

Viewpoint

The NPT at a Crossroads

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On April 24, 2000, representatives from the 187 states parties to the Treaty on the Non-Proliferation of Nuclear Weapons (NPT) will convene at the United Nations to open the first five-year Review Conference since the Treaty was indefinitely extended in 1995. It will be the first such Review Conference to assess the accomplishments under the “strengthened review process” agreed upon at the 1995 Review and Extension Conference. It will be the Treaty’s first Review Conference in the new millennium.

It will be also be the first Review Conference in the substantially changed international environment since 1995. Much of the optimism that followed the end of the Cold War has been attenuated by new and occasionally deep divisions, including those that have arisen over Kosovo, within the permanent members of the Security Council. Such divisions, which at times provoke memories of the Cold War, cannot help but hinder the Council’s ability to “ensure prompt and effective action” in fulfilling its “primary responsibility for the maintenance of international peace and security,” as defined in Article 24 of the UN Charter. With actions either blocked, or with the Council united in inaction (as it was in the tragic case of Rwanda), concerns inevitably arise over

the future of the “rule of law” in international society. In such a climate, it becomes all the more important for states parties to attend closely to their solemn obligations under major treaties like the NPT, responsibilities that are reinforced by the periodic deliberations of Review Conferences.

Though global efforts on behalf of nuclear disarmament and nonproliferation have followed a long and winding road, it is increasingly apparent that this road has led not to a dead-end, but to a crossroads. It will be up to the forthcoming Review Conference to survey the terrain, consider the various available road maps, assess the Treaty’s track record, and lay down some milestones for the course ahead. The stakes are large indeed, for participants will be deliberating about the gravest threat to international peace and security of our time—the gravest threat, indeed, to the future of humankind.

THE LEGACIES OF 1995

The last five years of the 20th century represented simultaneously the best of times and the worst of times for the global norms of nuclear disarmament and nonproliferation. The agreement by the states parties to the NPT to extend the Treaty indefinitely was accomplished

in May 1995 at the NPT Review and Extension Conference (NPTREC) by means of a politically binding, integrated “package” of three decisions and a resolution.¹ This package was adopted without a vote after it became apparent that the overwhelming majority of states parties favored an indefinite extension.

It is important to stress, however, that the NPT was not extended unconditionally, despite some claims to the contrary.² The indefinite extension would not have been possible without agreement on the other items found in the package, which was constructed around a common theme of enhanced accountability. The states parties to the NPT clearly wanted to ensure that *all* its members were complying in full with *all* the Treaty’s provisions. In a sense, the Review Conference is simply an opportunity for the states parties to confirm periodically that a deal is, indeed, a deal.

Strengthening the Review Process³

The first decision in 1995 concerned “Strengthening the Review Process for the Treaty.” This decision retained the practice of holding a Review Conference every five years and also provided that Preparatory Committee meetings would occur annually in the three years prior to the Review Conference. The decision did not, however, just extend an old scheduling practice, but also expanded the scope of the substantive topics to be considered during the review process. The purpose of Preparatory Committee sessions would henceforth be “to consider principles, objectives and ways in order to promote the full implementation of the Treaty, as well as its universality, and to make recommendations thereon to the Review Conference.” The scope of these deliberations was to include specifically a review of progress in implementing the “principles and objectives” found in the second key decision of the NPTREC.

The 1995 Conference also agreed that future Review Conferences “should look forward as well as back” in evaluating the implementation of the Treaty, and should identify the areas in which—and the means through which—further progress should be sought. A specific focus would be on addressing what might be done to strengthen implementation of the Treaty and to achieve its universality. (As of January 2000, India, Pakistan, Israel, and Cuba remain non-parties.)

The first decision also retained the existing structure of three Main Committees, which focus respectively on

the following issue “clusters”: nuclear disarmament; safeguards, export controls, and nuclear-weapon-free zones (NWFZs); and peaceful uses of nuclear energy. It also provided that the Preparatory Committee may make recommendations to the Review Conference concerning the establishment of “subsidiary bodies” to allow for more focused consideration of particular issues.

Principles and Objectives

The second decision of the NPTREC registered an agreement on “Principles and Objectives for Nuclear Non-Proliferation and Disarmament” (P&O). The review process would consider and assess the performance of states parties relative to these standards, alongside those obligations found explicitly in the Treaty itself. In brief, the decision established seven specific principles and objectives:

1. **Universality.** The decision identified efforts on behalf of the “universal adherence” to the Treaty as an “urgent priority.” States parties are to make “every effort” to achieve this objective.
2. **Nonproliferation.** The decision declared that the further proliferation of nuclear weapons “would seriously increase the danger of nuclear war” and hence that all states parties should make “every effort” to implement the Treaty fully.
3. **Nuclear Disarmament.** The nuclear weapon states reaffirmed their commitment under NPT Article VI to pursue in good faith “negotiations on effective measures relating to nuclear disarmament.” Three specific measures would be “important in” the implementation of Article VI commitments: completion of negotiations on a Comprehensive Nuclear-Test-Ban Treaty (CTBT) no later than 1996; conclusion of negotiations on a convention banning the production of fissile material for use in any nuclear explosive device; and the “determined pursuit by the nuclear-weapon states of systematic and progressive efforts” to reduce nuclear weapons globally, “with the ultimate goal of eliminating those weapons.” The decision also reaffirmed the goal of general and complete disarmament under strict international control.
4. **Nuclear-Weapon-Free Zones.** The decision reaffirmed the importance of NWFZs, stated that the establishment of additional zones (in the Middle East especially) “should be encouraged as a matter of priority,” and noted that the cooperation of nuclear weapon states in respecting such zones is necessary.

5. **Security Assurances.** The decision urged that “further steps” be taken to assure non-nuclear weapon states party to the Treaty against the use or threat of use of nuclear weapons, and suggested that these steps could take the form of “an internationally legally binding document.”

6. **Safeguards.** The decision affirmed that new nuclear supply agreements should require full-scope International Atomic Energy Agency (IAEA) safeguards “as a necessary precondition” along with binding commitments not to acquire nuclear explosive devices, described the IAEA as “the competent authority” to verify compliance with NPT safeguards, urged all states parties that have not yet done so to bring into force their comprehensive safeguards agreements, called for a regular assessment of safeguards, and urged the placement under safeguards of nuclear material recovered from military programs.

7. **Peaceful Uses of Nuclear Energy.** The decision reaffirmed the “inalienable right” of all parties to “develop research, production and use of nuclear energy for peaceful purposes,” consistent with Articles I, II, and III of the NPT. It also called for: “preferential treatment” in nuclear cooperation for non-nuclear weapon states parties; “transparency” in nuclear export controls; high standards of nuclear safety, waste management, and physical security; and “every effort” to ensure the IAEA has adequate financial and human resources. The decision also noted “serious concerns” about attacks or threats of attacks on nuclear facilities.

These are the yardsticks—along with the terms of the Treaty itself—that participants at the next Review Conference will use to measure the progress and general health of the Treaty and its associated regime. It is through the use of these standards that the states parties will be held accountable for their actions in relation to the Treaty. The Review Conference is not, of course, intended to serve as any functional substitute for the Conference on Disarmament (CD) in Geneva, which remains the world’s “single multilateral disarmament negotiating forum.”⁴ These two forums, however, can and do complement each other in interesting ways.

In reaffirming the importance of the CTBT, the P&O lent considerable political support to efforts in the CD to negotiate that treaty. Moreover, progress made during the NPT review process could help in breaking the deadlock in the CD on many outstanding issues, includ-

ing nuclear disarmament, a fissile material cut-off, security assurances, and the prevention of an arms race in outer space. Activities undertaken during the NPT Review Conferences or at the CD may well prove to be mutually reinforcing. All of this, of course, depends upon the willingness of member states to reach consensus. Without this willingness, the ability of either forum to advance the cause of disarmament will be substantially curtailed, if not rendered hopeless. It all comes down to the political will of states, which in turn is shaped by the wishes and interests of the people within those states.

Middle East Resolution

The remaining item in the 1995 package is the Resolution on the Middle East, which endorsed progress in the Middle East peace process as a factor that would further efforts to create a zone in the Middle East free from all weapons of mass destruction (WMD) and their delivery systems. The resolution called on all states that have not joined the NPT to do so and to accept IAEA full-scope safeguards, and noted with concern that some unsafeguarded nuclear facilities continue to exist in the Middle East. It called upon all states in the region to take “practical steps” to establish a WMD-free zone in the Middle East, and urged all NPT states parties—“in particular the nuclear-weapon States”—to support such a goal. Notably, the resolution was sponsored by the three NPT depositary governments (the United States, United Kingdom, and Russian Federation).

Some Unfavorable Legacies

Not all the news following 1995 bodes well for the future of global nuclear disarmament efforts, nonproliferation, or the NPT. Interested observers would therefore be well advised not to view the indefinite extension in 1995 as a “done deal.” In fact, the Treaty remains very much a work in progress, contingent not just upon good faith efforts on the part of all states parties to live up to their obligations, but also upon the ability of current non-parties to understand how consensual international norms in this field can serve their own national interests.

There will undoubtedly be some good news to report at the next Review Conference, not the least of which is the simple fact that 187 countries continue to see it as in their national security interest to remain parties to the Treaty. Though it is seldom mentioned, the other good news is the “non-armament dividend” that the 182 non-

nuclear weapon states have earned by not developing nuclear weapons. This includes the savings from not having to spend scarce resources on weapons research and development, weapons storage and maintenance, and fixing the damage of such activities on human health and the environment. The dividend also includes the security benefits these states are reaping, relative to the insecurities they would experience in a world without binding proliferation constraints and disarmament commitments. The peoples of these states have learned that national pride and national interests can both be better served by pursuits other than seeking nuclear weapons.

The good news also includes a reduction in the aggregate number of nuclear weapons since the NPT was signed in 1968, some partial and incremental improvements in the transparency of existing stockpiles of nuclear weapons and their associated fissile material, increased cooperation between the nuclear weapon states on command and control problems, and other worthy arms control initiatives. Documenting such progress is indeed a key *raison d'être* of the Review Conference.

The challenge for a meaningful review, however, is not simply to string together lists of positive accomplishments and view them in isolation, but to weigh both setbacks and achievements together and to assess them relative to prevailing international expectations when the Treaty was extended. With respect to nuclear disarmament, it is appropriate to recall the official expectations of the two countries with the largest stockpiles of nuclear weapons. Attending an NPT Preparatory Committee meeting in 1994, the representative from the United States stated that the NPT "does not legitimize the permanent possession of nuclear weapons" and that indefinite extension "will best ensure that the Treaty continues to serve as an effective and formidable force against nuclear proliferation and as a stable basis upon which additional measures of arms control and disarmament can be built."⁵ The representative from the Russian Federation similarly stated in 1994 before the First Committee of the General Assembly that it was

Russia's intention to go along with other nuclear Powers in de-emphasizing the role of nuclear weapons for security, to move steadily towards the final goal—the complete elimination of nuclear weapons everywhere in the world.... The confirmation of the effectiveness and the broadening of the adherence to the Treaty would speed up the process of reduc-

tion and elimination of nuclear arsenals, and would further enhance international security.⁶

Yet a number of developments have occurred in recent years that contrast not only with these expectations, but also with some of the fundamental terms of the Treaty and the relevant 1995 decisions. Such developments include:

- The setbacks to the early entry into force of the CTBT, especially after its rejection by the US Senate in 1999. Two additional nuclear weapon states (the Russian Federation and China) have yet to ratify the treaty. Of the 44 states whose ratifications are required for the treaty to enter into force, only 26 have ratified as of the end of January 2000, while India, Pakistan, and the Democratic People's Republic of Korea (DPRK) have not yet signed.
- The lack of ongoing negotiations on nuclear disarmament⁷ (e.g., on START III) and the stalemate in the CD over this and related issues, including a fissile material treaty, security assurances, and the prevention of an arms race in outer space. There is also a chronic lack of consensus on General Assembly resolutions addressing nuclear disarmament.
- Delay in the entry into force of START II as a result of the Russian Duma continuing deliberations on ratification.
- Developments with respect to nuclear doctrines that highlight the sizable role of nuclear arms in some states' security policies. In April 1999, the North Atlantic Treaty Organization (NATO) reaffirmed its first-use doctrine, acknowledged the value of tactical weapons, and termed nuclear weapons "the supreme guarantee of the security of the Allies."⁸ The Russian Federation has adopted a first-use nuclear doctrine and given new emphasis to tactical nuclear weapons.⁹ Also troubling are the announcement by India of a doctrine of "minimum deterrence"¹⁰ and a recent indication of acquiescence to this doctrine by at least one nuclear weapon state.¹¹
- The resistance on the part of the nuclear weapon states to proposals to de-alert their arsenals.
- The resistance on the part of the nuclear weapon states to agree to binding nuclear security assurances for non-nuclear weapon states parties to the NPT.
- Persisting questions about the consistency of nuclear-sharing arrangements with obligations under Article I of the NPT.
- The recent adoption by the United States of a policy to deploy a limited national missile defense system as

soon as it is technologically possible, to seek amendments in the Anti-Ballistic Missile Treaty to allow such a deployment, and to threaten to leave the treaty if such amendments are not agreed.

- The persisting conduct by some nuclear weapon states of subcritical tests of nuclear explosive devices, an activity focused on maintaining, not eliminating, nuclear stockpiles.¹² There is also a risk that such tests may become a legitimate activity for any party to the CTBT,¹³ despite their inconsistency with the spirit and goals of the NPT and P&O.
- The conduct in 1998 of several nuclear tests in South Asia, followed by reports of new or pending military transfers to those who conducted such tests,¹⁴ despite the lack of progress in implementing the nonproliferation benchmarks set for South Asia by UN Security Council Resolution 1172.¹⁵
- The continued existence of unsafeguarded nuclear facilities and missile programs in the Middle East, despite the call in the 1995 Middle East Resolution for progress in creating a zone free from WMD and their delivery systems in that region. Some states in the area are also not parties to the Chemical Weapons Convention (CWC) or Biological Weapons Convention.
- The inability of the UN Disarmament Commission to reach agreement to convene a fourth Special Session of the General Assembly on disarmament.¹⁶

Additional challenges that will also bear upon the future of the NPT lurk beneath the surface:

IAEA Safeguards: The IAEA will come under great pressure if it continues to be given new responsibilities within a zero-growth budget, a practice that contrasts more each year with the provision in the P&O calling for “every effort” to ensure that the IAEA has adequate resources. Voluminous amounts of weapons-usable nuclear materials remain both in civilian commerce and from dismantled nuclear weapons. Though the IAEA’s new Additional Protocol has strengthened its nuclear safeguards, as of January 2000 only seven countries have such controls in force; moreover, many parties to the NPT have still not concluded their required safeguards agreements with the IAEA.¹⁷ One NPT party (the DPRK) remains in non-compliance with its safeguards obligations under the NPT, while questions remain over the aspirations and capabilities of another NPT party (Iraq).

Peaceful Nuclear Cooperation: There appears to be no global consensus over what specific types of nuclear technology are covered by the “inalienable right” found

in Article IV of the NPT—are sensitive nuclear fuel cycle facilities legitimate for all NPT parties to acquire, or just some parties? The scope of export controls over nuclear materials and dual-use items remains highly contentious—transparency over exports remains minimal, especially vis-à-vis the public. While the P&O provided that non-nuclear weapon states parties to the NPT should be given “preferential treatment” in nuclear cooperation, some countries continued their nuclear energy cooperation with the two non-NPT states in South Asia after 1995 without the satisfaction of either of the two “necessary preconditions” for such cooperation identified in the P&O—i.e. the application of full-scope IAEA safeguards and “binding commitments not to acquire” nuclear weapons.¹⁸

Challenges to the Nonproliferation Norm: The danger persists that the “not in any way to assist” obligation under Article I of the Treaty will become relaxed as proposals continue to surface calling for external technical assistance to new nuclear weapon programs in the name of safety and security.¹⁹ A similar problem relates to the possible substitution through national legislation of a no “direct and material contribution” standard for the more stringent “no-assistance” standard in the Treaty.²⁰ Another challenge will arise if nuclear proliferation comes to be accepted as a *fait accompli* to be “managed” by various arms control policies, a substantial deviation from the disarmament and nonproliferation norms in the Treaty.²¹ The “universality” goal of the NPT stands in sharp contrast to the adoption by some countries of nonproliferation doctrines that instead selectively target so-called “rogue nations.” There also appears to be no international consensus on conditions that would trigger multilateral sanctions against violators of key nonproliferation norms.

NWFZs: Notwithstanding the priority given in the P&O to establishing such zones, the Pelindaba Treaty creating an African NWFZ has still not entered into force. Meanwhile, despite agreement on most issues, negotiations drag on over the proposed Central Asian NWFZ, while efforts to create a nuclear-weapon-free southern hemisphere continue to meet resistance from some nuclear weapon states. The establishment of a Middle East NWFZ is also an elusive goal.

Other Issues: There is no consensus on multilateral norms with respect to either the nonproliferation of missiles, the deployment or transfer of missile defense systems,²² or potential military uses of civilian space launch

systems. There has also been little progress in negotiating an international convention against nuclear terrorism.

WHICH ROAD TO TAKE?

Writing last year in his twin capacity as Canada's Representative to the CD and as Ambassador to the UN for Disarmament, Mark Moher outlined three possible futures for the NPT. The first he termed "muddle through," an outcome that "is currently seen as most likely" yet which also "leads to a rather complacent, minimalist perspective."²³ The second he termed the "road to disintegration," a path he described as "possible," at least with respect to the views of two groups of states: those who fear that the scant progress on disarmament will lead to defections from the Treaty, and those who are concerned about possible future acceptance of nuclear weapons in South Asia. His third possibility was "construction for the future," consisting largely of diplomatic achievements building on the P&O.

The final outcome, Ambassador Moher argues, will be based on the answer to one question: "does the NPT continue to be of central value to its states parties?"²⁴ He concludes that "the jury is out" on whether the parties will be driven by "internal considerations" (e.g., aspects of the Treaty bargain such as progress on nuclear disarmament) or by "external considerations" (e.g., events occurring outside the Treaty such as the South Asian tests).²⁵ He calls for a "program of action" to be adopted at the next Review Conference that would identify clearly "*what* can and should be done—not *how*—by all states party, singly and collectively as appropriate."²⁶

Though this assessment seems quite reasonable, it is of course impossible to forecast with any certainty the precise outcome of the next NPT Review Conference. The deliberations could be shaped by any of several possible events that simply cannot be predicted in advance. These include an announced halt in further reductions of nuclear stockpiles, a new nuclear test, a major theft of plutonium from a civilian or military facility, the execution of a credible nuclear terrorist threat, a declaration by yet another country of a nuclear weapons program, a catastrophic accident involving a nuclear weapon, a horrifying crisis at a nuclear weapons production or storage facility, or some other such tragic event.

Nevertheless Ambassador Moher's basic question is a good one, insofar as it underscores what is almost certainly the most important single variable shaping the outcome of the deliberations: political will. If the will is there among all parties to live up to and even exceed their legal obligations and political commitments—rather than to treat them merely as ultimate goals—prospects for the Treaty and for international peace and security will be bright indeed. But it is equally true that if the will is absent—if nuclear disarmament cannot escape the "ultimate goal" rut in which it is now ensnared²⁷—then a darker outcome is likely. Specifically, the possibility could not be excluded that some non-nuclear weapon states may decide that compliance with their own nonproliferation obligations should also be treated as merely an ultimate goal. Only firm political will—fusing both interests and ideals, and coupling enlightened governmental leadership with understanding and support from the people—can ensure against such a doubly tragic outcome.

It is true that the P&O document does indeed use the term "ultimate goal" in reference to disarmament, but it also requires "systematic and progressive efforts" by the nuclear weapon states to achieve that goal. The 1996 Advisory Opinion of the International Court of Justice on the legality of the threat or use of nuclear weapons clearly interpreted Article VI of the NPT as requiring something more concrete than periodic reaffirmations of a distant goal.²⁸ In December 1999, the UN General Assembly approved numerous resolutions calling for greater progress in nuclear disarmament and related issues.²⁹

The issue of political will, of course, extends also to the strengthening of the nonproliferation norm contained in the Treaty, and to the determination of all parties to the Treaty to abide by equitable standards with respect to nuclear trade and cooperation. In a sense, the Review Conference serves as an arena for testing the strength of the parties' political will to live up to their respective commitments.

If the Review Conference arrives at, in Ambassador Moher's formulation, a "muddle through" result, this would indicate a weakening of political will, a decline of a global priority, and an invitation to dangerous times ahead. If the result is "disintegration," the world would be in even worse shape. Yet if the parties show flexibility and maintain a stable set of priorities, there is no

compelling reason why considerable progress cannot be made in forging a truly “constructive” outcome.

This outcome could be registered in many forms, including a report, declaration, resolution, or decision. The precise form of the “product” of the review process is much less relevant than its content. Following the 1995 Decision on strengthening the review process, the final product would be backward looking insofar as it would incorporate a review and assessment of relevant developments since 1995. But it would also look ahead to identify some specific milestones by which the international community could gauge the progress made in actually achieving the elusive ultimate goals of nuclear disarmament and its close cousin, nonproliferation.

The United Nations will provide a forum for these deliberations. It will perform a variety of activities with a view to serving participating national delegations as efficiently and as effectively as possible. It will also assist the observers from non-governmental organizations, and work to stimulate greater public interest in the deliberations. It will seek to obtain and to generate information that will be useful during the review process. It will prepare background documentation to participating delegates. But it cannot determine the outcome of this Review Conference. Success or failure, the outcome of this event will lie at the doorstep of the states parties, where all responsibility for decisions must ultimately rest.

INSTITUTIONALIZING THE NPT?

While the NPT may not need the organizational framework that the CTBT and the CWC have, the Executive Councils of these treaties provide continuing institutional support during the implementation of their respective treaties. The NPT, however, has no such institutional infrastructure that can function—for example—as an ombudsman, to receive complaints about non-compliance or any other difficulties that the states parties may be experiencing.³⁰ The lack of such a structure makes the review process all the more important.

The idea of creating such a body for addressing issues concerning the implementation of the NPT was recently featured as a key recommendation of the report of the Tokyo Forum for Nuclear Non-Proliferation and Disarmament.³¹ The proposal specifically called for the creation of “a permanent secretariat and consultative commission for the Treaty” that would serve as “a guard-

ian organization, charged with serving the objectives of all Treaty parties in pursuing non-proliferation and disarmament.”³² This entity would be created to “deal with questions of compliance and to consider strengthening measures for the Treaty.”³³ The Tokyo Forum report did not, however, elaborate on this proposal, and there would clearly be certain difficulties to overcome in its early implementation. The new structure, were it to be explored further, should probably be designed in such a way that it would not require the amendment of the Treaty, given the inherent difficulties of the amendment process. It should be complementary to—not in competition with—the activities of the Preparatory Committee and the Review Conferences, the IAEA, and indeed any other organ of the United Nations under the Charter. It could serve states parties by offering a clearinghouse for information and by providing a permanent “institutional memory” to assist in coordinating or deliberating future nonproliferation and disarmament initiatives. The idea does merit further study, along with the larger question of the evolving institutional relationships between the various existing international disarmament and nonproliferation regimes.

CONCLUSION

Proposals to revitalize the NPT must grow out of a clear perception of their merits among the states parties—and no doubt many such proposals will originate among such parties in the months and years ahead. Yet the future of such reforms—and indeed the future of the Treaty itself—will also require a deep appreciation among the public at large of the vital importance of sustaining disarmament and nonproliferation as top priorities for the maintenance of international peace and security. If this priority can be sustained by international organizations, governmental leaders, specialized research institutes, legislators, academia, a well-informed media, religious institutions, and highly motivated non-governmental groups in civil society, then the choices at the next nuclear crossroads will be all the easier to make.

The great baseball philosopher, Yogi Berra, once confronted the dilemmas that arise when one stands at a crossroads and concluded, “If you come to a fork in the road, take it.”³⁴ This may be tempting advice for participants at the next Review Conference. More useful, perhaps, would be the following: know where you have come from and do not forget where you wish to go. With

this as a navigation aid, there is every reason to hope that the event will mark an important new beginning for both the Treaty and global security in the 21st century.

¹ The official reference for these documents is 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Final Document: Part I-Organization and Work of the Conference*, NPT/CONF.1995/32 (Part I), Annex, pp. 7-14, <<http://www.un.org/Depts/dda/WMD/NPT.htm>>.

² See US Under Secretary of State Lynn E. Davis, "Controlling the Spread of Dangerous Weapons: An Overview of the Clinton Administration's Non-Proliferation Policy," prepared statement submitted to the US Congress, House of Representatives, International Relations Committee, hearing on "Review of the Clinton Administration Nonproliferation Policy," 104th Congress, Second Session, June 19, 1996, <<http://www.fas.org/spp/starwars/congress/1996/h/h960619b.htm>>.

³ For a more detailed examination of this process, see Jayantha Dhanapala, "A Strengthened Review Process for the NPT," *Fordham International Law Journal* 20 (June 1997), pp. 1532-1542.

⁴ Final Document of the First Special Session of the General Assembly on Disarmament. Para. 120. See *Official Records of the General Assembly, Tenth Special Session, Supplement No. 4 (A/S-10/4)*, 1978.

⁵ Remarks of Ambassador Thomas Graham at the third Preparatory Committee meeting prior to the 1995 NPTREC, excerpted in Acronym Consortium, "Strengthening the Non-Proliferation Treaty: Decisions Made, Decisions Deferred," *Acronym* No. 4, September 1994, p. 28.

⁶ Remarks of Ambassador Sergey Lavrov, *Official Records of the General Assembly*, 49th Session, First Committee, October 20, 1994, p. 3.

⁷ The IAEA's Director of the Office of External Relations and Policy Coordination has recently given the nuclear weapon states—in his words—"a failing grade" for their disarmament record in recent years. Piet de Klerk, "Strengthening the Nonproliferation Regime: How Much Progress Have We Made?" *The Nonproliferation Review* 6 (Winter 1999), p. 54.

⁸ NATO, "The Alliance's Strategic Concept," Para. 62, Press Release NAC-S(99)65, April 24, 1999, <<http://www.nato.int/docu/pr/1999/p99-065e.htm>>.

⁹ The full text of the new "National Security Concept" was published in Moscow in *Nezavisimoye Voennoye Obozreniye*, January 14, 2000. For a recent description and discussion, see Nikolai Sokov, "Russia's New National Security Concept: The Nuclear Angle," <<http://www.cns.miis.edu/pubs/reports/sokov2.htm>> and "Russia's Nuclear Doctrine: The End of the Period of Transition?" <<http://cns.miis.edu/cres/nucdoc.htm>>.

¹⁰ See Brajesh Mishra, "Opening Remarks by National Security Adviser Mr. Brajesh Mishra at the Release of Draft Indian Nuclear Doctrine," August 17, 1999, <<http://www.meadev.gov.in/govt/opstm-indnucl.htm>>.

¹¹ With respect to India's nuclear weapons program, US Deputy Secretary Strobe Talbott is reported to have stated that "What we are looking for is not 'fixity' but more clarity that India's projected path is consistent with what Indian leaders have told us—India does not seek an open-ended arms competition, but only the minimum necessary to ensure Indian security." C. Raja Mohan, "Early Solution to Nuclear Issues Will Help: Talbott," *The Hindu*, January 14, 2000, <<http://www.indiaserver.com/thehindu/2000/01/14/stories/01140001>>.

¹² When asked why the United States does not halt these subcritical tests, Senior Advisor for Arms Control and International Security John Holm replied, "We made very clear during the course of the negotiations that this was not a process to eliminate nuclear weapons. They remain a part of our strategy. They need to be maintained safely and reliably." News briefing on the CTBT, Washington, DC, October 5, 1999.

¹³ US Deputy Secretary of State Strobe Talbott reportedly stated in a recent interview that "There is simply no difference whatsoever between the obligations that the P-5 would assume under the CTBT and those of any other state, India included," and that "Our well-known view, one accepted by the other signatories, is that the treaty does not ban sub-critical tests." See Mohan, "Early Solution to Nuclear Issues Will Help: Talbott."

¹⁴ "Russia, India Sign Sweeping Arms Cooperation Deal," *Dawn*, November 6, 1999, <<http://www.google.com/search?cache=dawn.com/daily/19991106/top18.htm>>. See also "£500m Hawks Deal With India In The Balance," *London Daily Telegraph*, January 22, 2000.

¹⁵ A/RES/1172 (1998), June 6, 1998.

¹⁶ United Nations, Report of the Disarmament Commission, *Official Records of the General Assembly*, Supplement No. 42 (A/53/42), 1998.

¹⁷ For a status report on the strengthened IAEA safeguards, see the agency's website at <<http://www.iaea.org/worldatom/updates/safeguards.html>>.

¹⁸ Abdul Rauf Siddiqi, "Pakistan's Chashma Loads Fuel, Plans Operation Early in 2000," *Nucleonics Week* 40, December 2, 1999, p. 5; Mark Hibbs, "Western Nations May Slow Bailout of Russia over Indian VVER Deal," *Nucleonics Week* 39 (July 2, 1998), p. 1; "Russia Signs Nuclear Construction Pact," *Modern Power System*, July 31, 1998, p. 3; and Suzanne Goldenberg, "Russia in Nuclear Deal with India," *Manchester Guardian*, June 28, 1998, p. 4.

¹⁹ The literature on this topic is voluminous. See Richard Haass, "South Asia: Too Late to Remove the Bomb?" *Orbis* 32 (Winter 1988), p. 117. A study by a US Council on Foreign Relations task force has called for a move in policy "away from rollback and toward stabilizing nuclear weapons programs" in South Asia; Council on Foreign Relations, "A New US Policy Toward India and Pakistan," Report of an Independent Task Force, January 1997, p. 34.

²⁰ Title IX(d)(1)(B) of the US Fiscal Year 2000 Defense Appropriations Act contains a "Sense of the Congress" that "export controls should be applied only to those Indian and Pakistani entities that make direct and material contributions to weapons of mass destruction and missile programs and only to those items that can contribute to such programs."

²¹ For a discussion, see Zachary S. Davis, "The Convergence of Arms Control and Nonproliferation: Vive la Différence," *The Nonproliferation Review* 6 (Spring-Summer 1999), pp. 98-107.

²² UN Secretary-General Kofi Annan has recently pointed out the need for multilaterally negotiated norms concerning both ballistic missiles and missile defenses. See "Secretary-General Stresses Need for Multilaterally Negotiated Norms Against the Development of Missiles," UN Press Release, SG/SM/6960, April 15, 1999.

²³ Mark Moher, "The Nuclear Disarmament Agenda and the Future of the NPT," *The Nonproliferation Review* 6 (Fall 1999), p. 68.

²⁴ *Ibid.*, p. 68.

²⁵ For a further discussion, see Jayantha Dhanapala, "The NPT Regime: External and Internal Challenges," Seventh Carnegie International Non-Proliferation Conference, Carnegie Endowment for International Peace, Washington, DC, January 11, 1999, <<http://www.un.org/Depts/dda/speech/statements.htm>>.

²⁶ Moher, "The Nuclear Disarmament Agenda," p. 69, emphasis in original.

²⁷ This "ultimate goal" formulation is reminiscent of the terms used by President Ronald Reagan to describe his test-ban policy: "A CTBT remains a long-term goal of the US. However, it must be viewed in the context of achieving broad, deep and verifiable nuclear arms reductions, substantially improved verification capabilities, a greater balance in conventional forces and at a time when a nuclear deterrent is no longer essential an element as currently for international security and stability." *Public Papers of the Presidents* (March 7, 1986), p. 338.

²⁸ The Court found specifically that "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." For a full text of this Advisory Opinion, which was dated July 8, 1996, see <<http://www.igc.apc.org/disarm/icjtext.html>>.

²⁹ For the full text, dates, and votes on each of these resolutions on disarmament issues, see the website of the UN Department for Disarmament Affairs, <<http://www.un.org/Depts/dda/booklet.htm>>.

³⁰ For a further discussion, see Jayantha Dhanapala, "The NPT Review Process: Identifying New Ideas to Strengthen the Regime," *UNIDIR Newsletter*, Number 37 (March 1998), pp. 9-14.

³¹ *Facing Nuclear Dangers: An Action Plan for the 21st Century*, The Report of the Tokyo Forum for Nuclear Non-Proliferation and Disarmament, Tokyo, July 25, 1999, <<http://serv.peace.hiroshima-cu.ac.jp/English/final1-e.htm>>.

³² *Ibid.*, p. 29.

³³ *Ibid.*, p. 55.

³⁴ Yogi Berra, *The Yogi Book* (New York: Workman Publishing Company, 1998), p. 48.