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TAKING FORWARD MULTILATERAL NUCLEAR DISARMAMENT NEGOTIATIONS

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DISCUSSION II

THE ROLES AND RESPONSIBILITIES OF NUCLEAR-WEAPON POSSESSING STATES AND NON-NUCLEAR-WEAPON STATES

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Introduction

What are the “roles” and “responsibilities” of the nuclear-weapon possessor States (NWPS) and the non-nuclear-weapon States (NNWS)? While there may be several different ways to address these questions, for purposes of this presentation, it might be useful to categorize the roles of the NWPS into two separate but related aspects: the roles of the five nuclear-weapon States (NWS) as defined under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), under nuclear-weapon-free zones (NWFZs), in their capacity as the permanent members of the United Nations Security Council, plus as providers of “extended deterrence”; and the roles of the remaining four NWPS in contributing to regional and global security. The roles of the NNWS are quite clear under the NPT and NWFZ treaties, but there arise questions about the roles of some 33 NNWS that are parties to nuclear-armed alliances/arrangements and as such rely on extended nuclear deterrence or security provided by their NWS patrons. In addition, one may also consider the roles of both NWS and NNWS under the NPT and NWFZs. Finally, one might also consider the roles of all NWPS and NNWS.

Regarding the responsibilities of NWPS and NNWS, these may also be considered under the framework outlined just above.

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Roles and Responsibilities of the NWS

In discussing the roles and responsibilities of the nuclear-weapon States, Judge Mohammed Bedjaoui² (of the International Court of Justice), speaking here in Geneva this month five years ago, said “Nuclear weapons seem to me absolutely of a nature to cause indiscriminate victims among combatants and non-combatants alike, as well as unnecessary suffering among both categories... The existence of nuclear weapons is therefore a major challenge to the very existence of humanitarian law...”.

Why cite Judge Bedjaoui here today, one might well ask? The reason is simple: to recall that five of the nuclear-weapon possessor States with the largest arsenals already have taken on the legal obligation “to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament”.³

Two of the principal negotiators of the NPT, the late Ambassador George Bunn (USA) and Ambassador Roland Timerbaev recalled that, in the summer of 1968, following the opening for signature of the NPT, the two co-drafters of the Treaty, the United States and the Soviet Union, had given meaning to Article VI at the Eighteen-Nation Disarmament Committee (ENDC), the predecessor of the Conference on Disarmament, by reaching agreement on an agenda of measures to be discussed at the ENDC pursuant to a heading taken from Article VI “effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament ... and subsequent elimination of nuclear stockpiles...”.⁴

Earlier that same year (1968), the United States in its statement recommending the final text of the NPT to the United Nations General Assembly, gave further force to Article VI in asserting that, “...the permanent viability of this Treaty will depend in large measure on our success in the further negotiations contemplated by Article VI ... [to] pursue further disarmament negotiations with redoubled zeal...”⁵

The clear interpretation of Article VI in the negotiating history of the NPT, and in the practice of agreed outcomes of review conferences, in particular in 1995, 2000 and 2010, is the unequivocal commitment given by the NWS to negotiate in good faith on nuclear disarmament leading to the elimination of nuclear weapons. It is clear that Article VI requires all five nuclear-weapon States to commence such negotiations and as determined by the International Court of Justice (ICJ) in 1996 to reach a definitive conclusion to negotiations on nuclear disarmament leading to the elimination of all nuclear weapons – this is a responsibility of the NWS.

Now, representatives of the five-nuclear-weapon States, and of the some 33 non-nuclear-weapon States that shelter under assurances of extended deterrence, including some which also host nuclear weapons of their protector, will hasten to claim that Article VI requires all NPT States parties to “undertake to pursue negotiations in good faith”, not just the nuclear-weapon States.

Roles and Responsibilities of NNWS

In addressing the contention that Article VI requires all NPT States parties to “undertake to pursue negotiations in good faith”, not just the nuclear-weapon States, it must be recognized that a majority of the NNWS have in fact contributed to this end. Not only are they parties to the NPT, but they have further reinforced their commitments to nuclear disarmament through nuclear-weapon-free zones that have been established in five densely populated areas of the world: Latin America and the Caribbean, the South Pacific, Southeast Asia, Africa and Central Asia, and Mongolia’s nuclear-weapon-free status has been recognized by the UN General Assembly. In addition, many if not most of the, NNWS also are parties to other global nuclear arms control and disarmament treaties, such as the: Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water (Partial-Test-Ban Treaty, PTBT, S; 1963; EIF 1963), Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, including the Moon and Other Celestial Bodies (Outer Space Treaty, S; 1967; EIF: 1967), Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof (Sea-Bed Treaty, S; 1971; EIF: 1972), Agreement Governing the Activities of States on the Moon and Other Celestial Bodies (Moon Treaty, S:1979; EIF: 1984), and the Comprehensive Nuclear-Test-Ban Treaty (CTBT, S: 1996; EIF: ??).\(^6\)

Furthermore, the NNWS as a collectivity have individually renounced nuclear weapons for all time, undertaken to limit the entirety of their nuclear activities exclusively for peaceful purposes and towards that end have undertaken to implement safeguards, or nuclear verification, accounting and control – in accordance with the safeguards system of the International Atomic Energy Agency – and have committed to undertake effective measures for the liquidation of existing stocks of nuclear weapons and the elimination from nuclear arsenals of nuclear weapons.

**Shared Responsibility?**

With regard to the *shared responsibility* between the NWS and the NNWS for nuclear disarmament, Ambassador Jayantha Dhanapala posed the question: “Can an elephant and an ant share responsibilities for their jungle habitat?”

Dhanapala provided the answer to his question in noting that when objectively considered Article VI leads to the conclusion that the NWS and their allies have more nuclear military capabilities and consequently more responsibilities than NNWS in general. He recalled that the 1996 Advisory Opinion of the International Court of Justice made it clear that the NWS have special responsibilities for achieving nuclear disarmament and thus arguing for “shared responsibilities” does not have much credibility. The NNWS’ responsibilities cover all aspects of the NPT but *shared responsibility does not mean equal responsibility.*

Thus, NNWS must be cautious regarding arguments and proposals that they accept yet more responsibilities under the NPT while the NWS remain in an implementation deficit in nuclear disarmament in accordance with Article VI and the agreed outcomes of 1995, 2000 and 2010. This is not to downplay the importance of nuclear safety and nuclear security measures which must be strengthened by all States, whether party to the NPT or whether NWPS or NNWS. The point though, as emphasized by Dhanapala, is that an inherently discriminatory treaty cannot be strengthened by further discrimination; and that NWS as well as other NWPS shoulder the main responsibility for achieving a world without nuclear weapons – if there were no nuclear weapons, there would be nothing to proliferate!

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7 An anomaly is the 33 NPT NNWS parties to nuclear armed alliances and defence arrangements, including those hosting nuclear weapons of NWS on their territories.


9 Ibid, p. 22.

10 Dhanapala, pp.22-23.
The NPT and the NWS

With regard to the role of the five NWS under the NPT, this may be considered in two further ways. First, two of the NWS, the USA and the USSR, were the co-drafters of the Treaty text and the co-chairs of the ENDC where the NPT was negotiated and finalized. Not surprisingly, the two nuclear superpowers did not envisage any nuclear disarmament provision in the draft treaty and only accepted it under pressure from the NNWS. The negotiating record of the NPT shows that the nature of the measures envisaged in Article VI left no doubt that the NWS were directly bound by the obligation concerning the cessation of the nuclear arms race and nuclear disarmament.

In fact, both the USA and USSR accepted their primary responsibility, which was considered by the NNWS not only in the context of achieving a more secure world but as a quid pro quo for their renunciation of nuclear weapons.11 Thus, as the prime movers of the NPT, the USA and the Russian Federation (as the successor State to the USSR) have a clear role and the responsibility not only to uphold the Treaty and their respective commitments as NWS but also to bring into the fold of multilateral nuclear disarmament implementation the remaining three other NPT-NWS as well as the other NWPS.

It must be recognized that the two NWS with the largest arsenals of nuclear weapons and the largest stocks of weapon-usable fissile material have in fact dramatically reduced the numbers of deployed nuclear weapons with limits on both deployed nuclear warheads and delivery vehicles. There is much to commend here. On the other hand, the Russian Federation and the USA have yet to agree in a formal treaty on measures to verifiably dismantle and dispose of nuclear warheads, to reduce and eliminate non-deployed warheads, and to bring down numbers of warheads still further on the way to zero nuclear warheads and delivery systems.

Second, the USA and the Russian Federation, along with the United Kingdom, are designated as the Depositary Governments under Article IX.3 of the NPT. According to the UN Treaty Handbook, the depositary of a treaty is responsible for ensuring the proper execution of all actions relating to that treaty. The depositary’s duties are international in character, and the depositary is under an obligation to act impartially in the performance of those duties. Thus, in the case of the NPT, the depositary States must be guided in the performance of depositary functions by: (a) Provisions of the Treaty; (b) Decisions, Resolutions and Outcomes agreed by

the States Parties at Review Conferences; and (c) International law, including customary international law.\textsuperscript{12}

\textit{Refocusing the role of the NPT depositaries}

The NPT established the precedent for reviewing the operation of the Treaty. NPT Article VIII.3 provided authority for the first review conference to be held in Geneva five years after its entry into force. At intervals of five years thereafter, further review conferences could be convened at the request made to the depositaries by a majority of States parties. Since 1975, NPT review conferences have been convened every five years. NPTREC Decision 1, however, reinterpreted Article VIII.3 to the effect that review conferences shall continue to be held every five years in perpetuity beginning with the 2000 conference.

The Treaty did not invest the depositaries with any special privileges or responsibilities, save under Article VIII.3 on convening review conferences, and under Article IX.5 and 6, respectively, on recording and reporting accessions to the NPT and registering the Treaty pursuant to Article 102 of the UN Charter. As such, the Treaty itself did not devolve any special or specific role or responsibility to the depositaries as regards the nature or the structure of the review process. However, traditionally the depositaries have exercised a lead role and the NNWS by default have allowed the depositaries to bring what could be considered as an undue degree of influence on how Treaty reviews are structured. Under the authority of NPTREC Decision 1, review conferences have been institutionalized on a quinquennial basis and there is no longer a requirement for NPT States to request the depositaries to convene review conferences. This is now the responsibility of all NPT States parties and can easily be expressed through appropriate resolutions drafted through the First Committee for adoption by the UN General Assembly, co-sponsored by the presidency and bureau of the most recently concluded review conference and by other States. Thus, all States parties should take on the responsibility of ensuring the continuation of the strengthened NPT review process and ensuring that the implementation of agreed outcomes of review conferences is properly considered.

\textbf{Nuclear Weapon Modernization}

As referred to previously, the NWS and other NWPS have the responsibility for the stewardship of their nuclear arsenals and to reduce and eliminate the threat to humanity and to themselves emanating from their nuclear weapons – as there are no “right” nor “safe” hands for the possession and control of nuclear weapons. Rather than taking concrete steps toward the


elimination of their nuclear weapons, all NWPS are engaged in modernization programmes though some have reduced the numbers of weapons either unilaterally or through bilateral arrangements.

France and the United Kingdom, each has unilaterally reduced its stocks of nuclear warheads, eliminated some systems, while France notably has verifiably dismantled its nuclear-weapons testing sites as well as production facilities for the manufacture of weapon usable nuclear material. In this regard, the example set by France is one to be emulated by the NWS and other NWPS.

On the other hand, the United Kingdom is on the verge of modernizing its sea-based nuclear forces and the new submarines and service life extensions to the SLBMs will preserve the UK’s nuclear-weapon capability for the remainder of this century. It must be noted that the UK is the only importer and the USA the only exporter of strategic missiles – the ‘Trident II’ D5 sea-launched ballistic missile (SLBMs) for the UK’s strategic submarine force is provided by the USA, the UK installs its own nuclear warheads. Reportedly, the Trident II SLBMs are not actually owned by the UK, but leased. The SLBMs are part of a pool of missiles managed by the United States and stored at Kings Bay, Georgia. UK SSBNs pick up their load of missiles at Kings Bay when they are commissioned and exchange them there when missiles need servicing. The Trident warheads are installed on the missiles on-board the submarines at the Royal Naval Armament Depot at Coulport.

Both the US and the Russian Federation are modernizing their strategic nuclear forces which will maintain their offensive nuclear capabilities until the end of this century. Reportedly, China also will be modernizing its strategic nuclear forces.

Regarding the other NWPS, the DPRK has left the NPT and IAEA safeguards, carried out three nuclear test explosions and reportedly is putting in place a uranium enrichment capability in addition to its plutonium reprocessing facility, and may be building new warheads.

Similarly, in South Asia, India followed by Pakistan are building up their nuclear forces. The NPT-based nuclear disarmament and non-proliferation system was upended with the misguided US nuclear cooperation agreement with India, which was later sanctified by an exemption agreed by the participating Governments of the Nuclear Suppliers Group (NSG) – a notorious dereliction of duty by the 44 NPT States, both NWS and NNWS, which comprise the NSG. Not much is known officially about Israel’s nuclear-weapon capability; suffice it to say that it likely maintains a sizeable capable force of deliverable nuclear warheads.
CTBT

Regrettably, not all five NWS have ratified the CTBT, and the other four NWPS have not even signed the Treaty nearly two decades after it was opened for signature. Presently, there seem no prospects for the remaining ratifications required for the CTBT to enter into force. History’s longest sought, hardest fought prize in nuclear arms control, to cite then US President Bill Clinton, thus is withering on the vine – another instance of unfulfilled commitments and outlier behaviour.

FMCT

Nearly two decades have elapsed since the March 1995 Report of Ambassador Gerald E. Shannon of Canada on Consultations on the Most Appropriate Arrangement to Negotiate a Treaty Banning the Production of Fissile Material for Nuclear Weapons or Other Nuclear Explosive Devices and the mandate contained therein without the start of negotiations 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 (FMCT). Without repeating the chequered history of this item, suffice it to say the current and future value of an FMCT is solely for nuclear disarmament – turning off the tap and draining the swamp of weapon-usable nuclear materials. I have been arguing since 1999 that an FMCT without addressing existing stocks and effective verification makes a mockery of the treaty.13 Sadly, though, the FMCT has become the rock on the shoals of which States are prepared to sacrifice principles – at one time there was a push for an FMCT without any verification, and now there is pressure for a treaty sans stocks under the oft-repeated banner of being the next logical step in nuclear disarmament.

NWFZs, Security Assurances

All five existing NWFZ treaties, as well as Mongolia’s nuclear-weapon-free status, provides for negative security assurances to be provided by the NPT-NWS. In general, each Protocol Party NWS undertakes not to use or threaten to use a nuclear explosive device against any Party to the NWFZ Treaty, or against any territory within the nuclear-weapon-free zone for which a State that has become a Party is internationally responsible. Not all NWS have provided the required security assurances to the parties to the NWFZs, and not all such security assurances are unburdened by conditions. The NWS should be encouraged to provide forthwith the necessary security assurances.

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In 1968, in order to facilitate acceptance of the NPT, the three NPT depositary States, sponsored Security Council Resolution 255 on positive security assurances. However, the form in which they were offered (three national statements and a resolution which referred to them) was regarded by some States as not more than a restatement of commitments already existing in the UN Charter. No attempt was made at that time to provide NPT NNWS with binding collective negative security assurances. Pressure from the NAM continued and in 1978 such assurances were provided at the first United Nations General Assembly Special Session on Disarmament (UNSSOD) with all five NWS making unilateral statements on negative security assurances. China’s statement was an unconditional one; the French one was limited to states in NWFZs; that of the USSR covered all States that renounced the production and acquisition of nuclear weapons and did not have them stationed on their territories. The UK and the US made a commitment not to attack or threaten to attack a NNWS with nuclear weapons, but excluded NNWS allied with a NWS. At the second UNSSOD in 1982, France provided NNWS with a broadly similar commitment to the UK and US.

Following the dissolution of the Soviet Union, the three NPT depositary NWS provided security assurances on 5 December 1994 to Belarus, Kazakhstan and Ukraine, in the context of the renunciation of Soviet-deployed nuclear weapons on the territories of Belarus, Kazakhstan and Ukraine and their subsequent accession to the NPT as NNWS. France and China, respectively, provided security assurances to Ukraine (5 December 1994) and to Kazakhstan (February 1995). In the lead up to the 1995 NPT Review and Extension Conference, Security Council Resolution 984, adopted on 11 April 1995, based on a series of national statements by the NWS made in parallel letters to the UN Secretary General on 5-6 April 1995, encompassed both negative and positive assurances. Like previous assurances, these were not in treaty form, though some States argued that Security Council Resolutions were legally binding.

In 2009, UN Security Council Resolution 1887, adopted at a session attended by Heads of State and Government, recalled the statements by each of the five NWS noted by resolution 984 (1995), in which they provided security assurances against the use of nuclear weapons to non-nuclear-weapon State Parties to the NPT, and affirmed that such security assurances strengthen the nuclear non-proliferation regime.

It is the responsibility of the NWS to provide the required security assurances to all States parties to the NPT and NWFZ, unburdened by conditionalities or restrictive interpretations. It is the responsibility also of the other NWPS, to provide positive and negative security assurances to all NNWS.
Roles and Responsibilities of Other NWPS

The NWPS, other than the five NWS, thus far have stubbornly remained outside of global nuclear norms established since the entry-into-force of the NPT in the negotiations of which two of these other NWPS took part. Thus, in the case of India and Pakistan both States have refrained from adhering to the NPT, the CTBT and the start of negotiations on a FMCT. South Asia generally is considered as the most heavily arming region in the area of nuclear weapons and ballistic missiles, and the most recent and ardent believers in the concept of nuclear deterrence. “Global multilateral arms control agreements such as the NPT and CTBT are aimed at preventing the rise of new nuclear powers”, complained an Indian commentator; and one might recall the statement of an Indian general in the aftermath of the 1991 Gulf War, the greatest lesson, he reportedly observed, is “don’t mess with [a NWS] the United States unless you possess nuclear weapons”.

The NWPS State in Northeast Asia is still in a state of war and has defended its nuclear-weapon capability in terms of addressing its vulnerability in the context of the US-ROK bilateral defence agreement which includes extended nuclear deterrence. Apparently the DPRK heeded the Indian general’s advice just quoted, as despite ballistic missile launches, nuclear tests, assertions of being a NWPS, and the object of punitive UN Security Council resolutions, no one is threatening the DPRK that “all options are on the table”. That appears not to be the case with Iran which is threatened with military attack, including possibly a nuclear attack. This type of behaviour harks of rewarding NWPS and penalizing others.

The sole NWPS in the region of the Middle East has not admitted to a weapon programme, but conventional wisdom suggests that it had acquired a nuclear-weapon capability as far back as 1967 – which reportedly led to the formulation of Article IX.3 of the NPT on defining a NWS. Progress toward the establishment of a zone in the Middle East free of nuclear and other weapons of mass destruction languishes as a distant goal, despite the 1995 resolution adopted at the 1995 NPTREC as an integral part of the decision to indefinitely extend the NPT and despite the ‘action’ agreed at the 2010 NPT review conference to convene a conference on such a zone in 2012 involving all the States of the region of the Middle East.

Over the past decades some 20 States have renounced nuclear weapon programmes driven by different motivations. Not one did so because of yielding to bullying, sanctions or isolation; some did so in return for incentives, others due to domestic rebalancing, and yet others nestled under nuclear alliances. The NWPS may be encouraged and invited to consider the options of renunciation and thus to join the mainstream of the UN Member States which do not rely on
nuclear weapons – though, in order to accomplish this, the unresolved conflicts in the three afflicted regions will need to be resolved in a manner that provides addresses security deficits without nuclear weapons.

**UN Security Council and NWS/NWPS**

On 31 January 1992, at its 3046th meeting, the Security Council met for the first time at the level of Heads of State and Government. The Council included in its agenda the item entitled “The responsibility of the Security Council in the maintenance of international peace and security”. The President of the Security Council read out a statement on behalf of the Council that stated inter alia, the “proliferation of all weapons of mass destruction constitutes a threat to international peace and security. The members of the Council commit themselves to working to prevent the spread of technology related to the research for or production of such weapons and to take appropriate action to that end”, but unfortunately the Council neglected to the commitment by the NWS to nuclear disarmament – a signal failure of both the-then NNWS and NWS members of the Council to live up to their responsibility of promoting nuclear disarmament at the UN body charged with the maintenance of international peace and security.

UN Security Council Resolution 1887 (2009), adopted at a session attended by Heads of State and Government, inter alia resolved to seek a safer world for all and to create the conditions for a world without nuclear weapons, in accordance with the goals of the NPT, in a way that promotes international stability and based on the principle of undiminished security for all, underlined that the NPT remains the cornerstone of the nuclear non-proliferation regime and the essential foundation for the pursuit of nuclear disarmament and for the peaceful uses of nuclear energy. On nuclear disarmament, the resolution merely repeated the text of Article VI and called on all other States to join in this endeavour. Yet another lost opportunity for the NWS to recommit to their unequivocal undertaking to accomplish the total elimination of nuclear weapons as agreed in the 2000 NPT final document and for the NNWS to uphold the cause of nuclear disarmament.

Article 23 (Chapter V) of the United Nations Charter is parsimonious in stating that the “Security Council shall consist of fifteen Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council.... Each member of the Security Council shall have one representative”. (Article 27 states that) each member of the Security Council shall have one vote. Chapter VII outlines

\[14\] UN Security Council S/23500.
action with respect to threats to the peace, breaches of the peace, and acts of aggression. Article 39 states that the “Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security”. Nowhere in the UN Charter do “the Peoples of the United Nations determined to save succeeding generations from the scourge of war” equate permanent membership in the Security Council with the acquisition, development, possession or use of nuclear weapons, nor for that matter with exercising nuclear deterrence.

Thus, it may be asserted that the role of the permanent members of the Council – the so-called “P5” – is clearly defined in the Charter, and since there is no mention therein of nuclear-weapon possession or status, it is incorrect for the five NWS in the context of the NPT review process to claim as they did most recently here in Geneva at the 2013 NPT PrepCom, or in any other multilateral arms control/disarmament process, that they are as the “five Nuclear Non-Proliferation Treaty (NPT) nuclear-weapon States, or ‘P5’”. The proper course for the NWS would have been to issue their joint statement in their capacity as “nuclear-weapon States”, as defined in Article IX.3 of the NPT, and not as the “P5” as the P5 as such have no status under the NPT or any other arms control instrument.

A trivial point, some might observe? Not really. Nomenclature is important, and it is important for the NNWS to be cognizant of this and to ensure that proper terminology is used in the serious matter of nuclear weapons. The NNWS also are at fault here for not being alert or responsible enough to catch this misrepresentation.

Finally, as regards the Security Council, any future expansion must require that all new members must have accepted and are implementing internationally legally binding commitments regarding the disarmament and non-proliferation of nuclear weapons, and other weapons of mass destruction – i.e., be parties in good standing to the NPT, the Chemical Weapons Convention and the Biological and Toxin Weapons Convention. Furthermore, it would behove all existing and aspiring members of the Council to be parties also to the Comprehensive Nuclear-Test-Ban Treaty.

Deterrence and Extended Deterrence

The history of the Cold War is replete with compelling evidence of the pernicious effects of the open-ended quest for nuclear deterrence—this was one of the conclusions reached by Professors Janice Stein and Richard Ned Lebow in their detailed 1995 study entitled *We All Lost the Cold War*, more recently Ward Wilson reached similar conclusions in his book *Five Myths*.

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About Nuclear Weapons (2012),\textsuperscript{16} and by McGeorge Bundy in his seminal work Danger and Survival (1988).\textsuperscript{17} The ultimate irony of nuclear deterrence may be the way in which the strategy of deterrence undermined much of the very political stability that the reality of deterrence should have created.

It might surprise this audience to learn that in the 1960s when US Defense Secretary Robert S. McNamara adopted “mutual assured destruction” (MAD) as the official US strategic doctrine based on a US capability to destroy 50 percent of the USSR’s population and industry in a retaliatory strike, he recommended to Soviet Premier Aleksei Kosygin in 1967 that the USSR develop a similar capability to ensure stable deterrence.\textsuperscript{18} Equal opportunity, balance of terror in other words, and disrespectful of their citizens’ lives. Despite their best efforts the supporters of the concept of nuclear deterrence cannot prove that nuclear weapons preserved the peace in Europe or elsewhere.

The strategy of nuclear deterrence was ultimately self-defeating and it provoked the kind of behaviour that it should have prevented that led at the height of the Cold War the two superpowers to deployed nearly 70,000 nuclear warheads.

Discussion of nuclear disarmament tends to be hampered by faith-based fervour at the altar of deterrence and stability. Nearly a quarter of a century after the end of the Cold War world, defining national security merely, or primarily, in nuclear military terms conveys a false sense of reality. A half-century of Cold War fashioned the issue of security into powerful simplifications of dubious validity. Unfortunately, many of these traditional and out-moded concepts continue to retain great currency in diplomatic discourse, and the dominance of nuclear military and strategic considerations in the conduct of international relations endures as a pathetic legacy of the Cold War. While stability was, and continues, to be of importance, in a transforming world its pursuit by some countries places exaggerated emphasis upon nuclear military concepts and deterrence relationships that are presumed still to lie at its core — i.e. that stability and security would be jeopardized in the absence of nuclear deterrence. Such deeply embedded beliefs are extraordinarily resistant to new thinking or to change.

The lessons of the Cold War experience with regard to nuclear weapons and nuclear threats can be summarized as follows: nuclear weapons do not provide real or imagined nuclear advantages for security or political gain; credible nuclear threats are difficult to make and to convey; all nuclear threats are fraught with risk; nuclear-weapon buildups are more likely to


\textsuperscript{17} Lebow and Stein, p. 157-158.

\textsuperscript{18} Ibid, p. 159, 169.
provoke than to restrain adversaries; and mutual fear of nuclear war can pave the way for arms reductions. The NWS and the other NWPS would do well to heed these lessons, as should the 33 NNWS seeking security through extended deterrence.

**International Humanitarian Law Dimensions of Nuclear Weapons**

Nuclear deterrence as practiced during the Cold War and also at present is based on targeting cities, i.e. holding civilians hostage. This is the logical evolution of the area targeting of cities and civilians during the Second World War – USAF General Curtis “Bombs Away” LeMay and Marshal of the Royal Air Force Sir Arthur Travers “Mad Bomber” Harris pioneered systematic strategic bombing of cities that led eventually to the nuclear bombing of Hiroshima and Nagasaki. This experience was later encapsulated in evolving nuclear deterrence strategy based on long-range bombers and later supplemented by intercontinental ballistic missiles – recall the McNamara strategy of MAD alluded to earlier. This legacy is still with us and it is unfortunate that the all the NWPS remain enamored with the targeting of cities and civilians – counter-force targeting, i.e. targeting military capabilities is secondary. There are no scenarios that in any way warrant nuclear strikes, let alone on cities and civilians – not only should the use of nuclear weapons, but also the threat of use of nuclear weapons, should be regarded as a crime against humanity if we are to survive in a civilized world.

Last year at the NPT PrepCom and at the General Assembly, and is Oslo last March, several NNWS in exercise of their responsibilities under the NPT highlighted serious concerns related to humanitarian dimensions of nuclear weapons. They noted that when the horrific consequences of their use became apparent in Hiroshima and Nagasaki, the International Committee of the Red Cross (ICRC) took a clear position calling for the abolition of these weapons of “extermination”.

At the March conference in Oslo on the humanitarian impact of nuclear weapons, one delegation aptly stated that given the devastating global consequences of nuclear weapons, it is increasingly unacceptable that such an existential threat to all humankind continues to be handled by a handful of States as a national security matter.  

In this context it is sobering to recall the statement by General Lee Butler, ex-commander of the US Strategic Air Command, on 4 December 1996, that proliferation cannot be contained in a world where a handful of self-appointed nations both arrogate to themselves the privilege of owning nuclear weapons, and extol the ultimate security assurances they assert such weapons convey.

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19 Lebow and Stein, pp. 177-179.
In light of the Preamble to the NPT which foreshadowed the devastation that would be visited upon all humankind by a nuclear war and the consequent need to make every effort to avert the danger of such a war and to take measures to safeguard the security of peoples, it is clear that the responsibilities of and policy options for NNWS should include establishing and implementing the norm of the illegitimacy of nuclear weapons. Consequently, NNWS need to seek the delegitimization of nuclear weapons, preferably with the support of the NWPS, but despite the lack of support of the NWPS if necessary. Doing so, naturally, would be entirely consistent with the aims of the Preamble and Article VI of the NPT, the UN Charter, international humanitarian law, and serve as a complementary measure to actual disarmament that needs to be carried out by all the NWPS.

**Delegitimizing / Devaluing Nuclear Weapons**

Since the five NWS are not participating in the OEWG, the question of what more NNWS can do to support nuclear disarmament is an interesting challenge. While a norm-setting approach by NNWS to delegitimize and devalue nuclear weapons is a partial step and does not involve actual nuclear disarmament, nonetheless it is a significant beginning that could lead to more significant steps.

Devaluing and delegitimizing nuclear weapons is alien to nuclear alliances. NATO’s 1999 Strategic Concept relied on nuclear weapons as the political “glue of the alliance” (binding together North America and Europe), and the 2012 NATO Strategic Concept stated that nuclear weapons are “a core component of NATO’s overall capabilities for deterrence and defence ... and that as long as nuclear weapons exist NATO will remain a nuclear alliance”. The UN High Representative for Disarmament Affairs recently challenged NATO at its annual conference on disarmament and non-proliferation to consider adopting a Strategic Concept on nuclear disarmament and to pursue it not just as a noble goal for some distant era but as a guiding star.²¹

**Concluding Themes**

As I draw these remarks to an end, I cannot help but be reminded of a despatch from London by the renowned American newscaster Edward R. Murrow, in the spring of 1940, as the clouds of war were gathering over Europe, when he was referring to UK Prime Minister Neville Chamberlain, in which Murrow reported, “The people here feel the machine is out of control,

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²¹ “The Strategic Concept of Disarmament”, Statement by Angela Kane, UN High Representative for Disarmament Affairs, Annual NATO Conference on WMD Arms Control, Disarmament, and Non-Proliferation, Split, Croatia: 6 May 2013.
that we are all passengers on an express train traveling at high speed through a dark tunnel toward an unknown destiny. The suspicion recurs that the train may have no driver”!\(^{22}\)

This observation foreshadowing the darkest period in recent human history is also prescient as regards our uncertain and precarious nuclear present and future in the absence of nuclear disarmament. It is now clear that like furies emerging from Pandora’s box, the lethal technology of atomic weapons has spread uncontrollably from the very dawn of the atomic age,\(^{23}\) each and every State possessing nuclear weapons has benefitted from foreign hands in the development of their respective arsenals and nearly all of them have assisted in one way or another other NWPS. Fanciful justifications were advanced, for example, US President Truman said that the “atom bomb was no ‘great decision’. It was merely another powerful weapon in the arsenal of righteousness”. UK Prime Minister in deciding to develop nuclear weapons said that the UK must be a “top dog” and “eat at the top table”. French Prime Minister Guy Mollet, in the wake of the ill-considered and disastrous French-UK invasion of Egypt in 1956 in response to President Nasser’s nationalization of the Suez Canal, said “there was France standing naked” and “no one came to her aid”, in justifying his decision to make atomic weapons. China’s leader Mao Tse Tung reportedly referred to “paper tigers” and “running dogs of capitalism” in justifying his go-ahead for the nuclearization of China. Pakistan’s Prime Minister Zulfiqar Bhattu promised that his country folk would “eat grass” and make nuclear weapons in response to India going nuclear. Indian scientists radioed Prime Minister Indira Gandhi that the “Buddha was smiling” on the successful detonation of a nuclear explosive device in 1974. Not to be outdone, the-then IAEA Director General Sigvaard Eklund prepared a telegram to Homi Bhabha, the father of the Indian bomb, congratulating India as a developing country on having mastered the science and technology of nuclear weapons – fortunately the telegram was intercepted by David Fischer and never sent!

In concluding this discussion on the roles and responsibilities of NWPS and NNWS, some recommendations can be made regarding of where do we go from here and what is our destination? In Prague, four years ago, a novice US President mused about moving toward a world without nuclear weapons and reminded that “the Cold War has disappeared but thousands of those weapons have not. In a strange turn of history, the threat of global nuclear war has gone down, but the risk of a nuclear attack has gone up.... So today, I state clearly and with conviction America’s commitment to seek the peace and security of a world without nuclear weapons.... This goal will not be reached quickly – perhaps not in my lifetime”.\(^{24}\)

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\(^{22}\) Cited in Thomas C. Reed and Danny B. Stillman, The Nuclear Express: A Political History of the Bomb and Its Proliferation, Zenith Press 2009, inside cover.


\(^{24}\) Remarks by President Barack Obama, Hradcany Square, Prague, Czech Republic, 5 April 2009: http://www.whitehouse.gov/the_press_office/Remarks-By-President-Barack-Obama-In-Prague-As-Delivered.
Though this was not the first time that a world leader had committed to global nuclear disarmament – Gorbachev and Reagan did so abortively at Reykjavik – nonetheless President Obama renewed hope after a barren decade for arms control under President George W. Bush.

This OEWG provides an unusual opportunity to formulate a vision for the delegitimization and elimination of nuclear weapons, to ensure that the Prague speech and other nuclear disarmament commitments were not cruel hoaxes, to empower the forthcoming High-Level UN General Assembly session, and to come up with workable ideas for a resumption of the work of the CD in this city – the venue for multilateral disarmament negotiations – and to put an end to the aberration of the age of nuclear weapons by the summer of 2045,\textsuperscript{25} the 100\textsuperscript{th} anniversary of the Trinity Test at Alamogordo. What can be done?

1. Convene a Global Nuclear Disarmament Summit with the outcome of a Communiqué containing a solemn pledge by all States to cooperate and work together on an agenda and time table for nuclear disarmament, which is essential for international security.

2. Policymakers supported by civil society must act to create the conditions for disarmament without linkages, recognizing disarmament as a process rather than simply an unachievable end state. This means making a binding commitment to disarmament, setting practical achievable targets leading to a final goal, and taking steps to meet these targets.

3. Devalue and delegitimize nuclear weapons per se and their role in the defence and security doctrines of the nuclear-weapon possessor States, as well as by NNWS members of defence arrangements. This is a prerequisite to disarmament and necessary for abandoning vestigial Cold War security doctrines and policies, and embracing the international humanitarian dimension of nuclear weapons.

4. Engage NWPS outside current nuclear disarmament and arms control arrangements in the conceptualization and formulation of nuclear disarmament initiatives – this OEWG could be a good beginning.

5. Pursue nuclear disarmament and nuclear non-proliferation on parallel tracks, without unnecessary criteria put forth by NWPS to enable them to join the global norm of non-possession of nuclear weapons. The relationship between disarmament and non-proliferation often is described as the two sides of the same coin but heretofore the nuclear disarmament imperative has been held hostage to non-proliferation objectives.

6. Address nuclear weapons in their totality – nuclear warheads are what matters, the units of account. The aggregation of tactical and strategic nuclear weapons will lead to the awareness that “a nuclear warhead is a nuclear warhead”. The unilateral 1991 Presidential Nuclear Initiatives between the United States and the (then) Soviet Union

must be formalized and codified. Forward deployed nuclear weapons in NATO Europe and Russian “sub-strategic” nuclear weapons have long outlived whatever utility was ascribed to them, these weapons should be withdrawn to central storage sites, accounted for, holdings made transparent, and reduced and eliminated.

7. Devise new strategic concepts recognizing that nuclear deterrence is not a viable security doctrine. New security paradigms can holistically address three nuclear dangers—existing arsenals, non-proliferation and the risk of nuclear terrorism – and shift commitments and security arrangements toward nuclear disarmament.

What is the appropriate vehicle for disarmament? Does the NPT reflect mainly the interests of only the five NWS regarding non-proliferation thus relegating to a lesser priority? Furthermore, can the NPT obligations be extended to cover non-Treaty States which possess nuclear weapons? The reality is that the NPT is the only multilateral forum where the NWS are legally obligated to address nuclear disarmament, and is the only multilateral forum where they in fact in recent times (since 1995) have felt pressured to explain their nuclear policies – the NWS have stubbornly refused to engage multilaterally in other forums. Thus, it is no surprise that the NWS are not present at this OEWG. A Nuclear Weapons Convention (prohibiting all nuclear weapons) is sometimes suggested as the next logical step emanating from the NPT, but this remains blocked not only because of the opposition of the NWS and other NWPS but also because of the opposition of some of the NNWS (the same 33 sheltering in nuclear alliances). On the other hand, acceptance of the NPT as one key disarmament framework does not prevent concrete steps to implement the Treaty’s disarmament obligations taking place in bilateral and multilateral forums outside the NPT, which this opens the way for broader multilateral disarmament discussions and negotiations at the CD with the input of mechanisms such as the OEWG.

I would like to conclude by recalling the remarks of General Lee Butler, the last Commander of the US Strategic Air Command (SAC) at a speech in Ottawa, Canada, on 11 March 1999, at which I was present, who cited WWII General Omar Bradley, “We live in an age of nuclear giants and ethical infants, in a world that has achieved brilliance without wisdom, power without conscience. We have solved the mystery of the atom and forgotten the lessons of the Sermon on the Mount. We know more about war than we know about peace, more about dying than we know about living.” The last word goes not to a General, nor to a diplomat, but to a school child at the United Nations kindergarten in New York who said that she could not understand “why a country that makes atomic bombs would ban fireworks?”

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