Chapter 11 Reaching nuclear disarmament

John Burroughs

Article VI of the nuclear Non-Proliferation Treaty (NPT) obligates states parties to “pursue in good faith negotiations on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament.” At the 1995 NPT Review and Extension Conference, in connection with the decision to extend the NPT indefinitely, states parties agreed to Principles and Objectives for Non-Proliferation and Disarmament. The Principles and Objectives record, among others, a commitment to implement Article VI through 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.”¹ At the 2000 Review Conference, states parties agreed to 13 “practical steps for the systematic and progressive efforts to implement Article VI.”

In its 2006 report Weapons of Terror, the Weapons of Mass Destruction (WMD) Commission observed regarding the 1995 promise that “it is easy to see that the nuclear-weapon states parties to the NPT have largely failed to implement this commitment.”² The Commission additionally pointed to a “loss of confidence in the [NPT] as a result of the failure of nuclear-weapon states to fulfill their disarmament obligations under the treaty and also to honour their additional commitments to disarmament made at the 1995 and 2000 NPT Review Conferences.”³

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Most of the NPT-nuclear weapon states claim to be in compliance with their disarmament obligations largely based on reductions of the size of their arsenals over time. Given that one bomb can devastate a city, and dozens a society, these reductions are essentially meaningless except insofar as they advance nuclear disarmament. However, under current official plans, all of the NPT-nuclear weapon states intend to rely on large, modernized nuclear forces for decades to come as a central component of their security postures (see “Rhetoric vs reality: the political economy of nuclear weapons and their elimination”). While recent rhetoric of President Obama and others about working for the achievement of a world free of nuclear weapons is encouraging, based on past performance and present plans, reductions in arsenal size appear more a matter of efficiency and rationalization than working towards marginalization and elimination of nuclear weapons.

The nuclear weapon states have long viewed the NPT as an asymmetrical bargain, imposing specific, enforceable obligations in the present on non-nuclear weapon states, while requiring of nuclear weapon states only a general and vague commitment to good faith negotiation of nuclear disarmament, as set forth in Article VI, to be brought to fruition in the distant future if ever. The 1995 and 2000 NPT Review Conferences, and a 1996 advisory opinion of the International Court of Justice (ICJ), decisively rejected that view. It is now established that the NPT requires the achievement of symmetry by obligating the nuclear weapon states to eliminate their arsenals.

The most important means of revitalizing the NPT and the non-proliferation regime is good-faith implementation of the disarmament obligation as specified in 1995 and 2000. At some point, this will require an agreement or agreements that complete that obligation, integrate states outside the NPT, and institutionalize the elimination of nuclear weapons globally (see “A nuclear weapons convention”). In the meantime, what is most important is that disarmament—unilateral, bilateral, or multilateral—actually occurs and that investment in the production, design, and research of nuclear weapons ceases.

In the UN and NPT context, much emphasis is placed—consistent with Article VI of the NPT, as will be seen next—on bilateral and multilateral negotiations as the path to accomplishment of disarmament. Legally-binding agreements are necessary to make permanent and institutionalize disarmament measures. They are not, however, necessarily the best means to
set in motion all aspects of the process of marginalization and elimination of nuclear forces. Negotiations can serve as a time-consuming detour, with unnecessary linkages to other issues, and with legislative approval becoming an occasion for forces opposing disarmament to extract a very high price in terms of maintaining design, production, and replacement capabilities for both warheads and delivery systems. It is the result of negotiations—that provide the touchstone for assessment of progress, not negotiations themselves. As discussed later in this chapter, and as the 13 Practical Steps from the 2000 NPT Review Conference envisage, states can take steps unilaterally, or coordinated politically with other states, on matters such as doctrine, reductions, and halting modernization.

**Good faith and the pursuit of negotiations**

“Good faith is a fundamental principle of international law, without which all international law would collapse,” declared Judge Mohammed Bedjaoui, former President of the ICJ, at a conference held in connection with the 2008 NPT Preparatory Committee.4

The Vienna Convention on the Law of Treaties provides: “*Pacta sunt servanda*: Every treaty in force is binding upon the parties to it and *must be performed by them in good faith.*”5 The Vienna Convention is relatively young, dating back to 1969, but the concept is not. Thus the Roman jurist Justinian observed: “What is so suitable to the good faith of mankind as to observe those things which the parties have agreed upon.”6

The ICJ has elucidated the requirement, stating that the “principle of good faith obliges the Parties to apply [a treaty] in a reasonable way and in such a manner that its purpose can be realized.” The Court also said that “it is the purpose of the Treaty, and the intentions of the parties in concluding it, which should prevail over its literal application.”7

In addition to implementation of existing obligations, good faith governs the creation of new ones.8 Essentially, good faith means keeping promises in a manner true to their purposes and working sincerely and cooperatively to attain agreed objectives.

Article VI of the NPT requires the pursuit of negotiations on effective measures relating to cessation of the nuclear arms race at an early date and
to nuclear disarmament. Has that obligation been performed in good faith?

Judging by the record since Comprehensive Test Ban Treaty (CTBT) negotiations were concluded in 1996, the answer must be a resounding no. Aside from the brief US-Russian talks resulting in the 2002 Strategic Offensive Reductions Treaty (SORT), and negotiations in 2009 and 2010 on a replacement for the Strategic Arms Reduction Treaty (START), there have been no negotiations or efforts—bilateral, plurilateral, or multilateral—on partial disarmament measures.

Likewise, although the annual General Assembly resolution on follow-up to the advisory opinion of the ICJ calls for immediate commencement of multilateral negotiations leading to the early conclusion of a nuclear weapons convention, there have been no such negotiations. Nor have there been official deliberations or discussions of any kind on this subject, though the Practical Steps of 2000 called for the establishment of a subsidiary body at the Conference on Disarmament to “deal with” nuclear disarmament. Since the Conference has not engaged in substantive work since 1999, this body has not yet been established.

Although the 1995 Principles and Objectives called for the immediate commencement of negotiations on a fissile materials treaty, and although the Practical Steps of 2000 called for conclusion of negotiations on such a treaty by 2005, there have been no such negotiations (see “Toward a fissile material (cut-off) treaty”). Disarmament commitments made in 1995 and 2000 have also for the most part been ignored, as the WMD Commission found.9

There is a respectable legal argument that as “subsequent agreements” under Vienna Convention Article 31, the Principles and Objectives and the Practical Steps supply criteria for the application and interpretation of Article VI.10 In this perspective, the failure to substantially implement those commitments constitutes non-compliance with Article VI.

Whether or not this view is accepted, clearly implementation of the commitments would have evidenced good faith in implementing Article VI, and no such good faith has been shown. Good faith now can be demonstrated by reaffirming and implementing the commitments, or where appropriate, agreeing upon and implementing alternative means of fulfilling Article VI.

To summarize regarding the general obligation to perform Article VI in good faith: negotiations must be pursued. The first step is to commence
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them. That follows from the ICJ’s unanimous conclusion, largely interpret-
ing Article VI, that: “There exists an obligation to pursue in good faith and
bring to a conclusion negotiations on nuclear disarmament in all its aspect
under strict and effective international control.”11 Negotiations obviously
cannot be brought to a conclusion if they are not even commenced!

US-Russian bilateral and unilateral disarmament

The 13 Practical Steps of 2000 called for implementation of the START
process and endorsed the principle of irreversibility, and General Assembly
resolutions—“Towards a nuclear weapon free world,” “Renewed determi-
nation,” and “Nuclear Disarmament”—call for further US-Russian negotia-
tions on reductions in accordance with the principles of irreversibility, veri-
ification, and transparency.

The United States and Russia are currently engaged in negotiation of a
replacement for START. Russian and US officials believe it would be desir-
able to have a signed treaty by the NPT Review Conference or sooner. On
6 July 2009, Presidents Obama and Medvedev signed a Joint Understan-
ding for the START Follow-On Treaty.12 The Joint Understanding commit-
ted both countries to reduce their deployed strategic warheads to a range of
1500–1675 and their strategic delivery vehicles to a range of 500–1100. A
ceiling of 1675 warheads would represent a cut of about 20% in US warheads
and 33% in Russian warheads. Reportedly, the two sides will agree on a limit
of about 700 strategic delivery vehicles, which would be about a 25% cut in
US vehicles.

The START replacement agreement would not fundamentally alter the
nuclear balance of terror between the United States and Russia. The 2002
Strategic Offensive Reductions Treaty set a ceiling of 2200 strategic deployed
warheads; the START replacement lowers the ceiling but not enough to qual-
itatively change the relationship. Its main virtue is that it can reinvigorate the
process of reduction and ensure continued fulfillment of the verification and
monitoring functions once met by START. The stakes—and the obstacles—
would be much higher with respect to a subsequent agreement the Obama
administration has indicated it would seek. Such an agreement following
the START replacement could further reduce strategic warheads, reduce
non-strategic warheads, and provide, for the first time, for verification of the
dismantlement of withdrawn warheads. The result would be verified limits
on the entire nuclear arsenals, not just deployed strategic warheads, of both
sides. If low enough numbers of warheads were agreed, the way would be
open for participation of other nuclear possessor states in negotiations on
reductions and elimination.

The obstacles arise in part from the fact that Russia attaches great im-
portance to its nuclear forces in view of its degraded security and military
posture. It is concerned about its security position vis-à-vis the United States
and the North Atlantic Treaty Organization (NATO), in light of such factors
as US wars waged on its periphery, the colour revolutions in Ukraine and
Georgia, and NATO expansion. In military terms, Russia is concerned about
reducing its nuclear arsenal while the United States spends huge sums to
maintain a highly sophisticated and effective military. In particular, Russia
will be reluctant to pursue deep reductions while the United States makes
advances in non-nuclear strategic strike systems, engages in research and
development regarding strategic anti-missile systems, and holds open the
option of deploying space-based strike and interceptor systems. Russia’s
statement to the First Committee of the General Assembly on 15 October
2009 made clear that in negotiations after a START replacement is agreed, it
will want to address all three types of non-nuclear strategic systems. Russia
also may prove resistant regarding non-strategic nuclear arms reductions.

Correspondingly, on the US side, the administration is likely to insist on
inclusion of non-strategic arms in the process. There will also be opposition
from influential elements in the government to limitations on non-nuclear
strategic systems. In 2009, the US Congress adopted a provision on military
spending for 2010 urging the President that the START replacement treaty
under negotiation not include any limitations on US ballistic missile defence
systems, space capabilities, or advanced conventional weapons systems.

It is essential to work for changes in security architecture that will make
Russia and the United States comfortable with making truly deep reduc-
tions and facilitate multilateral negotiations. Additional reductions in both
the strategic and non-strategic stockpiles of the United States and Russia
will be needed to facilitate action by other nuclear weapon possessors to re-
duce their own arsenals or join multilateral disarmament negotiations. The
two countries should consider establishing a process for Continuous Arms
Reduction Talks (CART), with other states that possess nuclear arsenals brought in for a second phase. US and Russian reductions can be bilateral or unilateral, formally negotiated or politically coordinated. As noted above, negotiations can be derailed by domestic or international developments. It remains the case that the United States and Russia, and other states with nuclear weapons, can and should undertake unilateral reductions, which could be politically coordinated. Accordingly, the 2000 NPT commitment to unilateral reductions should be preserved.

**Modernization and investment**

In and of themselves, reductions do not suffice to create a path to elimination. As Zia Mian of Princeton University noted in a presentation to the 2008 NPT Preparatory Committee, “The only way that nuclear weapon states can prove that they are serious about the goal of eliminating nuclear weapons is if they stop investing in modernizing and improving their nuclear weapons capabilities.” Yet research and development is taking place in all states possessing nuclear weapons for purposes of replacing existing systems, increasing reliability over the long term, and in some cases enhancing military capabilities. A key step toward multilateral nuclear disarmament is for all nuclear weapon states—including those outside of the NPT—to cease all research, development, modernization, and production of nuclear weapons.

In the United States, however, the trend is in the opposite direction. Hoped-for US Senate approval of ratification of both the replacement START and the CTBT is already being conditioned on increased investment in new infrastructure for building nuclear weapon components, including their cores (“pits”), and in modernizing existing weapons to extend their life and add other features, including additional military capabilities. The first of the 13 Practical Steps provides that the CTBT be made legally effective “without conditions”. While the phrase could be interpreted as referring to qualifications directly attached to ratifications transmitted to the treaty depository, more broadly it weighs against ratification packages, implicit or explicit, whose domestic effect is to reinforce and enhance capabilities for long-term maintenance and modernization of nuclear arsenals.
However, a Congressional Research Service report from June 2009 explains that when the US Senate ratified the Partial Test Ban Treaty, the Joint Chiefs of Staff conditioned their support for the Treaty on four safeguards: an aggressive nuclear test programme; maintaining nuclear weapon laboratories; maintaining the ability to resume atmospheric tests promptly; and improving intelligence and nuclear explosion monitoring capabilities. The report emphasizes that safeguards were key to securing Senate ratification of the 1963 Treaty. The report goes on to explain that updated safeguards have been part of CTBT ratification negotiations in the Senate. In the 1990s, a high price was paid in the United States for attempted ratification of the CTBT, in the form of commitments to supercomputing and experimental facilities and to “sub-critical” testing known collectively as “Stockpile Stewardship”. The report’s author notes regarding the present conjuncture: “Safeguards could be updated, such as by adding Safeguards for the nuclear weapon production plants and strategic forces, and could be augmented with implementation measures” that enforce the updated safeguards and prevent any erosion of the anti-disarmament scheme behind ratification.16

Indeed, strong efforts are already underway in the United States to tie ratification of the START replacement and the CTBT to commitments to modified or new-design warheads and new weapons production facilities, and also to modernization of delivery systems. The US Congress has appropriated $32.5 million for work in 2010 on design of non-nuclear components of refurbished nuclear bomb, the B-61, currently deployed in Europe. Congress has also appropriated $97 million for design of a new facility to produce the plutonium cores of warheads at Los Alamos Laboratory, the Chemistry and Metallurgy Research Replacement (CMRR) Nuclear Facility, and $94 million for design of the Uranium Processing Facility at Oak Ridge, Tennessee, which would build secondaries for warheads. Construction is slated to begin this spring of a replacement Kansas City Plant in Missouri for production of non-nuclear components of warheads. The new facilities would provide the capability to build-up nuclear forces should that be deemed necessary and to produce modified or new-design warheads.

The push for increased funding for nuclear weapons escalated in early 2010. On 19 January, in a third op-ed in the Wall Street Journal, the “four horsemen”—Shultz, Perry, Kissinger, and Nunn—advocated for increased spending on nuclear weapons, arguing that as the US works “to realize the
vision of a world without nuclear weapons;” significant investments “are ur-
gently needed to undo the adverse consequences of deep reductions over
the past five years in the laboratories’ budgets for the science, technology
and engineering programs that support and underwrite the nation’s nuclear
deterrent.”17

Similarly, in a Wall Street Journal op-ed on 29 January, US Vice President
Joe Biden called for a boost of $5 billion for the nuclear arsenal and its infra-
structure over the next five years, arguing, “Even in a time of tough budget
decisions, these are investments we must make for our security.”18 These two
pieces were followed by the Obama administration’s FY2011 budget request
on 1 February, which includes $7.01 billion for the weapons complex, about
a 10% increase over FY2010. The request includes a massive increase for the
controversial CMRR project, to $225 million for FY2011 alone.19

Trading some arms control agreements or arsenal reduction for
modernized nuclear weapons

Research and production facilities capable of building the nuclear threat
anew is not disarmament. If the danger of nuclear war is to be eliminated,
ceasing to plan and build for an eternal nuclear threat must come early, not
late, in the process. Building weapons facilities that among other things pro-
vide the capability for expanding arsenals runs contrary to the 2000 prin-
ciple of irreversibility. Modified or new-design warheads, despite denials to
the contrary, are likely to add military capabilities to nuclear forces, contrary
to the 2000 commitment to a diminishing role of nuclear weapons in secu-
rity policies. This is already happening with the “life-extension” programme
for the W-76, the main US warhead for submarine-launched ballistic mis-
siles. A new anti-disarmament package accompanying CTBT ratification in
the United States will surely complicate the already difficult task of obtain-
ing ratifications from other non-ratifiers of the CTBT, especially India and
Pakistan.
The role of nuclear weapons

The December 2009 report of the International Commission on Nuclear Non-proliferation and Disarmament (ICNND) argues that in order to eliminate nuclear weapons, perceptions of their role and utility must be changed “to achieve their progressive delegitimation, from a position in which they occupied a central strategic place to one in which their role is seen as quite marginal, and eventually wholly unnecessary as well as undesirable.”

The “delegitimation” of nuclear weapons requires shrinking both the weapons’ perceived value and their associated roles. Security doctrines that include a prominent role for nuclear weapons signal the alleged security benefits of nuclear weapons derived by major powers and therefore promote proliferation. As former UN Under-Secretary-General for Disarmament Affairs Jayantha Dhanapala says, “nuclear weapons are identified [by many state actors] both as an insurance policy for national security and as a symbol of global power status.” The perceived status of nuclear weapons—and thus, the danger of further proliferation—cannot be reduced without also reducing their roles in security doctrines, and vice versa.

The values and roles of nuclear weapons can be outlined as follows:

<table>
<thead>
<tr>
<th>Value</th>
<th>Role</th>
</tr>
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<tbody>
<tr>
<td>Deterrence</td>
<td>To threaten retaliation for attack of territory or “interests”</td>
</tr>
<tr>
<td>Power</td>
<td>To provide access to elite club of nuclear-armed “major powers”</td>
</tr>
<tr>
<td>Prestige</td>
<td>To demonstrate technological prowess</td>
</tr>
<tr>
<td>Money</td>
<td>To sustain an economy based in high-tech militarism</td>
</tr>
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These values are grounded in a state-centric, balance-of-power world view that does not comport with the globalized interdependency of the modern world. This world view assumes that only state-level “rational” actors are engaged in an ongoing game wherein theories of deterrence and mutually assured destruction provide the framework for engagement. It also assumes that economic and technological power centered on militarism is a viable long-term trajectory.

US President Obama and his representatives caveat the long-range goal of a nuclear weapon free world with a disclaimer that as long as nuclear weapons exist, the US will maintain a strong nuclear deterrent. The reverse
is more accurate—so long as the US maintains a nuclear “deterrent,” nuclear weapons will exist, and other nations will seek to acquire or proliferate these weapons technologies. Until nuclear deterrence theory and associated active roles for nuclear weapons in strategic policies are left behind, nuclear weapons will continue to have perceived value and thus will be difficult to reduce, let alone eliminate (see “Rhetoric vs reality: the political economy of nuclear weapons and their elimination”).

In 2000, NPT states parties made a vital commitment to a “diminishing role for nuclear weapons in security policies to minimize the risk that these weapons ever be used and to facilitate the process of their total elimination.” However, in ensuing years that commitment has been honoured more in the breach than in the observance, especially by France, Russia, and the United States, each of which enunciated doctrines expanding the role of nuclear weapons. President Obama has promised to reverse this trend, and urged other states to do the same. The US Nuclear Posture Review is now slated for release in March. In assessing it, at the NPT Review Conference, and in relation to revision of the NATO Strategic Concept, the following are some key issues to consider.

**Doctrines.** The policies of nuclear weapon states, and of NATO, should reflect the operating reality, which is the extremely high threshold—reflected in non-use of nuclear weapons since 1945—for even considering use of nuclear weapons. And they should pave the way for the only lawful stance: that the weapons will not be used in any circumstance whatever. In a 1997 book, the Committee on International Security and Arms Control of the US National Academy of Sciences observed that the ICJ “unanimously agreed that the threat or use of nuclear weapons is strictly limited by generally accepted laws and humanitarian principles that restrict the use of force.” In the Committee’s assessment, “the inherent destructiveness of nuclear weapons, combined with the unavoidable risk that even the most restricted use of such weapons would escalate to broader attacks, makes it extremely unlikely that any contemplated threat or use of nuclear weapons would meet these criteria.”

At a minimum, doctrines imply the retention and development of capabilities, and therefore decisively affect prospects for disarmament. Accordingly, it is important to strongly oppose counterforce doctrine, which requires readiness to carry out a comprehensive nuclear attack against an
enemy’s nuclear capabilities. That doctrine is a Cold War recipe for nuclear war fighting. It implies maintaining nuclear forces in a quick-launch status, capable of carrying out a preemptive strike, and increases pressures to resort to nuclear weapons in a crisis. In the US-Russian context, it is also perceived by many to imply maintenance of large and complex arsenals, both to carry out counterforce attacks and to have usable nuclear weapons that would survive such an attack. Any “countervalue” doctrine projecting second strikes against cities should also be firmly opposed.

**Extended nuclear deterrence and nuclear sharing.** With regard to the geopolitical underpinnings of nuclear postures, it is particularly important that US allies communicate that “extended deterrence” is not a justification for an expansive role of nuclear weapons. Alliances do not have to depend on nuclear weapons for deterring aggression; non-nuclear military power is quite robust. Alternative security approaches, like the North East Asia nuclear weapon free zone long advocated by civil society, have to be developed. Japanese Prime Minister Hatoyama’s remarks at the UN Security Council Summit on 24 September 2009 were promising in this regard. He explained the security benefits that would arise from “the creation of a nuclear-weapon-free zone, when coordinated between the five nuclear weapon States—the Permanent Five—and non-nuclear weapon States in the region.”23 It is also encouraging that Egypt reportedly has rejected the notion of installing extended nuclear deterrence in the Middle East, instead reiterating the need for a regional zone free of nuclear weapons.24 All states now part of nuclear alliances should take steps to reduce and phase-out the role of nuclear weapons in their security doctrines.

An intermediate step in fulfilling the NPT commitment to a diminishing role in alliance arrangements regarding nuclear weapons would be to affirm that the weapons serve only to signal the unacceptability of use of nuclear weapons by other states. The new Japanese government should insist on that position with the United States, as it seems poised to do. The Democratic Party of Japan has said that a policy of no-first-use should be discussed with the United States. The Foreign Minister, Katsuya Okada, has expressed support for such a policy. NATO countries also have the obligation to limit the role of nuclear weapons in the revision of NATO’s Strategic Concept, to be adopted at the Lisbon summit in late 2010. In 1998, Germany sought to persuade the United States of the merits of a no-first-use policy, only to be
firmly rebuffed. NATO countries should press the matter again, this time with an administration whose leader has been eloquent on reducing the dangers posed by nuclear weapons and seeking their elimination.

Finally, it is well past time to end the deployment of US nuclear weapons on the territory of several NATO allies (Belgium, Germany, Italy, the Netherlands, and Turkey), including both weapons under sole US control and weapons subject to release to those allies for employment in time of war. That arrangement sends the wrong signal to the world by elevating the political value of nuclear weapons, and serves as a terrible precedent for other states possessing nuclear arsenals to consider “sharing” their own nuclear weapons (see “NATO nuclear sharing” and “US-UK nuclear sharing”).

At past NPT review proceedings, non-nuclear weapon states have called for strict adherence to NPT Article I prohibiting nuclear weapons states from transferring nuclear weapons or control over them to “any recipient whatsoever” and from assisting non-nuclear weapon states in their acquisition. Within and without the NPT context, they should continue to adamantly oppose nuclear sharing policies and other policies perpetuating reliance on nuclear weapons. Global opinion, especially emanating from governments, has a larger impact on policy-making in the United States and other powerful states than may be visible on the surface.

Negative security assurances. A foundation for reducing the role of nuclear weapons is the ongoing effectiveness of assurances of non-use of nuclear weapons to non-nuclear weapon NPT states parties made by the NPT nuclear weapon states in 1995. The 1995 NPT Principles and Objectives provide: “[F]urther steps should be considered to assure non-nuclear-weapon States party to the Treaty against the use or threat of use of nuclear weapons. These steps could take the form of an internationally legally binding instrument.” The failure to take such steps has been noticed by non-nuclear weapon states; it is one of the reasons some states assert they are not motivated to take on further non-proliferation obligations absent fulfillment of promises by the nuclear weapon states. UN Security Council Resolution 1887 acknowledges the importance of the matter, affirming that the assurances “strengthen the nuclear non-proliferation regime.” While important, this acknowledgment falls short of “further steps”. A legally-binding instrument on the matter is necessary.
Reducing the operational status of nuclear weapon systems

The United States and Russia each are currently estimated to have about 1000 warheads capable of launch within minutes of an order to do so. The Cold War-style nuclear relationship must be brought to an end, to reduce ongoing risks and to facilitate disarmament.

In 2007 and 2008, a broadly supported UN General Assembly resolution sponsored by Chile, New Zealand, Nigeria, Sweden, and Switzerland (joined by Malaysia in 2008) called for “further practical steps to be taken to decrease the operational readiness of nuclear weapons systems, with a view to ensuring that all nuclear weapons are removed from high alert status.” The resolution was not offered in 2009 in deference to consideration of the matter in current reviews of nuclear postures.

De-alerting could be pursued within or in connection with US-Russian nuclear arms reduction negotiations, and also could be a topic for wider consideration by states with nuclear arsenals. Consideration should be given to specifying means of implementation of the 2000 commitment to de-alerting, for example, through formation of an international commission to provide guidance and report on progress.

Transparency and standardized reporting

One of the 13 Practical Steps of 2000 provides for “regular reports, within the framework of the NPT strengthened review process, by all States parties on the implementation of Article VI.” At NPT review meetings, nuclear weapon states have provided general statements regarding, e.g., reductions of deployed weapons, and some have also declared their arsenal size and fissile material holdings. However, there is nothing even resembling a comprehensive authoritative international accounting of warhead and fissile material stockpiles, nuclear weapons delivery systems, and spending on nuclear forces. Non-governmental researchers make valiant efforts to fill the gap, but their assessments are for the most part estimates based only partly on official information. The need for an authoritative accounting system is obvious: it would provide baselines for evaluating progress in disarmament, and enable the identification of objective benchmarks for progress. Nuclear arms
control and disarmament for too long has depended on commitments and intentions, with the exception of US-Russian/Soviet bilateral arms control agreements, which do set objective limits. It is time for benchmarks to be set, as the WMD Commission recognized, and establishing an accounting system is a first step in that direction.

In his 24 October 2008 five-point proposal for disarmament, Secretary-General Ban Ki-moon stated:

The nuclear-weapon States often circulate descriptions of what they are doing to pursue these goals, yet these accounts seldom reach the public. I invite the nuclear-weapon States to send such material to the United Nations Secretariat, and to encourage its wider dissemination. The nuclear Powers could also expand the amount of information they publish about the size of their arsenals, stocks of fissile material and specific disarmament achievements. The lack of an authoritative estimate of the total number of nuclear weapons testifies to the need for greater transparency.25

States should seek a commitment from nuclear weapon possessors to establishment of a comprehensive, UN-based accounting system covering size of nuclear arsenals, nuclear weapon delivery systems, fissile material stockpiles, and spending on nuclear forces.

**Nuclear weapon free zones**

The role of regional nuclear weapon free zones (NWFZs) in reinforcing and advancing the denuclearization of much of the planet was highlighted in 2009 with the entry into force of treaties creating NWFZs in Africa (Treaty of Pelindaba) and in Central Asia (Treaty of Semipalatinsk). A conference of NWFZs will be held in New York just prior to the 2010 NPT Review Conference.

Initiating steps toward a NWFZ in the Middle East would contribute greatly to a longer-term solution to the peace and security challenge posed by the Israeli arsenal, the Iranian nuclear programme, and the initiation or intensification of nuclear programmes by other states in the region (see “Nuclear futures for the Middle East”).

Prospects for a Middle East zone will likely have a direct bearing on the
outcome of the NPT Review Conference. The 1995 NPT resolution calling for establishment of a Middle Eastern zone free of nuclear, biological, and chemical weapons will again be a focus of attention. The draft recommendations considered at the 2009 NPT Preparatory Committee contain useful elements, among them convening a conference on a Middle East zone and appointing a special coordinator. A top priority is to work for agreement on a provision regarding the Middle East at the Review Conference.

As noted above, the proposal for a North East Asia NWFZ has gained traction with the advent of the new Japanese government. Such a zone, and the process of creating it, could contribute to the sustainable denuclearization of the Korean peninsula. The Democratic Republic of Korea (DPRK) would relinquish its nuclear arsenal and nuclear weapons capabilities, and receive in return binding assurances against use of nuclear weapons—long a top concern of DPRK leadership. By providing Japan and the Republic of Korea binding assurances against use of nuclear weapons, a zone could also facilitate their lessening or ending reliance on US nuclear weapons for defence.

**Legal framework for the elimination of nuclear weapons**

Fundamentally, only a binding global agreement can firmly establish the obligations not to possess, use, or threaten to use nuclear weapons. Unquestionably, there are major challenges to overcome in developing an institutional system that would reliably provide for verified and enforceable elimination of nuclear warheads and delivery systems and successfully manage nuclear power. It is worth considering reaching agreement, through a framework approach, on the basic norms prior to detailed negotiation of all matters relating to verified elimination and its enforcement.

The challenges can in part be addressed through measures on the standard international agenda—the CTBT, fissile material (cut-off) treaty, regulation of nuclear fuel production and supply, etc.—so long as they are negotiated and implemented with the objective of a nuclear weapon free world in mind. It is also important, however, to squarely address the nature of the overall framework; the challenges will not go away just because they are ignored. Moreover, measures now apparently within reach may in fact remain
unattainable while a nuclear weapon free world is not even on the horizon. In that circumstance, they may be perceived as primarily aimed at preserving the advantage of powerful states and deemed unacceptable. It must be clearly enunciated and intended that the steps are meant to lead to a world free of nuclear weapons, not to maintain an unsustainable two-class nuclear world. That intention is best conveyed by creation of a process expressly devoted to achieving the global elimination of nuclear forces.

Every year since 1997, the UN General Assembly has adopted a resolution calling upon all states immediately to fulfill the disarmament obligation affirmed by the ICJ by commencing multilateral negotiations leading to an early conclusion of a nuclear weapons convention. In 2009, the resolution was adopted the resolution by a vote of 124 to 31, with 21 abstentions. UN Secretary-General Ban Ki-moon has also lent his authority to this approach, beginning with his 24 October 2008 address, and again in a speech outlining his “action plan” for nuclear disarmament and non-proliferation on 8 December 2009. There he urged states “to seriously consider the proposal by Costa Rica and Malaysia for a nuclear weapon convention.”

At the UN Security Council Summit on 24 September 2009, several heads of states expressed support for a convention prohibiting and eliminating nuclear weapons globally. While noting that for the time being the NPT “remains the core” of the regime, President Fischer of Austria stated that his country “supports the idea of a nuclear weapons convention equipped with a sophisticated verification mechanism.” Hu Jintao, President of China, stated that “the international community should develop, at an appropriate time, a viable long-term plan composed of phased actions, including the conclusion of a convention on the complete prohibition of nuclear weapons.” On behalf of Viet Nam, President Nguyen Minh Triet endorsed the Non-Aligned Movement position paper for the Summit, invoked the continuing “urgent demand of mankind [sic]” for “nuclear disarmament leading to the total elimination of nuclear weapons,” and called for “early commencement of negotiations on an international nuclear disarmament agreement.” India has also raised its voice, most recently on 29 September 2009, when Prime Minister Manmohan Singh reiterated its proposal for negotiation of a nuclear weapons convention. Many other delegations, including those of Cameroon, Morocco, and the Philippines, also called for a convention during the 2009 UNGA First Committee.
Negotiation of a convention is not only the demand of a large vast majority of the world’s countries; it is also widely supported by civil society. This was illustrated by the NGO declaration, “Disarming for Peace and Development,” adopted at the DPI/NGO Mexico City conference, 9–11 September 2009. Its first two points are: “1. At the 2010 Nuclear Non-Proliferation Treaty (NPT) Review Conference, reaffirm and strengthen commitments to achieve a world free of nuclear weapons and concurrently to prevent their spread. 2. Promptly commence negotiations on a convention prohibiting and eliminating nuclear weapons globally within an agreed, time-bound framework.”

The ICNND report reflects and contributes to the mainstreaming of the convention approach. It states: “Work should commence now, supported by interested governments, on further refining and developing the concepts in the model convention now in circulation, with the objective of having a fully-worked through draft available to inform and guide multilateral disarmament negotiations as they gain momentum.” The ICNND does not support the near-term commencement of negotiations, positing that it is premature until further steps are taken to reduce and marginalize nuclear arsenals. However, it should be remembered that over the lengthy period of negotiation of the Chemical Weapons Convention, the United States and Russia also bilaterally negotiated concerning their large stockpiles. Negotiation of a convention can proceed in parallel with, and inform and stimulate, negotiation and implementation of other measures.

It is true that achieving the complete elimination of nuclear weapons will likely require complementary arms control and disarmament, notably in relation to space-based systems, anti-missile systems, and non-nuclear strategic strike systems. However, it is established beyond doubt that nuclear disarmament is not to be held hostage to comprehensive demilitarization or like transformation of the global security landscape. The 2000 unequivocal undertaking to eliminate nuclear arsenals is separate from the commitment to the ultimate goal of general and complete disarmament. The ICJ unanimously concluded that Article VI requires negotiations to be completed on “nuclear disarmament in all its aspects,” not comprehensive disarmament.

The call for undertaking a systematic approach to nuclear disarmament now reflects a mature understanding of the means to be employed and the challenges to be met. Governments and civil society should press for the
NPT Review Conference to adopt a commitment to commencement of preparatory work, deliberations and negotiations on a universal convention or framework of instruments for the sustainable, verifiable, and enforceable elimination of nuclear weapons.
Recommendations

All states with nuclear weapons should:

- reaffirm the NPT unequivocal undertaking to accomplish the total elimination of nuclear arsenals;
- reaffirm the principle of irreversibility and commit not to increase or modernize their nuclear forces and capabilities;
- reaffirm the principles of transparency, verification, irreversibility, and accountability in fulfilling disarmament obligations and agreements;
- declare that they will not design, develop, or produce new-design nuclear warheads, or modify or modernize existing warheads to add military capabilities;
- halt research, development, testing, and component production while reductions of arsenals are in progress, with production and research facilities subject to an intrusive verification regime at the earliest possible time;
- close and clean up all nuclear test sites;
- commit to regular reporting on nuclear warhead and delivery system arsenals, fissile material stockpiles, spending on nuclear forces, and steps and plans for disarmament;
- reaffirm the NPT commitment to a diminishing role for nuclear weapons in security policies as a step toward non-use in any circumstance and the elimination of the weapons;
- agree to legally-binding security assurances not to attack non-nuclear weapon states with nuclear weapons;
- commit not to use nuclear weapons for pre-emptive strikes;
- reject counterforce and countervalue doctrines;
• phase out “extended nuclear deterrence” and strengthen regional cooperative security mechanisms;

• end deployment of nuclear weapons outside the territory of possessor states; and

• reaffirm the NPT commitment to reduce the operational status of nuclear weapon systems and implement steps to take nuclear forces off quick-launch status.

The US and Russian governments should reduce their arsenals on their own in a transparent and verified manner. To build a more stable bilateral relationship, and to move toward global nuclear disarmament, unilateral and bilateral reductions should achieve the following:

• maintain transparency and predictability;

• mandate steady reductions in all nuclear warheads, deployed and reserve, strategic and non-strategic;

• mandate reductions in strategic delivery systems, whether for nuclear or non-nuclear weapons, and prohibit multiple warhead missiles;

• require verified dismantlement of all excess warheads and delivery mechanisms;

• provide for international monitoring in addition to bilateral verification, to establish accountability to the entire community of states; and

• reach levels of total warheads low enough to allow the next phase to encompass other states possessing nuclear arsenals. All warheads—deployed, spare, reserve, awaiting dismantlement, etc.—must be counted in the total. The total likely will need to be in the hundreds on each side to attract meaningful participation from other possessor states, which should be consulted on this key point.
All governments should:

- negotiate for a fissile material (cut-off) treaty that bans production of fissile materials for nuclear weapons, brings all weapons-usable materials under safeguards, and fosters reduction of existing stocks;
- renounce and/or oppose nuclear sharing arrangements and “extended nuclear deterrence”; and
- commence negotiations on a global treaty on missiles and anti-missile systems.

All governments and civil society actors should:

- support early entry into force of the CTBT;
- oppose conditioning approval of the CTBT on deals for entrenching and expanding weapons complexes, retaining the option of designing and manufacturing modified or new-design warheads, and modernizing delivery systems;
- call for the closure of all nuclear test sites;
- seek an NPT commitment to establishment of a UN-based, comprehensive accounting system covering size of nuclear arsenals, nuclear weapon delivery systems, fissile material stockpiles, and spending on nuclear forces;
- demand a commitment not to modernize nuclear weapon infrastructures;
- support an NPT commitment to initiatives to create a zone free of nuclear, biological, and chemical weapons in the Middle East;
- work for cooperation among existing nuclear weapon free zones and the creation of new zones; and
- support an NPT commitment and a UNGA resolution to commence preparatory work, deliberations, and negotiations on a universal convention or framework of instruments for the sustainable, verifiable, and enforceable global elimination of nuclear weapons.