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A FINAL DOCUMENT WITHOUT FINALITY: THE NPT REVIEW OUTCOME

After four weeks of spirited debate at the United Nations the five year review conference of the Nuclear Non-Proliferation Treaty (NPT) ended today with more of a whimper than a bang.

Encouraged by the vision of a nuclear weapons free world which President Obama projected in his Prague speech last year, many countries and virtually all of civil society had urged that the conference call for the start of negotiations toward the enactment of a convention banning nuclear weapons, similar to the conventions already in place for biological and chemical weapons. But it was not to be.

Four of the five NPT nuclear weapons states – France, the UK, the US and Russia – made it clear that, if the conference wanted a consensus document, the original draft of Main Committee One (disarmament) would have to be watered down considerably, and so it was. Instead of starting a process aimed at producing a legally enforceable treaty embodying the Prague vision, the Final Document reflects the seemingly disproved theory that pursuit of steps like further US-Russian reductions, entry into force of the test ban treaty, etc., will lead to a world free of nuclear weapons. The four states essentially rejected calls for setting a timeline for progress.

Reflecting the strong drive of the majority of the world's countries and global civil society for commencement of negotiations on a convention, the Final Document does affirm "that all states need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons," and notes in this connection "the Five-Point Proposal for Nuclear Disarmament of the Secretary-General of the United Nations, which proposes *inter alia* consideration of negotiations on a nuclear weapons convention or agreement on a framework of separate mutually reinforcing instruments, backed by a strong system of verification." The review conference thus acknowledged that elimination of nuclear weapons will require a global institutional and legal system.

In the department of gratitude for small favors, one can note that the Final Document calls on the nuclear weapon states to "promptly engage" with a view to further reductions in their nuclear arsenals and to report to the 2014 preparatory meeting for the next quinquennial review conference on steps being taken to implement Article VI of the NPT. That article embodies the grand bargain under which the nuclear weapon states agree to negotiate in good faith for elimination of nuclear weapons in return for abstinence from them by the rest of the world.

In general, the Final Document vigorously reaffirms past NPT commitments and the need for their implementation, including the application of the principles of transparency, verification, and irreversibility to disarmament, and the nuclear weapon states' "unequivocal undertaking to the total elimination of their nuclear arsenals." This reaffirmation was much needed due to the failure of the 2005 review conference and the sorry record of compliance with the commitments.

One can also welcome the consensus statement acknowledging the "catastrophic humanitarian consequences of any use of nuclear weapons" and demanding that all states "at all times" comply with "applicable international law, including international humanitarian law." This provision strongly implies the unlawfulness of use of nuclear weapons in any circumstance, advancing the 1996 advisory opinion of the International Court of Justice.

One concrete achievement was on a make or break issue for an agreed conference outcome: A nuclear weapons free zone in the Middle East. The Final Document calls for a conference on this controversial subject in 2012 and the appointment of a facilitator to make it happen.

All in all, the result was disappointing without being surprising. But the voices of civil society and of a growing number of countries were heard louder than ever, demanding that this sword of Damocles, as President Kennedy called it, be lifted from the world. These voices will not be stilled.

The Lawyers Committee on Nuclear Policy is an educational association of lawyers and legal scholars engaged in research and advocacy in support of the global elimination of nuclear weapons. Additional commentary regarding the conference is at www.lcnp.org