

## **Groups 2 and 3**

In this civil society presentation, we will first remind you of the multilaterally-negotiated agreements you have already made that need renewed commitment and conscientious implementation. Then we will stress some solutions that could get us beyond today's obstacles.

### **Nuclear Weapons Must Not Be Tolerated**

Before there was a Nuclear Non-Proliferation Treaty, there was the great idea that led to it. Among many expressions of this idea, we have these words from the 1955 Russell-Einstein Manifesto, which Albert Einstein signed as his last important public act:

“Remember your humanity, and forget the rest...If you cannot, there lies before you the risk of universal death.”

Unless the international agreements we are here to build on bring stable, durable abolition of nuclear weapons, our future could bring another use of nuclear weapons, and possibly two or multi-sided nuclear war. Any use of nuclear weapons would reprehensible instantaneous mass murder. A nuclear war would end life as we know it.

A number of stark warnings have recently emanated from the very highest quarters, ranging from Nobel prizewinners to the former and current UN Secretary – General. Since the NPT last met in 2005, the urgency of movement toward the goal of abolition has been underlined by statements from Kofi Annan (Nov 2006), the Rome Summit of Nobel Peace-prize Winners (Nov 2006), the Bulletin of the Atomic Scientists “Doomsday Clock” (Jan 2007), an op-ed by George Shultz, William Perry, Henry Kissinger, and Sam Nunn (Jan 2007), and an op-ed by Mikhail Gorbachev (Jan 2007). On 14 March 2007, the European Parliament passed a motion that emphasized the urgency of progress toward nuclear disarmament.

Some here might deny that the danger is so great, but since Einstein’s time the advent of thermonuclear weapons and intercontinental missiles has raised the risks. Pursuit of security through more powerful weapons, an utterly conventional strategy until then, has projected us into an absurd and dangerous situation where nations supposedly pursuing security are pursuing the ability to destroy all life.

We are fortunate that among our predecessors fifty years ago there were some mature enough to see what this new circumstance required.

They understood that if such weapons spread, the risk of their eventual use would increase exponentially. They equally understood it would not be possible to license the nuclear weapons of some states, and prohibit them to all others. Therefore, they created

the original bargain of the NPT: the non-proliferation of nuclear weapons in exchange for their disarmament.

### **Origin of Article VI**

Despite the end of Cold War hostilities, the past 17 years have been marked by the determination of some states to keep nuclear weapons for the indefinite future, and increasingly frantic efforts to deny those weapons to other states. In this time, the major nuclear powers have shifted their view of nuclear weapons from tools necessary for the prevention of war to a primary justification for war. We have also seen attempts from some nuclear armed states to develop new and useable nuclear weapons, thus threatening to undermine confidence that use of nuclear weapons can remain forever taboo in a world of constant armed conflict.

Some governments disingenuously argue that Article VI creates no obligation to achieve nuclear disarmament before complete and general disarmament. We believe those governments say so not because it is logically tenable, but because they have been unable to finally discard the fallacy that nuclear weapons make them safe.

Those governments ask the world to believe that the non-nuclear weapons states willingly signed an Article VI that creates an era of nuclear weapons discrimination against themselves, an era that ends only when a way is found to complete and general disarmament without nuclear disarmament first. That is absurd.

That interpretation of Article VI runs contrary to the understanding officially expressed in January 1968 by United States NPT negotiator Adrian Fisher, who said that Article VI “does not make negotiation of [effective measures regarding cessation of the nuclear arms race and nuclear disarmament] conditional upon their inclusion within a framework of a treaty on general and complete disarmament.” The International Court of Justice rejected the notion that nuclear disarmament must await comprehensive demilitarization in its advisory opinion. And looking at the text of the treaty itself, when Article VI is read together with the preamble, “a treaty on general and complete disarmament” would be an agreement on elimination of nuclear forces. Similarly, the Biological and Chemical Weapons Conventions are treaties on general and complete disarmament of biological and chemical weapons.

### **Proliferation in Violation of the NPT**

Treaties are valuable only when cooperative behavior brings greater benefit to all parties than uncoordinated, individualistic behavior. But the benefits of a treaty do not arise from ratifying it. The benefits arise only from the cooperative behavior the treaty prescribes.

**Unfortunately, since the early years of the NPT, there have been serious cases – including Iraq, Libya, and DPRK - in which states parties have prevented the NPT’s potential benefits from being realized. After the Persian Gulf War of 1991, the discovery by the United Nations Special Commission and the IAEA that Iraq had a secret nuclear weapons program led to formulation of Additional Protocols to Article III Safeguards Agreements. These Protocols should become the standard for all Safeguards Agreements.**

### **Events Surrounding the 1995 Treaty Extension**

By 1995, when extension of the NPT was necessary, the lack of progress toward nuclear disarmament alarmed many states, especially because the end of the Cold War had underscored that the US-Soviet confrontation had not been the dominant obstacle to progress. Open-ended extension of the Treaty, as desired by the nuclear weapons states, would not have been achieved without those states’ expressions of support for, *inter alia*, these five objectives:

- 1) The goal of complete elimination of nuclear weapons
- 2) Strengthened negative security assurances
- 3) Creation of a zone free of weapons of mass destruction in the Middle East
- 4) A Comprehensive Test Ban Treaty
- 5) A treaty banning production of fissile material for nuclear weapons.

The reappearance of each of these items in the Final Document of the 2000 Review Conference makes plain the lack of satisfactory progress over five years on every one of these top-priority objectives. This lack of progress, even today, is worse than disappointing. It can only reinforce the perception of some that in practice the NPT has proven to be an instrument to perpetuate the discriminatory nuclear status quo of the 1960’s.

Consider the current state of implementation of these objectives:

1) While in 2000, the NPT nuclear weapon states parties affirmed the goal of elimination of nuclear weapons by declaring their unequivocal undertaking to eliminate their arsenals, since then the goal has mostly disappeared from discussion. Notably, the U.S. position now is that it seeks to reduce the number of nuclear weapons to the lowest consistent with national security.

2) Backsliding on negative security assurances (NSAs) since 1995 has been dramatic, as some nuclear weapon states have referred to the possibility of use of nuclear weapons against states allegedly possessing chemical or biological weapon capabilities or sponsoring terrorism. Non-nuclear weapon states understandably see a multilaterally-negotiated agreement providing legally binding assurances against nuclear attack as a measure that would enhance their security and as their due for having renounced nuclear

weapons. They have been working to attain them since the inception of the NPT, despite failing to have them explicitly granted in the NPT. **NSAs can and should be negotiated within the NPT as a carrot for NPT membership and compliance.** Conversely, leaving open the possibility that a non-nuclear weapon state might be threatened with nuclear weapons can be a powerful motive to acquire nuclear weapons. NSAs are not only fair, they are a logical part of an effective non-proliferation strategy. **However, nearly four decades after the NPT was negotiated, NSAs are not enough. Their negotiation must be placed in the larger context of the 2000 commitment to a diminishing role for nuclear weapons in security policies, and the need for nuclear weapon states to renounce any use of nuclear weapons, and certainly first use as a beginning.**

3) The 1995 Review and Extension Conference stated that the “development of nuclear-weapon-free zones, especially in regions of tension, such as in the Middle East, as well as the establishment of zones free of all weapons of mass destruction, should be encouraged as a matter of priority.” Yet the call set forth in 1995 NPT resolution for a zone free of weapons of mass destruction in the Middle East remains unanswered. The region is home to the only state which refuses to acknowledge its possession of nuclear weapons, preventing that state from properly engaging the issue both internationally and in its own democratic process. **States parties to the NPT are in a position to press more effectively than they have for a zone free of weapons of mass destruction in the Middle East. We emphasize that the 1995 resolution called “in particular” upon the nuclear weapon states “to exert their utmost efforts” to this end.**

A proposal for a Middle East nuclear weapons free zone has been adopted every year in the General Assembly since 1974. Since 1980 the resolution has been supported by all the states of the region and to this day it continues to be adopted annually by consensus. The NPT 1995 Middle East Resolution, a crucial factor in the indefinite extension of the NPT, links this goal to a weapons of mass destruction (WMD) free zone because of the de facto link among biological, chemical and nuclear weapons in the policies of states in the region. The integrity and preservation of the NPT depends in large part on progress towards implementation of the 1995 Middle East resolution, as previous NPT meetings have demonstrated.

The Middle East remains the region with the greatest concentration of states that are not party to one or more of the international treaties dealing with WMD. The overwhelming majority of countries in the region have some form of WMD-related research, development or weaponization program. This reality is an enormous challenge but is also the very reason that the Middle East is the region that receives the most international attention as a potential WMD free zone.

The report of the WMD Commission chaired by Hans Blix, in recommendation 12, notes that all states should commit themselves to support continued efforts to establish a WMD-free zone in the Middle East. The WMD Commission suggests that as a confidence-building measure, all states including Iran and Israel should commit themselves for a prolonged period not to have sensitive fuel-cycle activities on their

territories, and that Egypt, Iran and Israel should ratify the CTBT. The IAEA Board of Governors resolution of 4 February 2006 also points out that the resolution of the Iranian nuclear crisis could contribute to the realization of a WMD free zone in the Middle East.

Many believe that a Nuclear Free Zone (that is, a zone without any nuclear programs) is a condition for a Nuclear Weapons Free Zone in the region and therefore is also a condition for a WMD Free Zone in the Middle East. Since nuclear material and technology, and the suspicion they generate, are the source of proliferation concerns in the Middle East, then the solution lies in the alternatives. **The option of exploring these alternatives is completely independent of the WMD free zone deadlock but, if pursued in parallel, could help pave the way for progress on negotiations by demonstrating the attractiveness of alternatives. The key alternative lies in the option of renewable energy sources and the vision of a Nuclear Free Middle East.**

Regarding the 1995 NPT Conference finding that establishment of NWFZs in regions of tension is a matter of priority, a positive development is the adoption of the Central Asian NWFZ agreement in September 2006. **Initiatives should also be taken to establish new zones in Northeast Asia, the Arctic/Nordic, Europe, the Middle East, and South Asia. Creativity and determination will be needed; such efforts involve regions which have nuclear weapon-possessing countries or where some countries are considered to be under the protection of nuclear weapon states.**

4) As planned in 1995, the Comprehensive Test Ban Treaty was opened for signature in 1996, but today no one can say when it will enter-into-force. Ratifications, and in some cases, signatures, are still lacking from 10 of the 44 states whose participation is needed for entry-into-force. The DPRK's nuclear test explosion conducted on October 9, 2006 dramatized the importance of the CTBT. In resolution 1718 adopted on October 14, 2006, the Security Council expressed "the gravest concern ... at the challenge such a test constitutes to the [NPT] ... and the danger it poses to peace and stability in the region and beyond." Yet two of the Security Council's permanent members, China and the United States, have yet to ratify the CTBT.

5) The 1995 commitment to negotiate a Fissile Materials Cutoff Treaty has fared worse. Though the United States tabled a draft treaty last year in the Conference on Disarmament, U.S. opposition to verification provisions means that we are still far from a treaty that fulfills the promise of 1995. Every other member of the CD that has discussed the matter of verification supports aiming for a verified FMCT. Many see it as strictly necessary for a legitimate and effective treaty, and most are skeptical of the utility of an unverified treaty, as is civil society. The International Panel on Fissile Materials and other experts have demonstrated that verification is feasible. In addition to monitoring a halt to production, the establishment of a verification regime would be crucial in preventing the use in weapons of both civilian and so-called "excess" military stocks. **The six Presidents of the 2007 CD have introduced a proposal that would initiate negotiations on an FMCT. This proposal, despite being less than ideal, is the best opportunity for beginning negotiations on an FMCT, and should be formally**

**adopted when the CD convenes after this PrepCom. If it is not adopted, measures to kick-start negotiations should be introduced in the First Committee of the 2007 General Assembly.**

### **The 1996 International Court of Justice Advisory Opinion**

The International Court of Justice, in its 1996 advisory opinion on the legal status of nuclear weapons, gave the world an authoritative interpretation of NPT Article VI. The Court unanimously found that Article VI mandates abolition: “the obligation involved here is an obligation to achieve a precise result—nuclear disarmament in all its aspects.” Further, the disarmament obligation as stated by the Court applies to states outside the NPT. It has a general form: “There exists an obligation to pursue in good faith and bring to a conclusion negotiations on nuclear disarmament ...” And the Court’s reasoning draws on sources of international law in addition to the NPT. Citing General Assembly resolutions, the Court observed that “any realistic search for ... nuclear disarmament, necessitates the co-operation of all States.” In votes on the relevant paragraph of the annual General Assembly resolution following up the ICJ opinion, India and Pakistan indeed have accepted the obligation as stated by the Court.

### **13 Practical Steps for the Implementation of Article VI**

At the year 2000 review of the NPT, unending double messages from the nuclear weapon states prompted the New Agenda Coalition to lead a difficult but successful struggle to reaffirm that the goal of the NPT is the abolition of all nuclear weapons. This is reinforced in the 13 Practical Steps’ “unequivocal undertaking” to accomplish the total elimination of nuclear arsenals independently of success in abolishing other weapons.

In addition to restating the 1995 commitments, the 13 Steps, and subsequent General Assembly resolutions affirming the steps, laid down several more principles for agreements toward abolition of nuclear weapons. Among them are verification, irreversibility, and transparency; the destabilizing character of missile defenses; reduction of the operating status of nuclear weapons; and reduction of the role of nuclear weapons in national security strategies. Each of these principles has subsequently been violated or disregarded by nuclear weapon states. We consider them briefly in turn, along with some needed next steps.

1) Perhaps the most serious instance of backsliding on the 2000 commitments is the abandonment of the principles of verification, transparency, and irreversibility in bilateral U.S.-Russian reductions. The 2002 U.S.-Russian Strategic Offensive Reductions Treaty (SORT, also known as the Moscow Treaty) requires only that at a single point in time, December 31, 2012, deployed strategic warheads not exceed 2200 on each side. SORT does not require destruction of delivery systems or dismantlement of warheads or provide for verification. The two countries declared that they would make use of monitoring mechanisms under START to track reductions. **But START expires in 2009, and SORT does not provide any schedule for reductions prior to 2012. A high priority**

**therefore is for the United States and Russia to agree on means to verify and make irreversible the reductions.**

WMD Commission Recommendation 18 calls for negotiation of a new treaty that would further cut strategic forces and also provide for verified dismantlement of warheads withdrawn under SORT. If necessary, pending the new agreement, START could be extended to provide some monitoring of SORT reductions and to continue limits on multiple-warhead missiles. **It is also essential that a means be found for international participation in monitoring of reductions, to provide accountability to the community of nations. This could involve the IAEA, a successor to UNMOVIC, a new agency, or an ad hoc arrangement.**

**Together with negotiations on a strategic reduction treaty, or separately, the United States and Russia should negotiate reduction and elimination of non-strategic weapons. The United States should also withdraw its nuclear bombs from Europe.** This would bring to an end the only stationing of nuclear weapons on foreign territory, and terminate a terrible precedent for other states with nuclear arsenals to “share” their weapons.

2) The 13 steps called for “preserving and strengthening the ABM Treaty as a cornerstone of strategic stability and as a basis for further reductions of strategic offensive weapons.” But in 2002, the United States withdrew from the treaty. No effort has been made since then to negotiate new controls, either global or bilateral, on anti-missile systems. Yet **movement to a nuclear-weapon-free world will require global controls on missile defenses and on missiles themselves.** If missiles are not controlled, the responses will be countervailing missile capability and anti-missile systems. Missiles must be addressed in part because they can be nuclear weapons delivery systems. They could carry nuclear warheads, or biological or chemical warheads, that had escaped detection by disarmament verification regimes. It also will be difficult finally to achieve elimination of nuclear weapons if countries feel under threat by missiles carrying conventional warheads. This problem is squarely within the scope of the NPT, whose preamble envisages “the elimination from national arsenals of nuclear weapons and the means of their delivery”. **There are practical intermediate steps, notably a ban on flight testing of missiles.**

3) **Standing down nuclear forces, also known as de-alerting, is the most important short-term measure to make less likely a nuclear weapons catastrophe, whether that be the use of a single weapon, perhaps destroying a city, or an exchange of many weapons devastating societies.** By renouncing launch-on-warning doctrine, and by taking measures that increase the length of time it takes to initiate a nuclear launch, the risks of unauthorized, accidental, or mistaken use of nuclear weapons can be reduced. In addition to its inclusion among the 13 steps, de-alerting was prioritized in 1996 by the Canberra Commission. In 2006, it was a recommendation (no. 17) of the WMD Commission. It has been the first or second recommendation of all the recent calls for nuclear disarmament, including those from Kofi Annan, the Nobel Peace laureates, the Bulletin of Atomic Scientists, and the Shultz et al. op-ed. In 2005, it was the subject

of an appeal that was signed by 44 Nobel prizewinners and 362 NGOs and parliamentarians and received the endorsement of the European Parliament and the Australian Senate. Since 2000, so far as is publicly known, aside from the slow reductions of deployed weapons, no far-reaching measures have been taken to stand down nuclear forces, and the United States and Russia in particular maintain many hundreds ready for near instantaneous launch.

4) The failure to implement the commitment to a diminishing role of nuclear weapons in security policies has already been explained. It is dramatized by two disturbing recent episodes. In January of 2006, President Chirac signaled that nuclear weapons could be used against a state responsible for a large-scale terrorist attack on France. According to credible media reports in the spring and summer of 2006, until the Joint Chiefs of Staff insisted on their removal, U.S. civilian officials at the highest level wanted to keep nuclear use options in plans for counterproliferation strikes on Iran.

### **New Proposals**

The 1995 and 2000 commitments are comprehensive and sophisticated. They should be implemented. Here are some proposals worth considering as means of assisting in that process:

**1) Recommendation 30 of the WMD Commission says: “All states possessing nuclear weapons should commence planning for security without nuclear weapons.” Indeed it is so, and NPT states parties should call on them to demonstrate that they have established governmental units to carry out this planning.** So far as we are aware, no state with nuclear arsenals currently has such a program. **Governments should also find ways to institutionalize planning for a nuclear-weapon-free world on the international level.** What is the successor to the government established but independent commissions of the past decade: the Canberra Commission, the Tokyo Forum, the WMD Commission? Where is the international organization equivalent to the work that has been carried out by NGOs in drafting a model nuclear weapons convention, or in describing the problem of controlling fissile materials and potential solutions?

**2) To promote implementation of both non-proliferation and disarmament obligations, a stronger NPT institutional capability is needed.** Currently, administrative support for the NPT is provided by the UN Office for Disarmament Affairs, which is under-resourced and has no authority to do anything between review proceedings. Compliance enforcement with respect to non-proliferation is left largely to the Security Council, which has problems of legitimacy and accountability. There are no treaty provisions for compliance assessment or enforcement with respect to disarmament, and no agency is given any responsibility in this regard. **A secretariat and an executive council should be established. The executive council should be empowered to address, on short notice, issues of withdrawal and compliance with non-proliferation and disarmament obligations. Annual meetings of states parties should be similarly empowered.**

3) **Non-nuclear weapon states in recent years have undertaken diplomatic initiatives to break the nuclear disarmament stalemate in the Conference on Disarmament and elsewhere. They are to be commended for doing so. And these efforts should continue.** Groups of “friends of the CTBT” might simply “deem” the CTBT to have entered-into-force for them. A new resolution in the General Assembly First Committee could be pursued on lowering the operating status of nuclear forces. A model resolution is attached to the civil society-generated appeal of 44 Nobel Peace Prize winners and others. This is a measure that has wide support among governments, but its visibility has been reduced by some states’ reluctance to endorse the “Reducing Nuclear Dangers” resolution due to its sponsorship by India.

More ambitious, but highly desirable, is the formation of a new grouping of nations cutting across existing groups, that would take the initiative on the nuclear disarmament issue and give it their very highest priority. For many difficult decades, the “Non-Aligned Movement” upheld the vision of a nuclear-weapon-free world. Since the turn of the century this group has become deeply divided, with the vast majority of its members having to deal with, on the one side, countries like North Korea and Iran who were abusing the NPT from within and, on the other side, countries like India and Pakistan who were historically isolated for staying outside the NPT, but are now gaining unwarranted acceptance in powerful circles as nuclear-armed states. Most of those caught in between these extremes are members of nuclear-weapon-free zones. They are continually frustrated that there is no longer a major diplomatic group that advocates that the entire world must be freed of nuclear weapons. Likewise, groups within the “Western” and “Eastern” diplomatic groups are finding it harder and harder to operate in the absence of the progressive positions advanced by the “NAM.” **The question has therefore arisen whether the time has arrived to break out of these outmoded groups – inherited from the Cold War era – and for like-minded countries to coalesce in a new diplomatic coordination group dedicated to achieving a nuclear-weapon-free world.**

4) Governments and the public around the world recognize the value of NGO participation in this review process. We provide analysis, research, and institutional memory. We raise interest in these issues, and make sure the public understands them. We also serve as the conscience for these isolated proceedings and as a reminder of the will of the majority of the world. However, formal recognition of our value here could be much improved. In particular, we should be allowed in all of the sessions at this PrepCom.

In 2004, NGO access to the PrepCom discussions increased when South Africa raised a point of order correcting an erroneous interpretation of Rule 44.4 of the rules of procedure, which provides for NGO access to the Plenary and the Main Committees. Supported by Mexico, Germany, Canada, and Chile, South Africa noted that the cluster debates at PrepComs actually fall under the Main Committees, and therefore, NGOs should have access to them. No one objected, and NGOs were let in. Unfortunately, this procedural progress was not recorded in the 2004 final document, despite the efforts of

the states above. States did not then follow this precedent in 2005, and NGOs were blocked from attending the cluster debates.

Canada also submitted a working paper on NGO participation to the 2003 Preparatory Committee, and a working paper on accountability to the 2005 Review Conference that included NGO participation. **Among its 2003 proposals to enhance NGO participation, Canada suggested that the 2005 Review Conference make the NGO oral statements “a permanent feature of the review process”. Both working papers recommend inviting NGO to address the sessions, including Committees, subsidiary bodies and cluster sessions. They also recommended that more sessions be open to NGOs. Instituting these recommendations would be a first step towards recognizing the value of non-governmental contributions to this process.**

### **The Call for a Nuclear Weapons Convention Is in the NPT**

The Article VI requirement for “negotiations in good faith” makes plain the understanding of states parties that the NPT is not the final instrument of nuclear weapons abolition; but today, none of the nine states which possess nuclear weapons is engaged in these essential negotiations.

As you will hear later in this session, civil society is deeply engaged in that work. It is time to negotiate and conclude a Nuclear Weapons Convention analogous to the conventions on biological and chemical weapons.

The Biological Weapons Convention speaks of weapons whose use would be “repugnant to the conscience of mankind.” States parties to the Chemical Weapons Convention have determined to act for “prohibition of all types of weapons of mass destruction.”

The civilized world now thinks clearly about biological and chemical weapons. They are rogue state weapons. There is no rational standard by which this could be so, and not also be true of nuclear weapons. Yet there are states that freely apply the “rogue state” label to others, and openly possess nuclear weapons.

This is truly a peculiar circumstance. We must recognize that our most fundamental task is to rectify that, and then spare no effort to achieve our goal.