

A stylized world map composed of a grid of grey dots, with several dots highlighted in red to represent specific countries or regions.

NPT Review 2010

What Role for the EU?

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- The strengthening of the Nuclear Nonproliferation Treaty (NPT) is of particular importance to the EU. It identifies WMD proliferation by both states and terrorists as »potentially the greatest threat to its security«.
- The 2010 Review Conference will take place against the background of an ongoing crisis in the non-proliferation regime. Its outcome will be critical for the future of the non-proliferation and disarmament regime.
- Expectations concerning an active role for the EU during the NPT Review Conference are generally rather moderate, based on the substantial differences between member states. However, it is suggested that the EU could act as an important bridge-builder between the different camps.
- The EU can also play a decisive role on the issue of the multilateralisation of the fuel cycle. The common European experience through EURATOM as well as the technical know-how could be successfully applied to persuade other actors.



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1. Introduction: The EU's Nuclear Agenda¹

The strengthening of the Nuclear Nonproliferation Treaty (NPT) is of particular importance to the EU. The Union committed itself to this most recently when it related WMD to its own security in the EU Security Strategy (ESS) in 2003. It affirmed the magnitude of the issue in the ESS Implementation Report 2008. These documents identify WMD proliferation by both states and terrorists as »potentially the greatest threat to EU security« (Report on the Implementation of the ESS 2008). Based on this assessment, the EU pledged itself to a number of measures, outlined in the »EU strategy on the non-proliferation of WMD« (European Council 2003 and related action plans 2009). The cornerstones of the proposed engagement are »effective multilateralism«, as called for in the ESS, and the proposed support for and strengthening of multilateral treaties and institutions, as mentioned in the EU strategy on the non-proliferation of WMD. The 2008 Implementation Report reinforces the commitment of the EU to strengthening the NPT. In particular, it regards a successful outcome of the NPT Review Conference in 2010 as critical (ibid 2008).

The 2010 Review Conference will take place against the background of an ongoing crisis in the non-proliferation regime. The main criticism concerns the Treaty's increasing inability to deal with current security challenges. The NPT's division of members into so-called »nuclear weapon states« (NWS) and »non-nuclear weapon states« (NNWS), reflecting different interests, rights and obligations, is a cornerstone of the Treaty. However, the view is gaining ground that the balance between nuclear disarmament (by NWS), refraining from the acquisition of nuclear weapons (by NNWS) and the peaceful use of nuclear energy has shifted in favour of the NWS, exemplified by increasing non-proliferation efforts and diminishing access to civilian nuclear technology.

Besides this general critique, a number of recent cases highlight loopholes in the NPT. The Iran case has put the spotlight on compliance issues, calling into question the existing verification standards and underscoring the need to implement new ones, such as the »Additional

Protocol«. Moreover, Iran has become a reference case for attempts to limit access to enrichment technology among NPT members.

The emergence of Pakistan, India and Israel as de facto nuclear weapon states shows clearly that the Treaty is unable to prevent the development of nuclear powers. The so-called »Khan network«, engaged in the smuggling of nuclear technology, reveals a »blind spot« as far as non-state actors are concerned, set against the growing threat of proliferation by their agency. The actions of North Korea have put on the NPT agenda the question of what happens to installed technology and facilities, if a member state withdraws from the Treaty. However, despite this gloomy state of affairs, prominent figures such as Henry Kissinger, Sam Nunn and George Shultz have highlighted the crucial role of the NPT as a keystone of international security and continue to call for increased efforts to secure its maintenance. This increased impetus has been maintained by new US president Barack Obama and his vision of a world free of nuclear weapons, as well as the resumption of US-Russian talks on the limitation of strategic nuclear weapons.

Thus, the NPT's structural deficits and actual problems raise the question of whether the EU can engage successfully in strengthening the NPT. What can be meaningfully defined as a success is a fairly subjective question, depending on a host of political and other considerations affecting the relevant actors. The study is, instead, interested in areas and issues where, if the EU wanted to get involved, it could be successful.

The extent to which the EU could be successful – that is, influence the course of the NPT Rev Con – will be determined by two sets of factors in particular.² The first is structural factors, including the main issues and problems of nuclear governance, the institutions involved in managing the relevant EU interests and other key actors in international nuclear governance, but also the processes of agenda setting, decision making and implementation. Situational factors, secondly, play a significant role in the NPT review process. They are embodied by the cases already mentioned (Iran, Pakistan, »Khan«), but also by a number of rather fuzzy considerations that render the situation uncertain for all participants. This

1. This evaluation is based on a series of structured interviews carried out between 2008 and 2009 with national MoD and MFA officials, MPs and think tank experts of EU and Non-EU countries.

2. This approach is deduced from the literature but was also supported by the results of the interviews carried out between May 2008 and May 2009 with national MoD and MFA officials, MPs and think tank experts.

applies particularly to the interaction of the unknown – or only partially known – interests and agendas of key actors, their bargaining tactics and the evolving atmosphere at the conference.

While structural factors influence the probability of a basic consensus on problems and solutions for the NPT, the situational factors determine the extent to which these problems and solutions will play a role during the conference process. For the sake of comprehensiveness a third category should be mentioned, that of catastrophic events. Hypothetical examples include some sort of military raid on Iranian nuclear facilities, the outbreak of an armed conflict involving nuclear weapons or the emergence of another de facto nuclear weapon state. However, the paper will not elaborate on these »wildcards«.

2. Nuclear Governance at the Global Level: Issues and Institutions

International nuclear governance takes place within an extensive framework of institutions, organisations and treaties, such as the NPT, the UN Security Council, G8 and NATO. This governance system essentially balances the security and economic interests of various stakeholders related to nuclear issues, be they states, NGOs or private industrial actors.

However, the NPT review process is a key means of changing this governance system. Its central role derives from the fact that it is virtually universal in membership and integrates the three related pillars of nuclear governance: non-proliferation, civilian use and disarmament.

2.1 Policy: Security and Economic Aspects

Debates on nuclear issues tend to be dominated by their security aspects. However, nuclear policies also have a significant economic and industrial dimension. The two areas are linked by the potential dual use of certain nuclear technologies and by the conflicting economic and security incentives related to the possession or proliferation of nuclear technology.

The security dimension has been a driving force in nuclear policy since the discovery of nuclear fission. The security dynamics are based on the different perceptions of

nuclear weapons, either as a threat or as a »guarantee« of security. This, along with the fact of who possesses nuclear weapons, leads to different, sometimes starkly contrasting responses, policies and military strategies.

The current debate on energy security has revived interest in the second dimension of nuclear policy, namely nuclear energy. Although often neglected, its economic and industrial importance make the civilian use of nuclear technology the second core driver of nuclear policies. While initially owned and controlled exclusively by the state this area is increasingly becoming privatised. This involves the growing influence of private actors with regard to nuclear policy. However, the state is still closely involved in this area in a number of ways. It lays down the regulations governing domestic nuclear industries and the export or import of nuclear technology and services. States are also major buyers of nuclear power plants.

2.2 Nuclear Governance: Institutions and Treaties at the International Level

Both security and economic and industrial interests and policies are reflected in and asserted by the various institutions involved in nuclear governance. Their membership differs, as do the power relations within and among the institutions. While this governance system includes »traditional« structures, such as the NPT, the UN Security Council, the IAEA and the NSG/Zangger Committee, it also comprises actors which become involved only sporadically or indirectly, such as the G8, NATO and so on. The two most important frameworks concerning the Review Conference are the NPT and the IAEA.

The Non-Proliferation Treaty

The NPT constitutes the core of global nuclear governance. The ambivalent nature of nuclear technology and the related – conflicting – interests ring out in it. It deals with the possession of nuclear weapons (NWS and NNWS, disarmament, so-called negative security assurances), their proliferation and nuclear energy. Only those nuclear weapon states (NWS) defined by the Treaty are allowed to possess nuclear weapons (Article I). They are obliged to disarm these weapons (Article VI). In contrast, the possession and acquisition of nuclear weapons is forbidden by Article II for all other states, considered

to be non-nuclear weapon states (NNWS). This marks the fundamental distinction between NWS and NNWS. Nevertheless, Articles IV and V acknowledge the »inalienable right« of NNWS to research, develop and use nuclear energy for non-weapons purposes and offer negative security guaranties.

At present, 188 countries are signatories of the NPT, making it virtually a universal treaty. All EU member states are party to the treaty, with France and the UK as NWS. The three most important exceptions are the so-called undeclared nuclear weapon states: Israel, India and Pakistan. The main instrument for introducing changes to the NPT and its practices are the NPT Review Conferences.

International Atomic Energy Agency

Under Article III of the NPT, NNWS accept monitoring of their civil nuclear programmes by the International Atomic Energy Agency (IAEA). The IAEA is an intergovernmental organisation within the framework of the UN. Its main purpose is to support its member states in developing peaceful applications of nuclear technology, provide international safeguards against its misuse and facilitate the application of safety measures in its use. IAEA safeguards are the cornerstone of the NPT's security dimension, namely the proliferation and non-peaceful use of nuclear technology. The safeguards system comprises an extensive set of technical measures and procedures on the basis of which the IAEA verifies the correctness and completeness of the declarations made by states about their nuclear materials and activities.

3. The EU and Nuclear Governance: Framework or Patchwork of Interests?

So far, the EU and its member states have sought to strengthen the NPT regime through a number of measures and activities. However, foreign and security policy issues are strongly affected by the EU's intergovernmental character. Progress and the EU contribution depend on unanimous decisions. However, the EU is not a »single-issue coalition« in the NPT context – influencing nuclear policy is not the sole determinant of its evolution and current state. Instead, efforts to reach common positions are plagued by divisions over several nuclear issues, including the EU Strategy on non-proliferation of

WMD and the Iran Case – which ultimately limits the EU's ability to function as a homogenous actor and influence the outcome of the NPT Review Conference 2010.

3.1 The EU and Non-Proliferation – An Ambiguous Record

The EU's efforts with regard to nuclear non-proliferation issues have evolved, but by no means play a significant role. Instead of developing policies based on a collective EU approach to nuclear weapons, nuclear disarmament and non-proliferation, the core function of the EU broadly remains what it has been since the beginning of the 1990s:

- financing Cooperative Threat Reduction (CTR);³
- regional disarmament assistance;
- building an institutional environment for pre-conference policy coordination.

Historically, the European Community has played a role in nuclear non-proliferation since the 1950s. The EURATOM Treaty of 1957 monitors and coordinates the civilian nuclear industry and the relevant relations among EU member states. This includes far-reaching and detailed regulations on the transfer of nuclear technology and materials, as well as on the safety of nuclear facilities. However, military installations and materials have always been excluded (Portela 2003: 2).

The inception of the European Security and Defence Policy (ESDP) in 1999 did not have an impact on nuclear arms control or non-proliferation. While the EU was able to coordinate its position on the 2000 Review Conference and to influence the outcome of the Conference significantly, nuclear strategy issues were still discussed within the framework of NATO.

The importance of nuclear arms control and non-proliferation increased with the events of September 11, 2001. However, nuclear issues were subordinated to the anti-terrorism agenda, which is distinct from the security and defence agenda. This changed gradually after the simultaneous adoption of the EU Strategy on non-proliferation of WMD and the European Security Strategy in December 2003. They made nuclear non-proliferation

3. For an overview, see Höhl, Müller, Schaper 2003. Also, individual member states have their own CTR programmes (ibid), 12ff.

a de facto part of CFSP, putting these issues on the security agenda. The EU Strategy on non-proliferation of WMD set out four main tasks:

- strengthening multilateralism as a cornerstone of EU strategy;
- support for a stable international and regional environment;
- close cooperation with key partners;
- development of the necessary structures.

However, the Strategy's main function was as a political symbol of European unity after the serious split among the EU member states and between the EU and the USA over the role of the use of force in disarmament and non-proliferation in relation to Iraq (Mölling 2009: 298-363).

3.2 EU Internal Nuclear Governance

The EU is not a unitary actor in nuclear policies. Instead, the EU Council, the EU Commission and, more recently, the European Parliament play different roles in different areas of arms control. Moreover, the EU plays only a marginal role in arms control compared to individual member states. They not only act through the EU as an intermediate institution but through several other institutions and organisations (G8, IAEA, NSG, NATO and so on). This fragmented institutional landscape limits political coherence and reduces the effectiveness of resource deployment, thereby undermining the EU's bargaining power. It also reflects the lack of convergence of EU member states' interests and concepts regarding nuclear issues.

Within the Council, the 27 member states aim to coordinate these policies within the CFSP framework. This applies, among other things, to the NPT and other international organisations and treaties in the nuclear domain. Important decisions in the area of CFSP are taken on the basis of unanimity.⁴ Legally binding decisions include so-called »joint actions«, »common strategies« and »com-

4. The general rule as regards CFSP is that decisions shall be adopted unanimously. However, member states can abstain. Qualified Majority Voting (QMV) can be used when adopting Joint Actions, Common Positions or any other decision taken on the basis of a Common Strategy, and when adopting any decision that implements a Joint Action or Common Position.

mon positions«.⁵ Currently, the EU Strategy on non-proliferation of WMD provides the relevant policy. Moreover, the EU regularly adopts common positions related to the NPT Review Conferences and their Preparatory Committees. However, the EU is only one policy framework among many through which its individual members act. Hence, such common policy statements are broad enough to leave the member states with sufficient room for manoeuvre, while not conflicting with their EU commitments. Moreover, member states have the opportunity to neutralise EU policies through their initiatives in other organisations.

3.3 Factions among EU Member States

While the EU member states are the central actors within the internal EU framework, their nuclear policy interests present a rather incoherent picture. These differences result in various intra-EU cleavages and ultimately enable or encourage individual member states to engage in various interest coalitions outside the EU. Notably, the EU's failure to agree on a common position on nuclear disarmament limits the EU's efforts to increase its role in the NPT (Müller 2007: 193).

Within the EU, one of the main lines of division runs between nuclear weapon states (NWS) and non-nuclear weapon states (NNWS). This concerns the role of nuclear weapons as a threat to or warrant for security and the resulting importance attributed to disarmament and non-proliferation. Moreover, both EU NWS – France and the United Kingdom – are also part of the »permanent five« (P5) members of the UN Security Council.⁶ Both countries

5. Common Strategies, adopted by unanimity, are designed to focus on areas in which EU member states have significant interests in common and set out the objectives, duration and means needed to pursue the EU's policy in those areas. Common Positions define the approach of the EU to a particular issue, and require the member states to implement national policies that comply with the position defined by the Union on that issue. Joint Actions address specific situations in which operational action by the EU is deemed to be required. They define the objectives, scope, means, duration and conditions of implementation.

6. While the UN Security Council (UNSC) is the central institution concerned with peace and international security, it is rarely involved directly in nuclear issues. Two notable exceptions are UNSC Resolutions 1540 (2004) and 1887 (2009). 1540 commits states to take steps to prevent the proliferation of WMD, including nuclear and radiological weapons. The most characteristic feature of the Resolution is that (a) it applies to all UN member states, instead of only members of specific non-proliferation treaties, and (b) it impacts directly on national legislation. This has led to harsh criticisms that the UN has acquired an unjustified role as legislator. 1887 on the other hand reaffirms the NPT as the main framework of nuclear issues, and calls on the member states to comply with the regulations of the Treaty. It also calls for negotiations on a fissile material cut-off Treaty (FMCT) and further disarmament by the NWS.

seek to demonstrate their »special« status vis-à-vis the other EU member states (ibid 2007: 193).

While the two EU NWS have a similar basic approach to the NPT, they nonetheless differ in their policies towards disarmament and nuclear deterrence. The UK has shown a more flexible approach to nuclear weapons and disarmament since the end of the Cold War, and in principle is willing to negotiate further reductions. With the financial crisis affecting the UK's ability to sustain its expensive capability, a reduction in the number of British Trident submarines to reduce costs further has even been discussed. In contrast, France seems quite resistant to further nuclear disarmament. Moreover, historically, France has always favoured closing ranks among the P5, even if this meant allying with the USA.

The EU NNWS do not represent a homogeneous group. In particular, those states that are also NATO members play an ambiguous role. They accept, to some extent, a positive role for nuclear weapons in security, as they support NATO's nuclear doctrine. Their membership of NATO requires them to take the Alliance's NWS positions into account, including those of France and the UK. Consequently, states such as Germany are in an uncomfortable position as regards making sense of a policy bias. The Ministry of Foreign Affairs calls for nuclear disarmament, while the Ministry of Defence has to maintain »allied discipline« due to nuclear sharing within NATO, although the new coalition seems to have achieved unity on the issue of NATO nuclear weapons.

Other states, such as Ireland and Sweden, represent the »disarmament« faction within the Union. Not constrained by any alliance membership, they openly point to the perils of maintaining nuclear weapons and criticise NATO's adherence to a nuclear first-use option. Both member states have joined the New Agenda Coalition⁷,

7. The New Agenda Coalition (NAC), composed of Brazil, Egypt, Ireland, Mexico, New Zealand, South Africa and Sweden, is a geographically dispersed group of countries whose aim is to build an international consensus to make progress on nuclear disarmament. The group was formed in response to the North-South divide that has stymied talks on nuclear disarmament and non-proliferation within the framework of the NPT. In 2000, the NAC was instrumental in achieving a breakthrough at the NPT Review Conference as it put together the historic agreement outlined in the so-called »13 Steps«, in which the nuclear weapon states affirmed the following, in accordance with Article VI of the NPT: that nuclear disarmament can and should proceed independently of general disarmament; that the nuclear powers have a responsibility to work together on »an unequivocal undertaking« to eliminate their arsenals; and that 13 relatively simple steps could help to rid the world of nuclear weapons quickly, verifiably and irreversibly.

one of the more influential groups within the NPT review process. While this has brought fresh ideas and some progress to the NPT, it contributes to the division of the EU into different interest groups outside the EU framework.

Ultimately, the economic dimension also represents a source of friction between those states with a significant nuclear industry and those without. This is manifest in diverging national positions on NPT Articles III (export regulations) and IV (peaceful use of nuclear technology), or regarding the internationalisation of nuclear fuel cycles and the related industrial and trade questions.

3.4 EU Factions in Practice: The 2005 NPT Review Conference and the Iran Case

Diverging interests and policies, as well as the fragmented institutional setting have led to an ambivalent political performance in international governance with regard to central issues, as shown by support for the NPT during the 2005 Review Conference in general and the Iran Case.

This general division between the EU member states was also apparent during the last NPT Review Conference in 2005. Evaluations of the EU's role vary widely.⁸ While some highlight the role of some EU member states in rescuing the Review Conference from complete disaster, others regard the EU as not a particularly active or even a helpful actor at all. In fact, the EU experienced serious problems in reaching agreement on a common position towards the NPT review. Dissent over Iraq and differences concerning the right strategy towards Iran were still in the air, threatening repeated fractures in places that had only just been repaired. Therefore some observers consider the fact that the EU adhered to the language of its common position as a success in itself (Meier 2005). Others argue that the relatively strong EU performance was due to the fact that the Conference dealt largely with procedural issues, thereby circumventing a number of fundamental lines of division within the EU (Müller 2005: 26).

Besides, individual member states acted in their own interests. Already in the run-up to the conference, France

8. Compare, for example, Thunborg (2005); Müller (2005).

and the UK aimed to reverse EU commitments and positions on disarmament, notably the so-called »13 Steps«, representing concrete measures to which the NWS had committed themselves (Meier 2005: 9).

A major test case for the EU as a significant actor in the international security arena was – and still is – Iran’s ambiguous nuclear programme. The EU has shown only a limited ability to act coherently during its engagement in the Iran case. EU member states have often proved unable to agree on a clear-cut course. Instead of a common policy, disagreements have arisen. Shifting internal coalitions in the EU have obstructed the development even of a persuasive, let alone a coercive diplomatic approach vis-à-vis Iran and the USA. While the European Council suspended negotiations on a Trade and Association Agreement in June 2003, the foreign ministers of France, Germany and the UK went to Tehran for direct negotiations. Although this trio was dubbed the »EU-3«, an EU mandate was bestowed on this diplomatic mission only after it was under way. Moreover, there was no involvement on the part of the High Representative until a number of EU member states called for it (Sauer 2008: 1-27, Harnisch 2008). The recent talks with Iran, signalling a possible agreement on the enrichment of Iranian uranium in Russia, was rather caused by the substantial engagement of the USA than the EU’s efforts.

4. Upcoming Challenges: The EU on the Eve of the Review Conference

These structural and issue-related characteristics form the background to the EU’s potential role during the conference. A priori, the EU is only one actor in a fragmented network of nuclear governance. Its ability to define and implement policies is limited due to its internal division of labour and power. On top of that, the EU itself is divided on a number of general questions related to nuclear issues.

Given these internal and external limitations, we ask whether the EU can deliver and under what circumstances by evaluating how it can utilise its opportunities to influence the outcome and course of the NPT review in accordance with its preferences. The options of the EU as a player in nuclear governance in general and with particular reference to the NPT Review conferences result from the convergence of positions on

substantive issues that will most likely be addressed at the conference and on how to influence, organise and shape the policy process.

4.1 Structural Factors – Converging Positions of EU Member States

There is EU convergence only on very general issues. The EU member states agree mostly in very general terms on the revitalisation of the NPT, rebalancing the three pillars and the further need for disarmament by the NWS. The exception remains France, which focuses rather narrowly on non-proliferation and exporting civilian-use technologies. However, the EU member states’ »consensus« appears to be fragile. Suggested ways of achieving these aims, as well as individual »red lines«, differ significantly. The US-India deal serves as a good example, as it required considerable pressure from the USA and other NWS to persuade some EU members to agree to the NSG waiver.

Especially the question of rebalancing the three pillars raises doubts concerning a coherent EU position. While some states argue that this means first and foremost significant disarmament by Russia and the USA, others regard parallel disarmament and further restrictions on civilian use as necessary. But there are also a number of concrete issues on which the EU member states (including France) agree, such as the universalisation of the Additional Protocol, the necessity of a Weapons of Mass Destruction Free Zone (WMDFFZ) in the Middle East and multilateral nuclear approaches (MNA).⁹

The self-perceptions of the EU member states present a mixed picture. They believe that the EU could play a role at the Review Conference, but also highlight many obstacles. The EU’s huge potential in the NPT context is widely acknowledged, based on individual member-state memberships of the diverse groups and coalitions relevant to the Review Conference (NWS and NNWS, NAC members, NATO members and so on). The EU’s economic power, as well as its experience in organising effective control regimes for nuclear energy resources

9. The areas of agreement of the member states are reflected in the Working paper on forward-looking proposals of the European Union on all three pillars of the Treaty on the Non-Proliferation of Nuclear Weapons to be part of an action plan adopted by the 2010 Review Conference, submitted by the European Union, NPT/CONF/PC.III/WP.26.

(EURATOM) and establishing well-functioning Europe-wide security regulations, were also regarded as assets likely to enable it to act as a driving force in 2010.

Scepticism concerning the EU's ability to play an active part in this context is based mostly on the general functioning of European foreign policy. This concerns the rather bleak record of the EU in the field of foreign and security policy and the substantial differences between the member states. In particular, member states that favour further disarmament regard the EU with reservations, fearing that EU consensual decision-making will water down their disarmament policies.

Expectations concerning an active role for the EU are thus generally rather moderate, based on the substantial differences between member states. However, it is suggested that the EU could act as an important bridge-builder at the Review Conference, not only between Russia and the USA, but also between the NAM countries and the NWS. Its diverse member states, with their respective networks, could facilitate substantial dialogue and help to overcome a potential deadlock. The EU also has the potential to act as a unique internal and external mediator, on the one hand, integrating the NAM countries and, on the other hand, dragging along reluctant member states.

4.2 Situational Factors

Situational factors are difficult to control but it is necessary to be aware of them in order to shape strategy and tactics in accordance with changing circumstances. They result and evolve from the ad hoc interaction of actors during the Conference. The same is true of the general framework – that is, the atmosphere and the negotiation tactics.

Negotiation Tactics and General Framework

The atmosphere – and thus possible success – will be influenced by a number of factors that apply to every NPT Review Conference. Negotiation tactics and global developments will have a major impact. They entail a great deal of uncertainty for the possible outcomes of the 2010 Review and are very difficult to predict or influence.

The bargaining tactics of different actors or coalitions could lead the Conference into a procedural deadlock – deliberately or accidentally. For example, devoting too much of the debate to the Middle East and Israel, and thus tapping into Israel's undeclared nuclear weapons and the Israeli-Palestinian conflict, could lead to this situation.

On the other hand, developments between the USA and Russia will have a significant impact on the attitudes of Conference delegations, possibly relaxing the confrontational stances of NAM countries. A constructive US-Russian approach to disarmament, as is obviously taking place at the moment, could pave the way for substantial progress. Reliable agreements on further reductions would ease the atmosphere at the Review Conference and make it more difficult for a small number of countries to torpedo the whole NPT process.

The atmosphere at the Conference will also be influenced by global developments in the broader field of non-proliferation and disarmament but also beyond. During autumn 2008 the Russian-Georgian war gave rise to a great deal of pessimism concerning the NPT due to the ensuing tensions between Russia and the West. On the other hand, the policies and initiatives of new US president Barack Obama have fuelled optimism regarding a renewed global non-proliferation regime, combined with substantial disarmament. The US Nuclear Posture Review, expected in early 2010, thus plays a significant role of the shaping of the atmosphere at the Review Conference, as it will indicate the ambitions of the US president.

Another important factor could be developments in the wider Middle East – for example, inside Iran and in Pakistan, where the question of who governs the nuclear weapons is currently more open than ever. In that regard, the recent reports of direct Iranian-Israeli negotiations or the rapprochement between Iran and the West could have unforeseen effects on the atmosphere of the NPT Review Conference.

Internal EU Factors

Besides the general issues, a number of internal factors will determine the EU's ability to play a substantial role at the Conference. Moreover, much will depend on the

Spanish presidency 2010, its cooperation with the new EU president, Herman van Rompuy, the new High Representative for Foreign and Security Policy, Lady Ashton, and the member states' negotiation tactics.

The issue on which the EU could be an important and, possibly, leading actor is that of multilateral nuclear approaches. An active EU role is expected on this issue, whether it be its support for various proposals from EU member states or in persuading important NAM countries of the advantages of this approach. Backed with substantial financial, technical and political resources, there is a considerable likelihood that one of these initiatives will be realised. Another bargaining chip is sometimes thought to be the EU countries' memberships of different coalitions. However, it is widely doubted that the EU could make use of this asset, as the member states are likely to follow their own policies inside these different groups.

In contrast, a far-reaching common position agreed upon by the 27 EU member states could represent an important incentive to get other actors to engage in the process, but this seems unlikely. A priori, the EU will have limited room to manoeuvre – it can adapt its positions in accordance with evolving conference dynamics only within the boundaries of its formal »common position«. Thus the role of the Spanish presidency in implementing and interpreting it are crucial in realising the most flexible role for the EU. The EU Working Paper, presented at the third Preparatory Committee for the NPT, already illustrates how a possible Common Position would be composed. Therein, interestingly, the EU offers some concrete ideas on disarmament, including CTBT, FMCT and a call upon Russia and the USA to negotiate concrete steps towards disarmament. However, the EU may find it difficult to reach agreement on a visionary document on 2010, due to member-state differences. This will limit the EU to a passive role on most issues.

Spain, as both NATO member and one of the larger EU member states, is believed likely to handle the challenges of the NPT Review Conference in accordance with its central role in the EU. The Spanish conference team is thought to be able to cope with the relevant internal and external negotiations. The strengthening of the NPT regime through a successful Review Conference is also one of the foreign policy priorities of the Spanish

Presidency.¹⁰ Nonetheless, member states' adherence to the Common Position is considered a weak point, due to substantial differences on details which are likely to arise during the Conference. France could again represent an obstacle to a common EU approach.

A common position of the EU vis-à-vis Russia is unlikely. On the one hand, Russia is regarded as unreliable, using its nuclear weapons to bully its neighbours and alter the regional balance of power. On the other hand, Russia is perceived as a necessary long-term partner. With regard to the potential basis for influence over Russia, suggestions are rather vague. One option considered among some EU member states is that a long and trustful relationship would make it possible for the EU to exert more influence on Moscow. A second option suggested is influence exerted through the EU's substantial support for Russian HEU downgrading programmes. However, the EU plays only a minor role in the crucial relationship between Russia and the USA, where nuclear disarmament would be part of an agenda that also includes NATO enlargement and the Missile Defence System.

Factors beyond EU Control

A host of factors almost beyond EU control will also influence the situational settings. The core here is formed by the USA and the Middle East, with Iran and Israel holding key positions for their region, as well as for global nuclear governance.

The USA is crucial with regard to a successful Review Conference. Disarmament, withdrawal and non-compliance are considered particular issues on which substantial change in Washington would be needed. The Iran-centred debate on compliance is regarded as one of the most difficult cases. The bold initiatives of President Obama on disarmament and US-Russian negotiations, as well as the opening of direct dialogue with Iran could thus be regarded as hopeful signs towards the Review Conference.

Directly linked to this issue are developments inside Iran and the region. The Iranian government (re-elected in 2009 and contested since then by the opposition) could

10. Luis Cuesta, State Secretary at the Spanish MoD, Within the framework of the IV. European Strategic Forum of the Friedrich-Ebert-Stiftung, Madrid, 15.10.2009.

change the situation as regards the nuclear programme, or at least ease the atmosphere in the run-up to the Review Conference. The same is true for Israel. While the policies of the new Netanyahu government are regarded with suspicion, the Middle East is perceived as a crucial region with regard to the future of nuclear non-proliferation. Israel's policy would influence the political action or attitudes of important NPT members, such as Egypt or Iran.

A final uncertainty concerns the Chair of the Review Conference. This position is key to the progress of the Conference. The chair sets the formal agenda and will have a considerable influence on a final document.

5. Role-play: 2010 Do's and Don'ts for the EU at the NPT 2010 Review Conference

Concerning the potential role of the EU at the NPT Review Conference, the outlook is mixed, at best. Its unique character as a collective actor, including limitations but also enabling factors, gives it the character rather of a structural power. Here the EU can play three distinctive roles: a leader by example, a bridge-builder and an active supporter of building a constructive atmosphere during the conference.

The EU's ability to influence the agenda and outcomes will be limited. This is due, on the one hand, to the fact that the EU is only one international institution among many in international nuclear governance. Besides, it is not the most powerful one. While the EU's importance in nuclear arms control has constantly evolved, it is still primarily related to disarmament assistance and securing nuclear materials and facilities. On the other hand, the EU's opportunities during the Review Conference process are limited by the internal factions among its member states, and the distribution of competences, including also the EU Commission and the Parliament.

While among EU member states there is a fairly broad consensus, especially with regard to what the member states perceive as inappropriate, suggestions on how to proceed on different questions reflect a number of incompatible views. The EU often achieves consensus on guiding principles but without offering a constructive solution in particular circumstances. Consequently, expecting the EU simply to »do more« would expose this

group of 27 sovereign states to a further variant of its »capability-expectation« gap. Ultimately, we conclude, the EU can play only an indirect and supportive role with regard to the substantive issues.

However, the EU and its consensus is no small matter. Moreover, its limited impact due to the lack of tangible proposals and bargaining flexibility does not necessarily apply to the individual member states. The record of the most recent Review Conferences shows that several EU members have played an active and significant role, in line with the EU consensus. Within their activities they can rely on the EU consensus, officially stated in a »Common Position«. This consensus likewise limits the appropriate policy choices of these member states in other coalitions. Thus, even if member states engage in other alliances they feel in most cases bound to the EU consensus. This has a »dissemination effect« on the »Common Positions«.

However, the »Common Positions« are too vague to serve as an operative blueprint during negotiations. The EU as a policy-making vehicle is too inflexible to reformulate its position on an ad hoc basis – for example, during a conference process. Therefore, the rather broad character of the consensus may be the optimum solution. It also ensures room for manoeuvre for the presidency.

Coherence or confusion among the EU member states' perceptions and conceptions impact on the degree and magnitude of the EU consensus and, consequently, on policy-making. This is the case regarding the NWS. While the »disarmament faction« around Sweden, Ireland and Austria argue for an approach inside the NPT framework, the »pragmatists« are willing to create a parallel framework or category with a view to binding the D-3 (three undeclared nuclear weapon states) to international rules and regulations, and incorporating them in the non-proliferation community. We assume that this contradiction will be difficult to overcome.

The most likely area in which EU member states may reach a detailed consensus is the multilateralisation of the fuel cycle. While the EU member states differ on their preferences for particular models, they all favour a multilateral solution. Here it may be more difficult to reach agreement with Russia and the USA, as well as other nuclear fuel producers. Ultimately, the chosen option will also determine the economic dimension of

nuclear fuel, which is of considerable importance in this context.

With two NWS as member states, disarmament has proven a contentious issue inside the EU. France in particular has withstood the EU internal and international pressure to further reduce its nuclear arsenal. France proposes non-proliferation as the main subject of the Conference, whereas the other member states (including the UK) are focusing rather on disarmament. However, serious future disarmament steps depend not on the EU, but on the USA and Russia. If both states could agree on a START and SORT successor, possibly combined with a modest reduction of quantitative ceilings and a verification mechanism, this may put additional pressure on the EU NWS to reduce their arsenals as well.

Influence through Example

The EU represents, in itself, a kind of NPT microcosm, including NWS, NNWS, NATO countries and neutrals. Thus a Common Position, as mentioned above, could substantially influence the atmosphere at the Conference positively and serve as a starting point for an overall agreement. To serve that purpose, the document has to be very balanced and the EU member states need to consult with their respective partners in the various coalitions.

Another European example could be set by the presentation of EURATOM as a functioning regional regime for governing the civilian use of nuclear energy. With more and more states aspiring to utilise nuclear energy, the EURATOM model could be of interest for some regions, which would ease concerns with regard to proliferation dangers.

The EU is very much engaged in the debate on multinational approaches to the enrichment process. Several EU members have presented proposals on this issue, and the European Commission provides substantial support for the NTI fuel bank. Nonetheless, concerns about the MNA remain, in particular the belief that this idea is just another attempt by the industrialised countries to maintain their technological *Vorsprung* and restrict even more the right to civilian use. Hence, the EU could act as a neutral broker, offering expertise on organisational and technological matters, as well as substantial funds for realising such a project, according to the needs and

expectations of potential fuel consumer states, especially among the NAM.

The EU should continue to expand its engagement in supporting Russia in dismantling nuclear warheads and downgrading heavily enriched uranium. Especially with regard to non-state actors, seeking to possess nuclear material, it is of the utmost importance that the arsenals in Russia are secured and dismantled.

The EU as a Bridge-builder

As the EU represents the NPT states and interests in a nutshell, it has huge potential for bringing the different interest groups of the NPT framework together. The composition of the EU – with NWS, NATO members and neutral states with a long-standing disarmament agenda – has the potential to achieve a compromise within the EU context, which can serve as the nucleus for the NPT Review. The EU can thus provide for middle ground between different »camps« of the NPT state-members. Additionally, as many EU member states are parts of different coalitions or interest groups in the NPT framework, the European Union has the ability to deal with the different interests on the table as an honest broker.

In the run-up to the Review Conference, Brussels can strengthen this role by consulting with key actors, such as Egypt, Iran and Russia. Apart from the Common Position, the EU's technical and financial cooperation instruments are another important means of building bridges between key actors in the NPT context. EU support could convince states interested in the use of civilian nuclear power to opt for proliferation-resistant technologies or multilateral fuel enrichment.

Regarding the procedural factors influencing agenda-setting and outcomes, the countries analysed in this study share a sense of urgency concerning the NPT Review Conference 2010. EU member states all perceive this conference as a crucial event for the international non-proliferation and disarmament regime. This sense of urgency is shared by Russia and China, which both regard the Review Conference as the last chance to preserve the deal between nuclear weapon and non-nuclear weapon states. The NPT Review Conference will shape events in the field of non-proliferation and disarmament in the coming years, but it will also

be shaped by events in 2009 and early 2010. Therefore there is a broad European and international consensus that progress on CTBT and FMCT, as well as between Russia and the USA, is indispensable for a positive outcome of the Review Conference. However, expectations of the Review Conference are rather low in EU member states mainly due to the experience of failure in 2005 and developments surrounding North Korea and Iran.

Create and Support a Constructive Atmosphere

The EU can play a supportive role in the Review Conference as long as the atmosphere is constructive and the main actors – the USA, Russia and Iran – do not obstruct the NPT process. In such a context, the EU could contribute financially and technologically to strengthening the regime. This could be through the realisation of MNA and further verification systems, or through experience transfer to other regions. If the general framework is confrontational, however, the EU cannot contribute to a

positive outcome of the Review Conference because any confrontations will also be reflected inside the EU.

The differences between NWS and NNWS, being entrenched in the Treaty, could reopen during the Review Conference, although the negotiations between the USA and Russia, and a possible substantial agreement, could ease irritation caused by the slow progress of disarmament. The EU could support a constructive conference atmosphere by delivering a substantial Common Position, with a balanced approach on all three pillars. Thus, the Union could illustrate how NWS and NNWS can agree on a common agenda.

Another highly loaded issue is the discussion on the Middle East. Here the EU should engage preventively and follow policies aimed at reintegrating Iran into the NPT. It should also continue to support further direct contacts between Israel and Iran in order to ease tensions on this issue in the run-up to the Review Conference.

Literature

- ESS** (2003): Report on the Implementation of the European Security Strategy: Providing Security in a Changing World 2008.
- European Council** 2003 and related action plans (See: <http://www.consilium.europa.eu/showPage.aspx?id=718&lang=en#Bookmark4> [18.5.2009])
- Harnisch, Sebastian** (2007): Minilateral Cooperation and Transatlantic Coalition-Building: The E3/EU-3 Iran Initiative, *European Security* 16, No. 1.
- Höhl, Kathrin/ Müller, Harald/ Schaper, Anette** (2003): EU cooperative threat reduction activities in Russia. Paris: European Union Institute for Security Studies, Chaillot Papers no. 61.
- Meier, Oliver** (2005): The EU at the NPT Review Conference: A Modest Success for the EU's Emerging Policy in Nuclear Non-Proliferation. In: Maull, Hanns/ Overhaus, Marco/ Harnisch, Sebastian (eds.): *The EU's Emerging Role in Nuclear Non-Proliferation Policy. Trends and Prospects in the Context of the NPT-Review Conference 2005*, *Foreign Policy in Dialogue*, Newsletter Issue 17.
- Mölling, Christian** (2009): Europas strategische Kohärenz. Konzeption und Analyse strategischer Kohärenz am Beispiel der EU-Politiken in den Bereichen militärisches Krisenmanagement, Rüstungskontrolle und Rüstungskooperation, München.
- Müller, Harald** (2005): Germany and the 2005 NPT Review Conference. In: Maull, Hanns/ Overhaus Marco/ Harnisch, Sebastian (ed.) (2005): *The EU's Emerging Role in Nuclear Non-Proliferation Policy. Trends and Prospects in the Context of the NPT Review Conference 2005*, *Foreign Policy in Dialogue*, Newsletter Issue 17.
- Müller, Harald** (2007): Europe and the Proliferation of Weapons of Mass Destruction. In: Foradori, Paolo/ Rosa, Paolo/ Scartezzini, Riccardo (eds.): *Managing a Multilevel Foreign Policy, The EU in International Affairs*, Lanham.
- Müller, Harald** (2005): *Vertrag Im Zerfall. Die gescheiterte Überprüfungskonferenz des Nichtverbreitungsvertrags und ihre Folge*, HSFK-Report, Frankfurt am Main.
- Portela, Clara** (2003): The Role of the EU in the Non-Proliferation of Weapons of Mass Destruction, *PRIF-Report* 65: 2, Frankfurt am Main.
- Pullinger, Stephen/ Quille, Gerrard** (2003): The European Union: Seeking Common Ground for Tackling Weapons of Mass Destruction, *Disarmament Diplomacy* 74.
- Sauer, Tom** (2008): Struggling on the World Scene: An over-Ambitious EU Versus a Committed Iran, *European Security* 17, No. 2: 273-93.
- Thunborg, Annika** (2005): Swedish Nuclear Non-Proliferation and Disarmament Policy and the European Union. In: Maull, Hanns/ Overhaus Marco/ Harnisch, Sebastian (ed.) (2005): *The EU's Emerging Role in Nuclear Non-Proliferation Policy. Trends and Prospects in the Context of the NPT Review Conference 2005*, *Foreign Policy in Dialogue*, Newsletter Issue 17.



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