



Galvanizing the Focus: A Nuclear Weapons Convention

Notes for the strategy session on a nuclear weapons convention, a breakout session of the conference, “Seizing the Moment: A One-Day Consultation on Breakthrough Measures to Build a New East West Consensus on Weapons of Mass Destruction and Disarmament,” co-sponsored by the East West Institute, the Center for Non-proliferation Studies, the British-American Security Information Council, the Global Security Institute and the NGO Committee on Disarmament, Peace and Security

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Our futures are revealing themselves to be far more intertwined than we had expected. For example, we are all threatened by dramatic man made changes to the climate and we will have to cooperate to protect this aspect of the global commons. Our economic and environmental security requires cooperation and trust. The integration of our security must now be reflected and codified in our system of international laws and norms

Our collective success in achieving the universal elimination of our greatest threat, nuclear weapons, will dramatically enhance our capacity to address all other threats. A non-discriminatory nuclear weapons convention, replete with the requisite political, legal and technical mechanisms to ensure its implementation is a necessary step.

The economies of the world are irreversibly integrated. The prosperity of one nation is inextricably linked to the prosperity of others. The masters of finance and economics understand this, and their arguments to further integrate our economies have resonated with the highest decision-makers. Yet, in the field of “security” as distinguished from “trade or economics” decision makers continue to play a zero sum game with our common security, claiming the right by some to brandish nuclear weapons as the currency of power over the heads of 180 nations that have renounced developing nuclear weapons. This disconnect is most visible in the fact that the US borrows billions from China and spends that debt to develop weapons of mass destruction to threaten China while China spends the debt service payments to beef up its military capacities. How strange that a bank should threaten its debtor and a creditor threaten its bank.

The emerging financial crisis has illuminated the equally integrated and fragile nature of our security. No nation is secure while another upon which its security is dependent is threatened with destruction, whether it is financial, or physical.



The primacy of trade concerns over security concerns was demonstrated by the agreement by the Nuclear Suppliers Group (NSG) to grant India a waiver to its nuclear trade rules. In the debate leading up to the agreement, voices within governments which called for non-proliferation stipulations, such as mandatory ratification of the Comprehensive Nuclear Test-Ban Treaty, were ignored. The forces pushing for expanding nuclear energy are formidable and succeeding.

With the spread of nuclear energy worldwide there will be an increase of nuclear materials and intellectual capacities needed to make nuclear weapons. This will increase the risks of nuclear weapons proliferation. This potential devastating effect on global security must be addressed.

Even the start of negotiations to achieve a convention eliminating nuclear weapons will help clarify a path that enhances the security of all, strengthens the rule of law, fulfills NPT duties, and reframes in a positive manner the relationships amongst nations. To help this process a model nuclear weapons convention ⁱ has been submitted into the context of calls for nuclear disarmament at the UN General Assembly as well as the NPT. ⁱⁱ

A non-discriminatory, legally-binding convention would strengthen the rule of international law by several important means:

1. It would expedite the fulfillment of Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), which calls for the pursuit of “negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.” Further, a convention would strengthen the non-proliferation obligations of the Treaty, through the implementation of a robust verification regime that would be required by a global prohibition.
2. A convention would fulfill the call set forth by the International Court of Justice (ICJ) in their Advisory Opinion of 1996 which identified “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.”
3. It would address what is arguably the NPT’s greatest shortcoming, the perception that it codifies a “nuclear apartheid” world, wherein laws are inequitably applied.

The primary instability of the current regime was aptly described by Judge C.G. Weeramantry, former Vice-President of the ICJ: “There cannot be one law for the nuclear powers and another law for the non-nuclear powers. By the very principles of law and justice which the powerful states seek to uphold, the nuclear weapon in any shape or form stands condemned. No policeman can enforce a law which the policeman himself openly violates.” A convention will cure this defect.

The global non-proliferation regime, at the heart of which lies the NPT, has been severely weakened in recent years, evidenced at the 2005 Review Conference wherein divergent views on the primacy of disarmament versus that of non-proliferation obstructed agreement on ways to strengthen the regime. The nuclear programs of Iran and North Korea have further shaken the rule of law governing the spread of nuclear weapons. Iran flaunts the Security Council's sanctions claiming they are illegal and it is denied nuclear energy cooperation without explicit proof that it has a nuclear weapons program. North Korea pulled out of the NPT. Law and stability are being challenged. This present crisis has stimulated calls for nuclear weapons elimination from surprising important voices such as Robert McNamara, Henry Kissinger, Sam Nunn, William Perry, and George Shultz. A nuclear weapons convention is the clearest way to end the crisis of threat of use and proliferation.

It will end the discrimination inherent in the NPT and bolster the necessary cooperative effort to ensure no further proliferation while walking us down the nuclear ladder through a step by step incremental approach.

The first step in this process of halting proliferation is to eliminate the political currency of the weapons. A credible commitment from nuclear weapons states, first to remove nuclear weapons from their security doctrines and to commit to eliminating them altogether will open up the opportunities to strengthen verification and monitoring measures essential to build universal confidence in the non-proliferation regime. This is the most fundamental bargain within the NPT process articulated in its 2000 Review of the NPT wherein all parties agreed to pursue nuclear disarmament by banning testing, terminating further production of nuclear weapons materials, and other practical threat reducing policies embodied in the convention approach as well. In this way, a nuclear weapons convention addresses the concerns of both non-nuclear weapon states as well as nuclear weapon states, both of which seek assurances that their neighbors, friends and enemies will never threaten them with nuclear weapons.

Even a relatively "limited" nuclear exchange would have devastating effects on the climate, global food supplies, the global economy, and millions of innocent people. It would shake all nations' economies and cultures to their very core. It is incumbent upon the world's governments to address this danger, and begin negotiations on a non-discriminatory, legally-binding, effectively verifiable nuclear weapons convention, and thus unambiguously and forcefully achieve the global elimination of nuclear weapons.

ⁱ *Securing Our Survival: The Case for a Nuclear Weapons Convention*, <http://www.icanw.org/securing-our-survival>

ⁱⁱ One key General Assembly resolution is entitled "Follow-up to the advisory opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons." (A/C.1/63/L.15). It calls for the implementation of the Article VI obligation through negotiations that would lead to the conclusion of a nuclear weapons convention that would prohibit the development, production, testing, transfer, use and threat of use of nuclear weapons and provide a phased program for their elimination. Further,

the GA resolution on “Convention on the Prohibition of the Use of Nuclear Weapons” requests the Conference on Disarmament (A/C.1/63/L.19) “to commence negotiations in order to reach agreement on an international convention prohibiting the use or threat of use of nuclear weapons under any circumstance.”

A working paper submitted to the 2000 NPT Review Conference (NPT/CONF.2000/MC.1/SB.1/WP.4) shows how a model nuclear weapons convention “incorporates the disarmament measures which States parties to the NPT agreed in 1995 and 2000 to be the first steps towards implementation of Article VI.” See: Ware, Alyn, “A Nuclear Weapons Convention and the NPT: Diversion or Enabler?” Aotearoa Lawyers for Peace: www.peacelaw.org.nz.