



Global Security Institute

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Nuclear, Biological, Chemical, and Missile Non-Proliferation Instruments

**The adequacy of international efforts in these areas:
The point of view of an NGO**

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Introduction

It is an honor to be amongst such distinguished public servants, diplomats and experts and to have the privilege to address you. I offer my thanks to the NATO Defense College and the Senior Politico-Military Group on Proliferation for organizing this important event. The title in the program relates to the instruments that address our shared nonproliferation concerns.

I have carried the brief of the Middle Powers Initiative here and it has been distributed.¹ Since it rigorously sets forth the manner in which NATO and its member States can effectively impact the nonproliferation regime, I feel a bit relaxed to informally offer a few observations.

The Missile Technology Control Regime strives to set export rules to limit the spread of ballistic missiles and other unmanned delivery systems by restricting commerce and movement of missiles based on payloads that can be carried and distance missiles can travel. It has grown in a reasonable manner to over thirty states while setting standards even for non members. It has formed a basis for increasingly more effective export controls. But, as an instrument, it is inherently weak because it is discriminatory, not legally binding nor universal.

The universal abhorrence of weapons of indiscriminate and mass effect such as biological and chemical are vouchsafed in the Chemical Weapons Convention (CWC) and the Biological Weapons Convention (BWC). With respect to both of them the same questions arise: How can we verify, monitor and enforce the bans in place? What level of inspections and mechanisms of enforcement are needed? What capacities will national and international bodies have? The CWC is structurally well defined and simply needs more funding and greater confidence to institutionalize its capacity to engage in spot inspections. The fact that the verification regime does no harm to the market should guide our conduct with respect to the BWC. Unlike the CWC, business has not supported the BWC and negotiations suffer from a false premise that because verification protocols have limits they should not be pursued.

The fact that the US did nothing to advance an international verification regime after 9-11 remains baffling. Local regulations, state criminalization, international criminalization, verification protocols and intrusive inspection capacities should all be put into place. The costs of prevention far exceed the costs of terror. Additionally, reinforcing the taboo and norm against these horrible weapons of indiscriminate effect must be done as well as possible, recognizing that our efforts will never be perfect. The efforts compel the creation of regimes that help establish global norms and that work is worthwhile in itself.

Nuclear weapons are unique. They are the only weapons that pose an immediate risk to civilization, are deployed with impunity by members of NATO, and are not governed by a legal instrument universally banning them.

Neither reason nor imagination is sufficient to grasp the magnitude of what we have created. The International Court of Justice, in its landmark opinion in 1996 on the Legality of the Threat or Use of Nuclear Weapons stated: "The destructive power of nuclear weapons cannot be contained in either space or time. They have the potential to destroy all civilization and the entire eco-system of the planet." Nuclear weapons are the sword of Damocles over our heads.

Nuclear weapons exemplify a thoroughly modern dilemma where the means of pursuing security undermine the end of obtaining security. As Henry David Thoreau said, "Improved means to unimproved ends."

There is a grave risk of increased nuclear proliferation if the Nuclear Non-proliferation Treaty (NPT) loses its capacity to guide conduct. The NPT is the world's central legal instrument designed to constrain proliferation.

¹ http://www.middlepowers.org/mpi/pubs/natobrief_0903.pdf

It embodies commitments to reduce the status of nuclear weapons and to take actions toward disarmament. Disregarding these commitments will undermine the NPT's legitimacy and respect for nonproliferation promises will diminish.

NATO countries can make an enormous difference in this area. NATO is composed of nations that extol the rule of law, policies based on reason, democracy, universal norms of civilized conduct, constitutionalism, and peace. It constitutes a bastion against superstition, fear, and the pursuit of political goals through violence. Because of the more than 150 U.S. nuclear weapons based in six non nuclear weapons states of NATO (Belgium, Germany, Greece, Italy, Netherlands, and Turkey), control over which could only be formally shared in a time of war, NATO is the world's only multilateral nuclear alliance. All its members share membership in the Nuclear Non-Proliferation Treaty (NPT).

The opportunity presented by the complete dissolution of the only other multilateral nuclear alliance in the world (the Warsaw Pact) and the end of the Cold War to fulfill the nonproliferation and disarmament promises of the NPT has been recently obscured by an upgrading of the role of nuclear weapons and the downgrading of the role of the treaty.

The need to more thoroughly address Article IV concerns relating to peaceful uses and greater controls over fuel cycles are being addressed by proposals by the IAEA leadership and even the U.S. President has indicated a willingness to soberly meet the issue in his February 11, 2004 speech. Of course the IAEA Protocols need to be supported in every way possible. But the demand for an immediate nuclear weapons convention by many non-allied countries and the failure of progress on disarmament by the nuclear weapons states is straining the regime and bridge building is needed by countries in the center.

Failure to adequately address the inconsistency of the continuing deployment of NATO tactical nuclear weapons constrains NATO members from strongly advocating bridge building nonproliferation disarmament initiatives, such as those contained in the NPT Review of 2000, supporting the New Agenda, or effectively dealing with the thousands of Russian tactical weapons. Do these weapons in today's world have such great value to warrant paying the cost of failing to move the nonproliferation disarmament agenda forward with appropriate vigor?

We seem to have forgotten how we got here. Nuclear weapons were created to make us more secure. Some nations claim that possession of this weapon of mass destruction enhances security. Now non-state actors who are motivated by beliefs or greed unconstrained by law may gain possession of these devices. Over 90 percent of the weapons are in the hands of two countries (Russia and the U.S.) that keep thousands pointed at each other in high alert status even though the two countries are not enemies, thus implicitly extolling their alleged value. Paradoxically, weapons that were created for security have become the greatest threat to security. Is there presently a problem that nuclear weapons solve that is a greater danger than the weapons themselves? Can a nonproliferation regime based on the premise of *'do as we say and not as we do'* be sustained?

Despite nearly universal consensus that we must move incrementally toward a nuclear weapons free world, in a stunning assertion of militarism and unilateralism over international cooperation and the rule of law, the U.S. is taking steps to construct new nuclear weapons. Some of these weapons are called "mini-nukes" and are ready to be integrated into conventional war fighting plans while others are modifications of existing weapons designed for new targets. This quest represents an enormous shift in the basic rationale for the production and use of nuclear weapons. The basis of the nonproliferation regime is presently threatened. The legal instrument is fine; the policies and failure to muster courage and political will are problematic.

Previously, deterrence doctrine was designed to ensure that nuclear weapons would not be used, or at least only used as an absolute last resort. The logic was that if each nuclear equipped party had enough weapons to inflict

unacceptable damage to the other—even after being hit with a nuclear attack—then neither would actually dare to use their arsenal.

Until now, there has also been a nearly universal international consensus that the proliferation of nuclear weapons posed a paramount threat to the security of the world. President Bush has challenged this presumption. In his 2003 State of the Union address he said, "*The gravest danger facing America and the world is outlaw regimes that seek and possess nuclear, chemical and biological weapons.*" The emphasis has shifted from the weapons themselves to concern for regimes, and the policies that arise from this shift are dramatic. Instead of a policy of containment and elimination of weapons through international law, we are now seeing a policy of "regime change" based on U.S. unilateral decision-making. This is very hazardous to international order, and we are only beginning to see its consequences in the aftermath of the Iraq war.

Moreover, rather than working to fulfill treaty commitments for disarmament, the U.S. Nuclear Posture Review of 2002 calls for proliferation:

The need is clear for a revitalized nuclear weapons complex that will ... be able ... to design, develop, manufacture, and certify new warheads in response to new national requirements; and maintain readiness to resume underground nuclear testing if required.

The U.S. National Security Strategy emphasizes that the United States will take anticipatory preemptive action. Since the Nuclear Posture Review calls for incorporating nuclear weapons into conventional war fighting capabilities, we now have a doctrine that can rationalize the pre-emptive use of nuclear weapons.

The irrationality of the quest to address the problem of proliferation by building more weapons of mass destruction and threatening to use them remains inadequately challenged.

These new doctrines both challenge the moral taboo against use, and undermine the commitments made under the NPT, to negotiate the elimination of nuclear arsenals. This duty was emphasized by the unanimous adoption at the Treaty's review in 2000 of a final statement which contained the following commitment: "An unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, to which all States parties are committed under Article VI."

The reality of the hazards of a new contemplated use of nuclear weapons has yet to dent the public debate, and its effect on the nonproliferation regime has certainly not been appreciated by the relevant public. Nor has it been addressed adequately by NATO. NATO cannot sit back silently because it is utilizing U.S. nuclear deployments to fulfill its mandate to pursue peace and security.

It is easy to understand why much of the world is so afraid. We should all be afraid.

Mohammed El Baradei, Director General of the International Atomic Energy Agency (IAEA), recently stated the situation clearly:

These are double standards. On the one hand, the U.S. says that the proliferation of nuclear weapons must be fought. On the other, it perfects its own arsenal. This is not acceptable... The U.S. Administration demands from other states not to have any nuclear weapons, while it fills its own arsenals... If we do not give up such double standards, we will have even more nuclear powers. We are at a turning point now.

Does NATO's failure to establish a policy consistent with the promises its members have made under the NPT preclude its members from choosing the effective route to safety that Mr. El Baradei has highlighted? Are NATO and its members without nuclear weapons advancing policies that protect the NPT?

The NPT remains central to international security. Without its legal normative value the world could be an unsustainably dangerous place. As Ambassador Thomas Graham, who led the U.S. negotiations for START I and the Extension of the NPT in 1995, recently said in the U.S. Congress:

In 1962, there were reports estimating that there would be 25-30 nuclear weapons states with nuclear weapons integrated into their national arsenals by the end of the 1970s. If this had happened, there would likely be more than 50 nuclear weapon states today. This would have created a nightmarish world, one in which every conflict would run the risk of going nuclear, it would be impossible to keep these weapons out of the hands of terrorists because they would be so widespread and the continued existence of our civilization would hang in the balance every day.

The principal reason that this did not happen was the negotiation of the Nuclear Non-proliferation Treaty, the NPT in 1968, its entry into force in 1970, and its permanent extension in 1995. It converted what had been an act of national pride (the acquisition of nuclear weapons) into an act of international outlawry. In exchange for the then five nuclear weapon states agreeing to certain nuclear arms control and disarmament commitments, the rest of the world agreed never to acquire nuclear weapons. But, we must not forget that the NPT did come at a price in arms control commitments for the nuclear weapon states (the United States, Russia, France, the UK and China), including, for example, deep reductions in nuclear weapons leading to their elimination, a comprehensive nuclear test ban treaty, and a pledge never to use nuclear weapons against non-nuclear weapon NPT parties (now 182 nations – almost the whole world).

The Treaty will be reviewed in 2005 and its future is uncertain. NATO and its members cannot evade their responsibility in either helping or preventing a descent into a third nuclear age where counter proliferation and the use of military force, even including the possible use of a nuclear weapon, becomes the accepted mode of international conduct. This tragic possibility should be compared to security enhancing steps that reaffirm the collective commitment to downgrading the role of nuclear weapons, the affirmation of the strong taboo against their use except in the most dire and extreme situations, the strengthening of international law and the movement toward fulfilling the promise of nuclear disarmament contained in the NPT.

In 1995 the Treaty was indefinitely extended based on a negotiated framework to evaluate implementation of the disarmament commitments contained in Article VI of the treaty, which calls for negotiations leading to nuclear disarmament. These "Principles and Objectives for Nuclear Nonproliferation and Disarmament" included the "determined pursuit by the nuclear weapons States of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons..." There was also a commitment to complete a comprehensive test ban treaty by 1996 and explicit negative security assurances were offered.

In 1996 the International Court of Justice offered an advisory opinion on the legality of nuclear weapons. The court held that the threat or use was "generally" contrary to international law, but could not reach a conclusion that when a state's very survival was at risk that the law would prohibit use. However, it was unanimous and specific in holding what Article VI requires of nuclear weapons states:

There exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.

At the 2000 Review of the Treaty, the agreements of 1995 were clarified and elaborated by the adoption of 13 “practical steps” which enhance security and fulfill the commitments to Article VI. All members of NATO have offered their allegiance to the NPT and the commitments they have made, yet NATO’s policies remain incoherent.

At the NATO press release of the Final Communiqué of the Ministerial Meeting of the Defense Planning Committee and the Nuclear Planning Group, on June 6, 2002, a reaffirmation of a commitment to implementing the conclusions of the 2000 NPT Review was made. Yet, the 1999 NATO Strategic Concept stated “Nuclear weapons make a unique contribution in rendering the risks of aggression against the Alliance incalculable and unacceptable. Thus, they remain essential to preserve the peace.” When the North Atlantic Council met in Washington, DC on April 23rd and 24th, 1999 it stated that, “The supreme guarantee of the security of the allies is provided by the strategic nuclear forces of the Alliance, particularly those of the United States; the independent nuclear forces of the United Kingdom and France, which have a deterrent role of their own, contribute to the overall deterrence and security of the Allies.” The nuclear sharing arrangements remain in place, and the contradiction enfeebles advocacy.

Again, NATO's Defense Planning and Nuclear Planning Group met in December and released a December 2 1999 Press Communiqué M-DPC/NPG-2(99) 157 that stated:

We confirmed the principles underpinning the nuclear forces of the Allies as set out in the new Strategic Concept. These forces continue to have a fundamental political purpose: to preserve peace and prevent coercion and any kind of war. They play an essential role by ensuring uncertainty in the mind of any aggressor about the nature of the Allies’ response to military aggression and by providing an essential political and military link between the European and North American members of the Alliance. The Alliance will therefore maintain adequate nuclear forces in Europe at the minimum level sufficient to preserve peace and stability. Taking account of the present security situation, we affirmed that the circumstances in which any use of nuclear weapons might have to be contemplated by Allies are extremely remote.

NATO’s weapons arose from the unique circumstances of the Cold War, and the preservation of the right of first use arose in response to the Warsaw Pact’s overwhelming conventional force superiority. This rationale is long gone, yet the weapons and the posture remain, despite negative security assurances under the NPT. When the world’s most powerful military alliance in human history claims a need for these deployments for security, what message does a weak state in a dangerous region hear? Do the weapons provide prestige or military value? Can the resources of NATO not come up with a better way of enhancing security and thus set a proper example?

Because NATO countries have been ineffective in meeting challenges to the integrity of the NPT it has already been dangerously weakened.

Commitments explicitly made to fulfill the NPT’s disarmament negotiations have been ignored. These include the failure of the five NPT-bound NWS to take direct steps toward fulfillment of their primary Article VI obligation – elimination of their nuclear arsenals – and three have declared, in effect, that elimination will not be pursued “for the foreseeable future.” Important elements of the 1995 bargain for the permanent extension of the NPT and of the commitments made in the *Final Document* of the 2000 Review Conference remain unfulfilled and have in some cases been repudiated. START II is dead, the Anti-Ballistic Missile Treaty has been scrapped, the Comprehensive Nuclear-Test-Ban Treaty is not yet in force and the United States, although a signatory, has stated that it “will not become a party” to the treaty. Moreover, no progress has been made on new measures such as a Fissile Materials Cutoff Treaty and, while the U.S. and Russian nuclear arsenals are being reduced (a fact noted but essentially unaffected by the almost-provisionless Strategic Offensive

Reductions Treaty of 2002), those arsenals remain huge and thousands of weapons remain deployed on high alert. There are new nuclear weapons technical developments (e.g., “mini-nukes” and “bunker busters”). The proposed deployment of missile defences' space weapons threatens to slow or halt further reductions and even spur increases in the arsenals of some states in response.

Non nuclear state members of NATO formally support the retention of nuclear weapons “for the foreseeable future” and have not explicitly rejected new U.S. doctrines that lower the threshold for use. Could it be that the inconsistencies between NATO policy and NPT promises have been overlooked or considered insignificant? Could it be that the political weight of the “sharing” arrangements of over 150 nuclear weapons precludes non nuclear weapons members of NATO from being effective disarmament advocates?

The net effect of this incoherence is that neither NATO and nor its members are able to exercise good faith as leadership in the world on this issue. Persistence in contradictions prevents NATO countries from vigorously pushing to fulfill disarmament and threat reduction commitments of the nuclear weapons states under the NPT. As the nonproliferation regime corrodes, we are increasingly being encouraged to rely on counter-proliferation: war in the name of disarmament. The hypocrisy of this is only too obvious to the non-nuclear, non-allied world.

CONCLUSIONS

If the NATO members can take principled positions that ensure alignment with the commitments made in the 2000 Review of the NPT security enhancing example for the larger world community will be realized. The rule of law will be advanced enormously.

There needs to be a serious strategic planning project that fully evaluates how to lower the value of nuclear weapons as committed in the NPT.

All of the NATO allies of the United States have ratified the Comprehensive Test Ban Treaty. Thus there must be greater pressure, explicit pressure, to maintain the moratorium and to bring the need for ratification back to the table. Testing will undermine the NPT and that cannot be tolerated.

While use of nuclear weapons by NATO is regarded as a very remote contingency, NATO policy does include a possible first use option, which could, in theory, be against non-nuclear parties to the NPT. This position of commitments made in the context of the NPT that non-nuclear states can take refuge in negative security assurances must be clarified.

The need to downgrade the political status of nuclear weapons is essential. The goal should be that NATO policy lowers the value of nuclear weapons. A de-nuclearized NATO would not only mean a more secure Europe, but also a more secure United States and a more secure world.

The 13 Practical Steps Adopted Unanimously at the 2000 Review of the NPT

The Conference agrees on the following practical steps for the systematic and progressive efforts to implement Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons and paragraphs 3 and 4 (c) of the 1995 Decision on “Principles and Objectives for Nuclear Non-Proliferation and Disarmament”:

1. The importance and urgency of signatures and ratifications, without delay and without conditions and in accordance with constitutional processes, to achieve the early entry into force of the Comprehensive Nuclear-Test-Ban Treaty.
2. A moratorium on nuclear-weapon-test explosions or any other nuclear explosions pending entry into force of that Treaty.
3. The necessity of negotiations in the Conference on Disarmament on a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices in accordance with the statement of the Special Coordinator in 1995 and the mandate contained therein, taking into consideration both nuclear disarmament and nuclear non-proliferation objectives. The Conference on Disarmament is urged to agree on a programme of work which includes the immediate commencement of negotiations on such a treaty with a view to their conclusion within five years.
4. The necessity of establishing in the Conference on Disarmament an appropriate subsidiary body with a mandate to deal with nuclear disarmament. The Conference on Disarmament is urged to agree on a programme of work which includes the immediate establishment of such a body.
5. The principle of irreversibility to apply to nuclear disarmament, nuclear and other related arms control and reduction measures.
6. An unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, to which all States parties are committed under Article VI.
7. The early entry into force and full implementation of START II and the conclusion of START III as soon as possible while preserving and strengthening the Treaty on the Limitation of Anti-Ballistic Missile Systems as a cornerstone of strategic stability and as a basis for further reductions of strategic offensive weapons, in accordance with its provisions.
8. The completion and implementation of the Trilateral Initiative between the United States of America, the Russian Federation and the International Atomic Energy Agency.
9. Steps by all the nuclear-weapon States leading to nuclear disarmament in a way that promotes international stability, and based on the principle of undiminished security for all:
 - Further efforts by the nuclear-weapon States to reduce their nuclear arsenals unilaterally;
 - Increased transparency by the nuclear-weapon States with regard to the nuclear weapons capabilities and the implementation of agreements pursuant to Article VI and as a voluntary confidence-building measure to support further progress on nuclear disarmament;
 - The further reduction of non-strategic nuclear weapons, based on unilateral initiatives and as an integral part of the nuclear arms reduction and disarmament process;
 - Concrete agreed measures to further reduce the operational status of nuclear weapons systems;
 - A diminishing role for nuclear weapons in security policies to minimize the risk that these weapons will ever be used and to facilitate the process of their total elimination;
 - The engagement as soon as appropriate of all the nuclear-weapon States in the process leading to the total elimination of their nuclear weapons.
10. Arrangements by all nuclear-weapon States to place, as soon as practicable, fissile material designated by each of them as no longer required for military purposes under IAEA or other relevant international verification and arrangements for the disposition of such material for peaceful purposes, to ensure that such material remains permanently outside military programmes.
11. Reaffirmation that the ultimate objective of the efforts of States in the disarmament process is general and complete disarmament under effective international control.

12. Regular reports, within the framework of the strengthened review process for the Non-Proliferation Treaty, by all States parties on the implementation of Article VI and paragraph 4 (c) of the 1995 Decision on “Principles and Objectives for Nuclear Non-Proliferation and Disarmament”, and recalling the advisory opinion of the International Court of Justice of 8 July 1996.

13. The further development of the verification capabilities that will be required to provide assurance of compliance with nuclear disarmament agreements for the achievement and maintenance of a nuclear-weapon-free world.