, and provide reflections for moving forward in the NPT, the BWC and the CWC respectively.

It should be noted that these contributions reflect the personal views of the authors; they should not be seen as a reflection of the views of their States, UNIDIR or the United Nations. Moreover, the authors are responsible only for the remarks in their respective sections of the publication.

## Summary of findings

Several common threads can be drawn from the accounts of the Ambassadors in their respective reflections. The editors' analysis and summary of the key points is provided below.

- The three Review Conferences took place in a **difficult geopolitical context** in which long-standing challenges and areas of disagreement in each of these treaties were exacerbated by heightened geopolitical tension following the invasion of Ukraine.
- Another common thread in these reflections was the impact of the **COVID-19 pandemic**. This resulted in the rescheduling of the NPT and BWC Review Conferences. The delay generated by the pandemic was a source of frustration and has created a congested disarmament calendar. However, in other respects, the delay may have helped States and office holders to better prepare for their meetings and focus their discussions.
- All three authors highlight the **importance of leadership** in the Review Conference processes and the creation of a positive atmosphere. Such an atmosphere is important to success, and makes it more costly for spoilers to endanger the process.
- The three authors also highlight the importance of ensuring inclusiveness and a sense of ownership across States Parties in this preparatory process. Both **regional and cross-regional dialogue** are identified as important in finding solutions to Review Conference challenges.
- One positive spill-over from the pandemic was the organization of **virtual meetings and consultations** during preparatory processes. Such meetings, while imperfect, were nonetheless helpful in maintaining momentum during the two-year hiatus in the NPT Review Conference cycle. Virtual meetings enhanced inclusivity, including for external stakeholders and delegates in capitals, and reduced costs in the preparatory work of all three regimes.

- In addition to virtual meetings, the authors all highlight the value of **retreats** during the preparatory process. These closed meetings can bring together delegates for focused, frank and open discussion and thereby help to generate positive momentum in the run-up to the conference.
- The authors all highlight the importance of the appointment of **office holders and facilitators** and the development of a Bureau. This was politically challenging in the CWC Review Conference context, wherein a vote was required. Notably, in the case of the BWC they were able to achieve the most **gender-balanced** bureau in the history of the Convention.
- The **Chair's team** is also highlighted as an important element of a successful Review Conference. Also important in the BWC and CWC processes was the work of the Facilitators or Friends of the Chair who were appointed by the respective Presidents to work on specific issues.
- **Conference management** is another important element to consider. Conference management involves a number of elements from developing strategies to limit the length of national statements in cases where time is limited, to managing difficult political issues and insulating proceedings from the fallout of events, such as those surrounding the invasion of Ukraine. In the case of the NPT, for example, delegations were encouraged to concentrate points on this contentious topic to the first week of the Conference. In the case of the CWC and BWC a conscious effort was made to identify potential spoilers, isolate such positions, and make it more costly to endanger the process.
- The amount of **time** allocated to preparatory meetings and the Review Conference itself can have an important bearing on the proceedings. In one case, time pressure was constructively turned into an opportunity to break with inconclusive, cyclical discussions and focus on priorities. In another case, the limited time available to States Parties—the CWC Review Conference was one week long—posed a considerable challenge.
- In some cases, **decision-making processes** were challenging. Certainly, the President of the 2022 NPT Review Conference suggests that the next Review Conference should not be left with the decision on whether to call for a vote in the event that consensus cannot be reached on a final document. Instead, that decision must be taken by the States Parties in advance.
- It is clear that **high level UN representatives** were active in efforts to build consensus either through consultations or last-minute outreach.
- It is also apparent that **definitions of success** also vary, particularly in a period of geostrategic tension. For some authors, success can be measured not only in the generation of a final outcome document adopted by consensus, but also in other criteria such as the identification of challenges for the future that States Parties and stakeholders need to focus on.



# Reflections on the ninth BWC Review Conference

## Ambassador Leonardo Bencini

The ninth Review Conference of the Biological Weapons Conventions (BWC Review Conference) took place at the end of 2022 against the backdrop of an international context that could have hardly been more challenging. While the deadlock on several disarmament and non-proliferation negotiations (including on biological weapons) dates back many years and is rooted in long-standing cleavages, the war in Ukraine had further exacerbated divisions. As such, in mid-2022, the prospects for an agreement at the BWC Review Conference did not look promising. In August 2022, the conclusion, without a consensual Final Document, of the tenth Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (as discussed by Ambassador Zlauvinen subsequently) added to the general sense of pessimism.

### Preparatory Process

Time was also an issue. Because of the backlog of events and activities due to the pandemic, 2022 turned out to be quite a congested year in the disarmament calendar. It was not easy for delegations to focus on preparations for the BWC Review Conference with all the other engagements getting in the way.

However, from the very beginning, we tried to turn this limitation into an opportunity. We noticed that—especially when it came to proposals that had been on the table for quite some time—having more time to discuss them did not necessarily bring progress, with some debates in fact going round in circles inconclusively. If time was a scarce resource, then we had to make the best use of it, exercise maximum self-discipline and focus on what really mattered to reach consensus.

Another top priority for us was facilitating cross-regional dialogue. We believed that the Review Conference only stood a chance if delegations, while listening to one another, looked beyond some of the usual divides between regional groupings ('West-versus-the-rest', 'North-versus-Global-South' divides). Inclusiveness was also important: every delegation had to feel part of the process. Fostering a sense of ownership was therefore key. We thus engaged with regional groups as a whole and with their respective coordinators while at the same time meeting bilaterally with every delegation that wished to participate actively in the Review Conference. In the run-up to the Conference the BWC Support Implementation Unit (ISU) organized, with financial backing from the European Union, four regional seminars respectively in Bangkok, Panama City, Vienna and Addis Ababa.

These preparatory consultations bore fruit, as we were able to identify some large areas of convergence at an early stage that we later narrowed down to specific proposals. Among various factors, the evolution of the position of important States on certain key issues enhanced our chances for consensual solutions. Drawing from the wider context, one of the points I regularly made with delegations was our responsibility as States Parties, but also the moral and professional duty of us as individual delegates, to deliver this time around. We could not afford another stalemate now, after a pandemic that had clearly shown how vulnerable we all were to new pathogens and how necessary international cooperation was to respond to these health threats.

We had the opportunity to evaluate the areas of convergence during an informal retreat that we convened in Montreux less than two weeks before the start of the Review Conference. The discussions were so open and constructive that one delegate talked about the "spirit of Montreux". I would informally refer to that spirit more than once during the negotiations at the Review Conference. The retreat really generated positive momentum and we knew that it was important to sustain this momentum not only at the beginning, but throughout the entire Conference. This is what we decided to call a "positive bias" with the intent not only to create an atmosphere conducive to consensus, but also to make it more costly for spoilers to present alternative, negative narratives and thus endanger the process. It is indeed an implicit prerogative of the President to favour a given narrative and our idea was that it should in fact be a consistently positive one.

We knew that having a good team supporting the President of the Review Conference could make the difference, so we invested quite some time and effort identifying the right candidates for office holders (especially in relation to the Chairs of the Committees) and facilitators on specific issues. With some patience, by the start of the Review Conference we had assembled a geographically well-balanced cohesive team of young, competent and committed diplomats.

It was also the most gender-balanced ‘bureau’ in the history of the BWC: the Chairs of the Committee of the Whole and the Drafting Committee were two women, respectively the Moldovan Ambassador to the United Nations in Geneva, Tatiana Molcean, and the Swedish Deputy Head of Mission in Geneva, Sarah Lindegren. Half of the facilitators were also women. I am convinced that this well-balanced and competent team reassured delegates and contributed in no small part to the success of the Review Conference.

## What happened during the BWC Review Conference

When we started the Conference on 28 November 2022, we were confident that the preparations we had made would help us get off to a good start—and so they did. The general debate, however, had some difficult moments, mainly in relation to the war in Ukraine and to the participation of international organizations in the work of the Review Conference. We managed somehow to insulate the proceedings from the fallout from these discussions while at the same time allowing delegations to take the floor on any topic they deemed relevant to the Review Conference.

The Conference accepted the President’s proposal that the Committee of the Whole would focus on the solemn declaration and the article-by-article review. After some objections from the floor, the Conference also accepted the President’s proposal that the Drafting Committee discuss the forward-looking part (decisions and recommendations) but only in informal meetings of the Plenary presided by the Chair of the Drafting Committee. A commentator dubbed this practical solution the “Schrödinger’s Committee”, that is “a Committee that is and is not the Drafting Committee” in reference to the famous physicist’s thought experiment.<sup>1</sup>

This clear definition of the respective tasks of these two committees helped bring some order, predictability and transparency to the work of the Review Conference, while at the same time taking some pressure off the formal Plenary in the first two weeks. The two committees managed to complete their respective work within this time frame, passing on to the Plenary the texts issued from their debates. We had informal consultations on the Saturday before the final week so that by Sunday or Monday at the latest we might have a first consolidated draft final outcome document. This timeline allowed us to devote the remaining three or four days to the negotiation of one single text.

However, after numerous attempts at reconciling conflicting positions on the review of articles V and VI, we were forced to drop the entire solemn declaration and the article-by-article review. In a way, we had to sacrifice this part to allow the forward-looking section of the document to go ahead. We regretted this development. We had all worked so hard on the declaration and the review and had come very close to consensus. Had we achieved it, the Final Document would have probably been the most significant one in the entire history of the BWC.

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1 Richard Guthrie 2022, “CoW first reading complete and Schrödinger’s Committee convenes”, RevCon report 6, 5 December, <https://www.cbw-events.org.uk/RC22-06.pdf>.

Agreeing on the decisions and recommendations was not an easy task either. On this part, too, the need for consensus meant we had to backtrack partially on the progress reached thanks to the tireless work of the facilitators and the proactive engagement of several delegations. The Group of the Non-Aligned Movement and Other States, in particular, had managed to find significant common ground on the key questions around international cooperation under article X of the Convention. A large degree of convergence was also evident on a mechanism to review developments in science and technology. Meaningfully, compliance and verification were also areas where progress proved possible.

## Outcome of the BWC Review Conference

Even though a broader and truly historic agreement might have been within reach, what we finally achieved was generally seen as a success. The sense of satisfaction was palpable in the room on the evening of 16 December, at the closure of the Review Conference. In a statement released in New York a few hours later, the Secretary-General of the United Nations, Antonio Guterres, welcomed the adoption of the final document of the ninth Review Conference and considered it “a glimmer of hope in an overall bleak international security environment”.<sup>2</sup>

The help we received from the Secretariat was also instrumental in achieving a positive outcome, from the active involvement of Under-Secretary-General Nakamitsu at the opening and on the final two days of the Conference to the extremely competent and effective assistance that the ISU provided to the ‘bureau’ and the entire membership before and during the Review Conference. We achieved the following three key goals:

- We broke the deadlock that had prevented any progress in the implementation of the Convention for more than 20 years. We agreed on a clear roadmap for the entire four-year review cycle, leaving open the possibility of an ‘early harvest’ in 2025.
- We established a Working Group tasked with identifying, examining and developing measures to strengthen the Convention and improve its implementation. No issue would be off the table at this Working Group, including compliance and verification—the question at the heart of the previous deadlock—and the possibility of legally binding measures.
- We made progress on the institutionalization of the Convention by agreeing to develop two mechanisms, one on international cooperation and assistance under article X and the other to review technological and scientific developments. Another perhaps minor but significant achievement was the strengthening of the ISU with one additional staff position.

As we start debating the various issues within the Working Group in Geneva, I am sure that the lessons learned in the run-up to and during the Review Conference will continue to prove useful.

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2 United Nations 2022, “Secretary-General Welcomes Outcome Document for Biological Weapons Convention’s Ninth Review Conference, Saying It ‘Offers a Glimmer of Hope’”, <https://press.un.org/en/2022/sgsm21638.doc.htm>.





# Reflections on the fifth CWC Review Conference

## Ambassador Henk Cor van der Kwast

### Preparatory Process

In contrast with past CWC Review Conferences which lasted up to two weeks, the fifth Review Conference (RC 5) of the Chemical Weapons Convention (CWC) lasted for only one week. However, this was preceded by a long preparatory process through the Open-ended Working Group (OEWG) for the preparation of the fifth Review Conference, which was chaired by ambassador Lauri Kuusing (Estonia). The OEWG had 22 sessions from September to April and considered a range of different issues with speakers from the Organization for the Prohibition of Chemical Weapons (OPCW) and the external expert community. Overall, the atmosphere was very good and, after the last session, the OEWG presented a report that was submitted to the Chair of the Review Conference. This report consisted of a political declaration, a review of the operation of the OPCW and further considerations and recommendations. The report of the OEWG served as the basis for the RC 5.



After 10 months of hard work, the document titled Draft Provisional Text (WGRC-5/2 RC-5/CRP.1) was transmitted by the Chairperson of the OEWG to the Review Conference. Although not an agreed text, it was a solid draft text and a reflection of the debates and the inputs by all participating States Parties. The document contained all three essential elements: a political declaration, a review of the operation of the CWC, and future considerations and recommendations.

There was broad consensus on many topics. However, it was clear that certain issues required special attention, including:

- addressing the threat of the use of chemical weapons, including the use of chemical weapons in Syria;
- organizational governance matters including geographical distribution, merit and OPCW staff/tenure;
- further work on the adaptation of the industry verification regime;
- participation of NGOs in OPCW Conferences; and
- addressing the threat posed by non-State actors, including ‘chemical terrorists’.

Despite these issues and the difficulties arising from the international and geographical circumstances, the impression was that most delegations wanted a successful outcome.

In the run-up to RC 5, the Netherlands, together with the OPCW, organized a two-day informal ambassadorial-level retreat in Duin en Kruidberg (Haarlem). All delegations were invited to participate in this retreat and many delegations accepted the invitation, with most States represented at the highest level—something we took as a clear sign of the importance delegations attached to the OPCW and the CWC. During this retreat, the document of the OEWG was further discussed alongside special sessions relating to the most difficult issues.

Before RC 5, the Chair-designate and the Chair-designate of the Committee of the Whole (the Ambassador of Mexico, José Antonio Zabalgoitia Trejo) met for consultations with the coordinators and the deputy coordinators of four of the five CWC regional groups. Unfortunately, the Eastern European Group did not answer the request of the Chair-designate to hold a meeting before the Conference. The consultations/meetings were mainly meant to discuss the time schedule and the working methods of RC 5.

Because of the limited time scheduled for RC 5, the Chair-designate and the Chair-designate of the Committee of the Whole (COW) developed a working schedule for the conference with the help of Friends of the Chair (the Ambassador of Cyprus, HE Frances-Galatia Lanitou Williams; the Ambassador of Ecuador HE Andrés Téran Parral; HE Lauri Kuusing of Estonia; and HE Susannah Gordon of New Zealand). These Ambassadors were asked to chair informal group discussions on the most difficult issues. The outcome of those discussions was then presented to the COW. This working method was discussed with the regional groups and with the coordinators of those groups, and delegations supported the working process.

During the informal discussions and meetings with the regional groups, the Chair-designate also discussed the question of voting. According to the CWC, voting at a Review Conference is possible. All delegations indicated, however, that they opposed voting on the outcome of the Conference.

## What happened during the CWC Review Conference?

The time allotted to the Review Conference itself was only five days, which put the Conference under considerable time pressure to reach agreement on a number of outstanding issues. In addition, a vote had to be organized because the Eastern European Group disagreed on the membership of the Bureau. The process of additional voting further limited the available time and, to manage the time constraint, the schedule mentioned above was adopted at the opening of the Conference.

Further, States Parties agreed to making Thursday afternoon the deadline to reach agreement on a Final Document. This deadline was determined to give delegations the opportunity to consult with their capital. To further manage the limited time as efficiently as possible, I also indicated that the speaking time should be limited to three minutes and speakers that were too long were cut off.

Overall, the atmosphere was good and several delegations came up with solutions and showed a certain amount of flexibility. Moreover, several delegations submitted papers as inputs to the process. It was not helpful that some delegations tried to manipulate the discussions with these papers, specifically by covertly inserting changed or additional text. Although this tactic was discovered, it did not help improve the atmosphere.

The Friends of the Chair managed to get agreement on some difficult issues. These included organizational governance matters (e.g., geographical distribution, merit and OPCW staff/tenure); industry verification; addressing the threat from chemical weapons use; and the participation of NGOs in OPCW Conferences. The question of Syria and the use of chemical weapons remained very difficult. In particular, the delegations of the Russian Federation, the Syrian Arab Republic and the Islamic Republic of Iran were not constructive in finding a solution on the first issue. Despite the different negotiations under the guidance of the Friends of the Chair, several attempts by the Chair of the COW to bring positions closer, and extensive bilateral and regional consultations by the Chair, too little progress was made, even though on several issues it seemed agreement was possible. However, as ‘nothing is agreed until everything is agreed’, the agreed solutions were not enough to reach consensus on a substantial Final Document.

Under these circumstances, by Thursday afternoon the Chair had no other option but to conclude that there was no agreement on an outcome document. A limited number of states appeared unwilling to find a compromise agreement and blocked further results. Although this was regrettable, the Chair concluded that according to art. VIII B.22 (CWC) the Conference had done what it was asked to do: “review relevant scientific and technological developments”. Moreover, the atmosphere was good, and both in the run-up to and during the RC 5 broad support emerged for a number of common points that could be further developed in the coming months, including industrial verification, geographical distribution and tenure, gender, and NGO participation.

## Reflections

Reflecting on the process, several points seem important. First, preparation is of the essence. The OEWG sessions, the ambassadorial retreat, the consultations with the coordinators and the regional groups and with delegations contributed largely to a very positive atmosphere. These processes helped identify different ways to look at the issues and helped to find solutions. Such preparations also made it more difficult for ‘spoilers’ to slow down, frustrate or block the process. Similarly, regional preparations are also useful in drawing out differences in regional situations that are important to consider in multilateral negotiations designed to strengthen the international rule-based order. Regional consultations underline the importance and possibility to find solutions with the regional powers or States in a certain region.

Second, geographical and international relations are key factors that are hard to overcome. Despite the challenge presented by a tense geopolitical context, it is important to try to find solutions. Sometimes progress is possible only on a limited number of issues and a final, comprehensive agreement is simply not within reach. Nevertheless, that is no reason not to try. In fact, every opportunity to make progress on important issues in international relations, such as the prohibition of chemical weapons, is worth trying.

Third, spoilers should be identified as spoilers or deal breakers. Spoilers or negative powers will often try to frustrate things, but hard work towards an agreement makes their task more difficult and can help reveal any negative intentions. Moreover, if spoilers can be clearly identified, it is possible that such actors will become more careful and less damaging or at least less overtly damaging. Fourth, conference management practices, such as limiting speaking time and strict and fair enforcement of those limits by the Chair helps Review Conference processes. Although States sometimes hesitate about speaking time limits, in the end everybody appreciates it. It makes the debate livelier, keeps delegations alert and makes a conference more effective and pleasant for all participants.

To conclude, it is of my view that Review Conferences remain important and should be organized even if there is little chance for progress. They not only show the importance of the Treaty and allow States to assess treaty efficacy and the state of implementation, but also help underline the value of a rules-based order. Achieving a substantive outcome document is of great value. However, a Conference can contribute to Treaty progress even without a substantive Final Document through, for example, identifying areas of common interest. The fifth Review Conference was able to identify a number of common points on which we can build on in the coming meetings. Generating a good atmosphere and identifying such issues for further negotiations are essential for progress in difficult times. If progress could be realized on the issues indicated (or other issues for that matter) then our efforts at the fifth Review Conference were not in vain.



# Reflections on the tenth NPT Review Conference

## Ambassador Gustavo Zlauvinen<sup>3</sup>

The tenth NPT Review Conference took place under very difficult circumstances. There was a growing frustration among the great majority of States Parties—specifically the non-nuclear-weapon States—resulting from the lack of real progress in nuclear disarmament by the nuclear-weapon States. The very basis of the Treaty—the ‘Grand Bargain’—was thus put into question. There were also tensions related to the different positions regarding non-proliferation issues, such as the implementation of the 1995 Review Conference resolution on the establishment of a nuclear-weapon-free zone in the Middle East; the difficult question of the Democratic People’s Republic of Korea’s nuclear arsenal; and the Iranian nuclear programme. And on top of that, months prior to the Conference, the international security environment dramatically changed due to the Russian invasion of Ukraine, Russian threats of possible use of nuclear weapons, and its attacks against civilian nuclear reactors.

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<sup>3</sup> A personal note: throughout the Review Conference process I was extremely lucky to have the help of my amazing Argentine team; the highly dedicated UNODA team; the extremely professional IAEA team; the sophisticated Chairs of the Main Committees and Subsidiary Bodies; the unconditional support of the Secretary-General-designate of the Conference, Ioan Tudor; the wisdom and political clout of the UN High Representative for Disarmament, Izumi Nakamitsu, and through her, the political support of the UN Secretary General. My gratitude goes to each and every one of them.

Tensions among big powers were also heightened as a result of the growing competition between the United States and China. All these challenges suggested to many in the community that the Review Conference was doomed to fail from the very beginning. And yet, after four weeks of intense negotiations, the Conference came very close to the adoption of a Final Document by consensus, demonstrating that the NPT is still considered by the international community as the cornerstone of the nuclear non-proliferation and disarmament regime.

## Preparatory Process

The tenth Review Conference of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) took place in New York in August 2022, two years and four months after its original scheduled date (April–May 2020). It was postponed several times due to the risks and restrictions resulting from the COVID-19 pandemic. Though many felt extremely frustrated to see the Conference postponed time and time again—to the point that some delegates and representatives of civil society even doubted if it was going to take place at all—the extended hiatus helped me enormously as President-designate: the Bureau, the Secretariat and States Parties used this time to better prepare for the difficult negotiations envisaged during the Conference.

In order to keep momentum, I introduced, for the first time in an NPT review cycle, the practice of virtual informal consultations with the NPT regional groups. This practice allowed me to have a number of important informal consultations during the pandemic, together with a series of thematic and regional webinars co-organized by the United Nations Office for Disarmament Affairs (UNODA) and other institutions, such as SIPRI, Nuclear Threat Initiative, the International Atomic Energy Agency (IAEA), the Monterey Institute, UNIDIR and Wilton Park, among others. These meetings helped and even forced delegations and capitals to maintain focus on the many complex and crucial issues at stake, including the following:

- challenges to the validity of the commitments adopted in previous Review Conferences;
- the growing frustration of many States Parties by the lack of progress in nuclear disarmament;
- the debate on how to deal with the humanitarian consequences of the use of nuclear weapons;
- the entry into force of the Treaty on the Prohibition of Nuclear Weapons;
- proliferation challenges, including the situation with regard to the Democratic People’s Republic of Korea;
- the implementation of the 1995 Review Conference decision on establishing a Middle East zone free of weapons of mass destruction;
- the Iranian nuclear programme; and
- the IAEA safeguards system and the Additional Protocol.

In addition to these challenges, it was also clear that there was a reinvigorated push for the Conference to come up with more practical proposals on expanding the benefits of civilian nuclear energy and applications for all States Parties, but particularly developing States.

The COVID-19 pandemic presented a challenge but also an opportunity to devise new approaches to preparing for the Review Conference. For example, it was the first time that virtual informal consultations with all States Parties were used by the President-designate. Although there were some delegations that, at the very beginning, did not favour this approach, after several rounds of virtual meetings all States Parties embraced and profited from these meetings.

During the extended time when international travel was not possible, I established a routine of conducting virtual informal consultations with all regional groups (the Non-Aligned Movement, the Western European and Others Group, the Eastern European Group and the Group of One—China) every two months. And even when international travel was again possible, I organized alternatively in-person informal consultations (in New York, Geneva and Vienna) and virtual ones. This new approach allowed for some pioneering advances in conference preparations. For example, it allowed me to conduct virtual informal consultations with all States Parties at once (instead of the traditional ones based on regional groups). This allowed all delegations to listen to the positions of those belonging to other regional groups.

I also benefitted very much from dozens of bilateral meetings—both in-person and virtually—with delegations and with different groupings of States Parties, such as the New Agenda Coalition, the Non-Proliferation and Disarmament Initiative, the Stockholm Initiative and others.

From the very beginning of my Presidency, but particularly following the first postponement of the Conference and the subsequent uncertainty over when the Conference was going to take place, I established the practice of having virtual meetings with the members of the Bureau (the Chairs of the three Main Committees and the Secretary-General-designate of the Conference) once or twice a month, in order to keep them abreast of my informal consultations and bilaterals, as well as to seek their advice on how to proceed with some logistical and procedural matters.

For example, some delegations pushed to have the Review Conference in a virtual or hybrid manner during the pandemic. This created a new organizational problem to deal with. For those delegations, mainly from the Western European and Others Group, the urgency of the matters to be discussed merited having the Review Conference in such a hybrid format. Moreover, they did not want to lose the opportunity to celebrate the Fiftieth Anniversary of the entry into force of the NPT. I called a number of virtual informal consultations to test the water, but the idea was challenged by several delegations from the Non-Aligned Movement, as well as the Russian Federation, as they saw the hybrid format as, among other things, not providing equal participation for all States Parties. Thus, the decision was taken to continue to postpone the Review Conference until the restrictions related to the pandemic were lifted—and to conduct a ‘full-fledged’ in-person Conference.

Later on, as restrictions to social distancing due to the pandemic were being lifted faster in other capitals than in New York, where stricter regulations were still imposed by city authorities and by the United Nations. This factor, combined with a COVID-induced conference backlog resulted in some delegations calling for changing the venue of the Conference. I then approached the governments of Austria, the Netherlands and Switzerland to explore alternative venues. Two offers were received, formally, to conduct the Review Conference in Vienna and in The Hague, with additional costs and with some logistical difficulties. After due consideration of both proposals with the United Nations

Secretariat and having conducted virtual informal consultations with States Parties, as well as bilateral meetings with a number of delegations, I presented a formal proposal to hold the Review Conference in March 2022 in Vienna. However, a handful of delegations blocked consensus. We had no choice but to wait until the restrictions in New York were lifted.

When restrictions in New York were finally lifted and the Review Conference was about to be confirmed for August 2022, the Russian invasion of Ukraine dramatically changed the international security environment and threatened to cast a shadow over the negotiations during the Conference. We knew that the challenges and complex issues we were facing ahead of the Conference were extremely serious. But the war in Ukraine only made the situation more difficult—and ultimately proved to be insurmountable. If many had expected the tenth Review Conference to be bound to fail due to the lack of political will by the nuclear-weapons States to implement the actions adopted by consensus in the 2000 and 2010 Review Conferences, the changing geopolitical environment and growing great power competition created an even grimmer outlook and engendered an almost deterministic loss of hope over the Conference's outcome.

I challenged this pessimistic approach from the very beginning. When asked if the Review Conference would be a failure or a success, I answered by querying the definitions of both terms. I was of the view that there would be as many definitions of success, or lack of, as there were States Parties—and civil society participants. In my view, the success of a Review Conference, in particular the tenth Conference, could not be measured only by a final outcome document adopted by consensus. First, because the NPT itself, and the 1995 Review Conference decision to strengthen the review process, did not call for such a document; and, second, because only a handful of previous Review Conferences had managed to reach consensus on a single, final document. I believed the States Parties' responsibility, and therefore my own responsibility as President of the Conference, was to have a *meaningful* Review Conference, one that would push for better implementation, by all States Parties, of all their obligations under the Treaty, including the commitments undertaken at previous Review Conferences.

## What happened during the NPT Review Conference?

I was under no illusions that we would be able to avoid the war in Ukraine casting a shadow on the Review Conference. But I tried to convince all delegations, in particular those with a high stake in the conflict, to encapsulate the political ramifications of the conflict to 'only' those issues or actions directly affecting obligations under the NPT. In my view, those issues were the threat of use of nuclear weapons, the use of military force against civilian nuclear facilities, and the obligation to assure that such facilities operated under the highest safety and security standards, and under IAEA safeguards inspections. These issues were directly related to the three pillars of the Treaty (non-proliferation, disarmament, and peaceful uses of nuclear energy). However, I believed that other, wider aspects of the discussion, such as Russian aggression towards Ukraine, should not be part of the heated discussion within the NPT context. As such, I told delegations that political views related to the war in Ukraine should be concentrated in the first week of the Conference—the so-called high-level segment or general debate—and should not permeate the discussions and negotiations during the following three weeks, which focused on technical issues, or other political issues, such as the Middle East, the Democratic People's Republic of Korea or the safeguards system, to mention just a few.



This approach was not followed by delegations directly involved in the conflict. However, after the first two weeks of the Conference—which were dominated by the exchange of accusations and rebuttals regarding the war and the actions taken by the Russian Federation—all delegations, but particularly those in the Non-Aligned Movement, the Stockholm Initiative, the New Agenda Coalition and the Non-Proliferation and Disarmament Initiative, had discussed and negotiated several important issues under the three pillars of the Treaty. These included the validity of the commitments undertaken at previous Review Conferences; the modernization and expansion of nuclear arsenals; negative security assurances and nuclear risk reduction; the relationship between the NPT and the TPNW and the humanitarian consequences of nuclear weapons; the growing risks of nuclear proliferation and regional issues such as the Democratic People’s Republic of Korea, the Middle East and the AUKUS agreement; the IAEA safeguards system, including the Additional Protocol, nuclear safety and security; supporting the entry into force of the Comprehensive Nuclear-Test-Ban Treaty and an early negotiation of a fissile material cut-off treaty; and a new approach to fulfil the increasing demands for more and better access to the peaceful applications of nuclear energy, including in connection with the fulfilment of the Sustainable Development Goals.

These discussions were reflected in the work and reports of the three Main Committees and three Subsidiary Bodies, all of which were chaired by highly experienced and seasoned colleagues. However, their reports were not adopted by consensus, as many disagreements remained on many issues.

In order to help the process of negotiation on these complex issues in a holistic manner, but in an informal setting, I asked the Finnish representative to host, at his Permanent Mission, a group of delegations, carefully selected so as to have the widest and most balanced representation possible, in order to tackle differences and produce language that could master consensus. This process also provided language I could use to produce my own draft outcome document. The result was far from perfect, but it was an important step forward, and together with the language provided by the Chairs of the Main Committees and Subsidiary Bodies, I produced a draft that, I believed, had the best chance at getting a consensus Final Document.

My draft received positive and negative reactions from many delegations. I carefully considered the negative ones and pondered on how to accommodate, if not all of them, at least the most important ones. In order to advance this process, I also engaged in intensive one-on-one bilateral meetings with a number of important delegations—those that had expressed serious objections (the so-called ‘red lines’) on some elements of the draft. In order to get them on board, I had to show some flexibility by incorporating changes to the draft reflecting, as far as possible, the most problematic red lines for each delegation. I could not accommodate all of these points, as many were in direct collision with other delegations’ positions—many of these red lines themselves. After that, I submitted an amended draft reflecting my best effort to assemble compromise language, in the understanding that it would make all delegations ‘equally unhappy’, but not to the point of blocking consensus.

On the last day of the Conference, I received confirmation from those delegations that I had engaged with, either at their own request or mine, that they could go along with the revised draft Final Document. However, the Russian delegation gave me a last-minute hint that they would not support it. In a tense meeting with the Russian delegation, they explained that they would have to block consensus unless

I introduced very specific language reflecting Moscow's position on key issues related to the war in Ukraine. Although from day one of the Conference I had received strong démarches from the Russian delegation regarding those issues, I had done my best to accommodate some of them—what the Russians called the 'black lines'. The rest of the Russian Federation's demands were impossible to include as they commanded no support from any other delegation—quite the opposite: they had been met with fierce objections from a significant number of States Parties. I had already taken a huge political risk by accommodating the Russian Federation's 'black lines', and I had been given the impression that this was sufficient for them not to block consensus. But it was not the case. They wanted their other concerns—the red lines—to be included as well. Either my previous assessment had been off the mark, or they had changed their position. Whatever had happened, it was very clear then that they were going to block consensus.

I asked the High Representative for Disarmament Affairs (who was keeping the Secretary-General of the United Nations updated on the developments) to reach out to Moscow in a last-minute effort to convince the Russian side to let the Conference adopt the document by consensus, and afterwards, to disassociate itself with an explanation of its position. But the démarche, as well as another démarche undertaken by a State Party, did not succeed. The answer from Moscow was that I should not submit the draft for adoption, as there was no consensus.

## Outcome of the NPT Review Conference

After careful consideration of the options with the Secretary-General of the Conference (including whether to put the draft document to a vote), and after consultations with relevant delegations, I decided to submit my draft document to the Plenary for action, without further modification.

The Russian delegation immediately objected to the document on the record, thereby blocking its adoption. I had no choice but to change the final document into the 'President's document', instead of the 'Conference Final Document'.

Yet, before closing the Conference, I managed to get all delegations to adopt, by consensus, a formal decision to establish, for the first time in the NPT history, a Working Group on strengthening the review process. I believe that, under the difficult circumstances we faced, it was a small but concrete step forward. It is now up to the States Parties to use it wisely.

Aside from the language related to the war in Ukraine, all delegations—but one—considered the draft document, while not perfect, still 'as good as it could be under the circumstances', as well as preserving the credibility of the review process. Would it have been possible to push for a more ambitious language, particularly under Pillar I? Possibly. Many delegations did try that approach. But the lack of coordination among the nuclear-weapon States (it was the first Review Conference where the so-called 'P5 coordination mechanism' did not take place, due to the Russian Federation's invasion of Ukraine), and even worse, the open animosity between the United States, United Kingdom, France and the EU delegations, and the Russian Federation, made it utterly impossible to achieve even the most modest progress in nuclear disarmament.

We learned many important lessons from the long run-up to the Conference. For instance, the use of virtual informal consultations, which I believe could be used in the preparation of future Review Conferences, even if we face no restrictions as was the case during the pandemic. Also, the work of the Bureau and its regular meetings (again, virtual ones) helped me as President-designate tremendously. I would strongly recommend the next President-designate to follow that path too. Regarding the Conference itself, many aspects could be improved, from making better use of the time allocated to the Plenary (by strictly limiting the length of the national statements), to a better allocation of issues to the Main Committees and Subsidiary Bodies, in particular to avoid overlapping content across these different bodies. But most importantly, the next President of the Review Conference should not be left with the decision, in case that consensus could not be reached on a Final Document, on whether to call for a vote. That decision must be taken by the States Parties, in advance. That is an important matter that needs to be resolved.

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