Nuclear Weapons Abolition: an idea whose time has come

by Rebecca Johnson

The eighth of a series of occasional papers on defence and disarmament issues in memory of Frank Blackaby

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All photos by Rebecca Johnson.

Preface

The 2010 Non-Proliferation Treaty (NPT) Review Conference to be held at the United Nations in New York in May is widely regarded as a watershed meeting for dealing with the threats posed by nuclear weapons. As one of the foremost international authorities on the nonproliferation regime since before the NPT was extended in 1995, Dr Rebecca Johnson is a key participant in debates on the nonproliferation regime, nuclear security and deterrence. Her recent account of developments leading to the Comprehensive Nuclear Test Ban Treaty (Unfinished Business: the negotiation of the CTBT and the end of nuclear testing; UNIDIR (2009) ISBN 978-92-9045-194-5) shows the active engagement, determination and long term commitment needed by civil society as well as governments to make progress against the vested interests that shore up nuclear arsenals and drive continuing nuclear proliferation and insecurity into the 21st century. This Blackaby Paper describes the next steps and should be essential reading for all those concerned to prevent the use of nuclear weapons and search for a path towards their comprehensive abolition and elimination.

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Introduction: the 2010 NPT Review Conference

Much of the world is now gearing up for the 2010 Review Conference of the Nuclear Nonproliferation Treaty (NPT), scheduled for May 3 - 28 in New York. After the abject failure of the 2005 Review Conference, the success of the 2010 Conference is widely regarded as vital for the nonproliferation regime, which is under challenge from within and without. Regrettably, the structure of the NPT and its review process means that even the best achievable outcome - a consensus final document with agreed commitments on practical disarmament, nonproliferation, safeguards, compliance and nuclear energy - will barely scratch the surface of what is needed to prevent further proliferation and minimise nuclear insecurity. What is really required for international security and nonproliferation is, in the words of President Obama, “the peace and security of a world without nuclear weapons”. While recognising that this will take time to build, more of the nuclear architects of the cold war are coming to realise that a business-as-usual NPT approach that continues to privilege nuclear haves above the nuclear have-nots will not - and cannot - deliver sustainable nonproliferation. Many have also come round to recognising that the very process of working for the total abolition of nuclear weapons will help to strengthen the institutions and tools of nonproliferation and nuclear security, as well as mapping the road to disarmament.

In pledging “clearly and with conviction America’s commitment” to work for a nuclear-weapon-free world, President Obama appeared to move beyond the previous decades’ policies of seeking to manage the problems arising from existing nuclear arsenals and limit the emergence of further proliferation and spread of new nuclear weapons. He appeared to sign America up to working for a deeper, more sustainable security based on the worldwide elimination and abolition of nuclear weapons. A year earlier, in the wake of the decision to renew the UK’s Trident nuclear weapon system beyond the 2020s, Prime Minister Gordon Brown had also pledged “that in the run-up to the Non Proliferation Treaty review conference in 2010 we will be at the forefront of the international campaign to accelerate disarmament amongst possessor states, to prevent proliferation to new states, and to ultimately achieve a world that is free from nuclear weapons.”

Such declarations from President Obama, Gordon Brown and others are encouraging, but do these leaders plan to tackle the tough political challenges that would lay the groundwork to realise their vision of nuclear-free security or are they just engaging in “public diplomacy” – rhetoric designed to make us feel good while they tinker at the edges? The agenda on the NPT table is still geared towards managing nuclear weapons and proliferation in a regime in which a small number of states — the nuclear weapon possessors and states that participate in nuclear alliances – continue to treat nuclear weapons as high value assets, while everyone else is expected to abide by treaty obligations not to acquire them. What will it take to change this mindset and significantly reduce the role and value accorded to nuclear weapons, and thereby pave the way towards the abolition of these inhumane tools of mass annihilation?

The 2010 NPT Review Conference is likely to be dominated by debates over strengthening safeguards and inspections, how to deal with the nuclear programmes of Iran and North Korea and the three nuclear armed states outside the NPT (India, Pakistan and Israel), getting negotiations on a Fissile Material Cut-Off Treaty (FMCT) started in the Conference on Disarmament, facilitating entry into force of the Comprehensive Test Ban Treaty (CTBT), export controls and the contradictory expectations, rights and responsibilities attached to acquiring nuclear energy for non-military purposes. Though these are important, two practical and realisable disarmament objectives have far greater power to change the way in which nuclear weapons are regarded and create political momentum for nuclear abolition and sustainable security: achieving recognition in international law that any use of nuclear weapons – by terrorists or any nuclear armed government – would be a crime against humanity; and starting the process towards negotiations on a treaty that would comprehensively reduce nuclear dangers, strengthen the tools for nuclear security and nonproliferation, and provide the obligations
and target dates for the total elimination and legal abolition of nuclear weapons.

This paper argues that these linked objectives make obvious and inspirational sense to anyone seeking to prevent both nuclear war and nuclear terrorism. If we look at recent history, civil society has played a very significant part in bringing disarmament objectives to governmental and public attention on issues ranging from anti-personnel landmines to banning nuclear testing. Partnership between governments and civil society actors brought about the 1997 Mine Ban Treaty and the 2008 Cluster Munitions Convention. Less formally, and utilising a considerable tactical toolbox, non-governmental organisations and civil society kept alive the hope of a CTBT for decades and worked closely with many diplomats and officials to create the conditions to bring that long-sought treaty to conclusion. The work of women’s and human rights organisations, including the Women’s International League for Peace and Freedom, Amnesty and others, was the driving force behind the adoption of the October 2000 UN Security Council resolution 1325 on Women, Peace and Security.3

Governments and civil society seeking to lay the groundwork for “the peace and security of a world free of nuclear weapons” have to move beyond the mainstream nuclear assumptions and agenda of nonproliferation and arms control. Instead of nuclear weapons being treated as primarily the business of the militaries and governments that have (and think they rely on) them, nuclear threats and effects must be understood as humanitarian problems - the business and responsibility of everyone. Non-nuclear countries as well as the weapons states need to take more responsibility - with civil society - for working out the principles and practicalities of nuclear abolition. Building an effective architecture for national and international security in a world without nuclear weapons will not be easy, but it is now necessary to embark on this challenging and difficult journey to the future. To begin the transition from nuclear insecurity to abolition, we must address the psychology as well as the politics of nuclear reliance and decision-making. Disarmament will not become a real and practical objective for decision-makers until they put the concept of a Nuclear Weapons Convention on the table and move towards legal recognition of the widely held moral sense that any use of nuclear weapons - no matter by whom or with what justification - would constitute a crime against humanity.

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Atomic Weapons Establishment at Burghfield, near London
As governments debate how to make the 2010 Review Conference “successful”, we must insist that they judge success not merely in the diplomatic terms of a document or decision adopted by consensus, but in the substantive frame of what commitments, measures and tools are needed to prevent proliferation, reduce nuclear insecurity and devalue and disarm nuclear weapons. Past experience suggests that two types of outcomes that might be portrayed as successful could prove as damaging for global security as the demoralising deadlock and failure of the 2005 NPT Review Conference: agreement on a lowest common denominator final document that sidesteps the serious challenges and has no teeth; or adoption of a new menu of principles, objectives and incremental steps without adequate tools to ensure compliance and implementation. Such documents may be greeted with applause at the end of the meeting, but due to past disappointments, they will quickly lose credibility if they are treated as not really binding, and then flouted by those required to implement their provisions. While it may suit the interests of the nuclear weapon governments to get an agreed document that they can present as a tangible outcome, especially in the wake of disappointments such as the Copenhagen Climate Change conference, others will be more on their guard for meaningless stitch-ups than ever before. Those that thought they could pave the way for a successful NPT Review Conference with UN Security Council Resolution 1887 (September 24, 2009) have heard from members of the large bloc of “non-aligned” states that this will not be enough. Despite a positive opening, which echoed President Obama’s Prague speech: “Resolving to seek a safer world for all and to create the conditions for a world without nuclear weapons...” Resolution 1887 was crafted around selective language from previous resolutions and texts on nonproliferation and terrorism dating back to the 1960s. Deemed necessary to get permanent Security Council members France and Russia on board, Obama’s vision was weakened with compromise language and then shoehorned past the rest of the Security Council. The P-5 members of the Security Council, who are also the five nuclear-weapon states defined in the NPT, should be warned not to make Resolution 1887 the centre of any collective statement if they want a joint P-5 declaration to play a constructive role at the 2010 Review Conference.

Though forty years have passed since the NPT entered into force and it is twenty years since the cold war ended, over 23,000 nuclear weapons remain in the arsenals of nine countries. The vast majority of these are stored by the United States (9,400-10,400) and Russia (12,950-13,950). These former cold war rivals are currently engaged in negotiations on a strategic nuclear arms treaty that would take over from START I and mandate deeper reductions. As these arsenals are reduced, the weapons of the others may assume greater importance. Even now, there are estimated to be over a thousand nuclear weapons currently deployed by China (184-240); France (up to 300); Britain (up to 160); Israel (60-200); India (over 60); Pakistan (over 60) and North Korea (up to 6). See table page 17.

On the positive side, NPT membership has reached 189. China and France acceded to the treaty in 1992 as nuclear weapon states, while several others renounced significant nuclear weapons, capabilities, programmes or ambitions to join the NPT as non-nuclear-weapon states. Joining countries such as Sweden, Germany and Italy, the nuclear-weapons option has been responsibly rejected in recent decades by many more, including Algeria, Argentina, Belarus, Brazil, Cuba, Kazakhstan, South Africa and Ukraine. Nuclear-weapon-free zones have been established covering Africa, Latin America and the Caribbean, Central Asia, South-East Asia and the South Pacific. At the same time, a handful of states that signed up to the NPT have subsequently been exposed for violating their safeguards agreements and building clandestine nuclear facilities for weapons purposes.

Iraq’s 1980s nuclear programme and facilities were comprehensively dismantled during the 1990s, as a consequence of numerous UN Security Council resolutions following its defeat.
in the first Gulf War (1990-91). The two giving most concern now are Iran and North Korea. Like Japan, North Korea had developed a substantial reprocessing programme during the 1970s and ‘80s. Amid gathering concern about its separation of plutonium, Pyongyang agreed to halt its reprocessing in return for economic benefits in 1994. This Agreed Framework for denuclearising North Korea collapsed, largely due to bad faith by the regime of Kim Jong-Il and policy confusion in the United States. In 2003, following President George W. Bush’s foolish “axis of evil” remarks linking Iraq, Iran and North Korea in his 2002 State of the Union speech as he laid his groundwork for the Iraq war, Pyongyang decided to withdraw from the NPT. North Korea subsequently conducted two nuclear tests, in 2006 and 2009, apparently to prove its assertion that the regime has successfully manufactured nuclear weapons.

Iran has remained party to the NPT but after much international suspicion a clandestine uranium enrichment programme was exposed in 2002. Since then Iran has carried on building up its fuel cycle capabilities, claiming that it is exercising its “inalienable right” under Article IV of the NPT. In doing so, it has defied international concerns, including critical reports from the International Atomic Energy Agency (IAEA) and demands by the UN Security Council that it should halt work on its nuclear programme until it has adopted the Additional Protocol, fully complied with its safeguards agreements, and reassured the international community that the programme is and will be solely for peaceful purposes. Most recently, President Ahmadinejad’s response to the IAEA’s critical report following exposure of a further undeclared uranium enrichment facility near the holy site at Qom, was the belligerent (if exaggerated) announcement that Iran had plans underway to build another ten enrichment facilities and to enrich up to 20 percent. So far the best the international community can come up with for dealing with the challenges posed by the Iranian and North Korean nuclear programmes is to propose some form of international fuel bank or multi-nationally owned and operated fuel cycle facilities, at least for uranium enrichment. Hardly anyone talks about the massive stockpiles of nuclear-weapon usable separated plutonium in Japan, France and the UK as a product of civilian-operated reprocessing facilities.

India, Pakistan and Israel all remained outside the NPT as they developed military nuclear programmes. Soon after participating in multilateral negotiations on the CTBT, which was overwhelmingly adopted by the United Nations in September 1996, India and then Pakistan each conducted a series of nuclear tests in May 1998. They demanded recognition as “nuclear weapon states” (in status if not NPT terms) and started building up their arsenals. The Bush administration’s widely-opposed nuclear trade deal with India was generally perceived as undermining the NPT but after the Nuclear Suppliers’ Group caved in and changed the rules to accommodate US wishes in 2008, it now appears to be irreversible. Pakistan immediately demanded the same, though that has so far been resisted. Islamabad’s nuclear ambitions and fissile material production objectives have played a major role in the stalemate at the Conference on Disarmament, which has been blocked and unable to negotiate a fissile materials treaty for the past fifteen years. At the same time, Pakistan’s political and military instability has given rise to serious concerns about the safety and security of its growing nuclear arsenal. In keeping with its policy of opacity and ambiguity, Israel neither confirms nor denies that it has a nuclear arsenal, but following the US-India deal, there were concerns that Israel might seek some arrangement to enable it to develop a civilian nuclear energy infrastructure alongside its military nuclear programme. Rumours of Israeli interest in securing a nuclear deal like India’s provoked deep anxiety in the Middle East, with some of Israel’s neighbours threatening to pull out of the NPT unless given assurances by the United States and others that there will be no efforts to normalise Israel’s nuclear status and that efforts will be accelerated to negotiate a nuclear weapon free zone in the Middle East.
Reducing the role of nuclear weapons

The 2000 NPT Review Conference contained a commitment to reduce the role of nuclear weapons. Despite some changes, they continue to be treated as high value assets by a handful of governments. Four of the five NPT nuclear weapon states continue to espouse security doctrines that rely on the potential first use of nuclear weapons. The Bush-Cheney administration increased the strategic role of non-nuclear forces, but went out of their way to underline that nuclear weapons were potentially usable against biological and chemical weapons and even conventional threats. France and Britain adopted a similar stance, though Gordon Brown’s government appeared subsequently to narrow the nuclear role again. The 2010 publication of Russia’s new military doctrine confirms its “right” to use nuclear weapons in response not only to nuclear threats, but to other weapons of mass destruction “against it and its allies, as well as an aggression against the Russian Federation with the use of conventional weapons jeopardizing the very existence of the state”. Such doctrines undermine the security assurances these nuclear powers made to NPT states parties in 1995. Obama administration officials have since been at pains to argue that the use of nuclear weapons would only be a last resort and that retaining a first use option is not the same as committing to use nuclear weapons first.

Amid some confusion over what security doctrines actually mean, and assertions that ambiguity is essential to the effectiveness of deterrence, the United States continues to extend nuclear deterrence commitments to its non-nuclear allies, including NATO, Japan and Australia. China holds to its long-held policy of no first use, but the other weapon states argue that this cannot be trusted, noting that China is still modernising and increasing its nuclear arsenal. The P-5 have announced at successive NPT meetings that their nuclear weapons have ceased to be pre-targeted, though this could be quickly reversed and targeting codes reassigned. In a similar, easily reversible confidence-building measure, the UK decided in 1998 to increase the government-to-submarine ‘notice to fire’ Trident missiles from minutes to several days. However, nuclear policymakers have continued to insist that UK security requires that at least one fully operational and armed submarine be on patrol at all times, on what is known as “continuous at sea deterrence” (CASD). Gordon Brown’s announcement at the 2009 UN General Assembly that he would be looking at cutting the UK’s nuclear armed submarine force from four to three resulted in a flurry of letters from senior military figures complaining that continuous at sea patrols would not be possible with such a reduction, and that Britain would, in effect, be left without its “deterrent” for some of the time. The implication is that Britain would be defenceless and vulnerable at those times. Thus the internal (but untested, unprovable and ultimately circular) logic of cold war deterrence is asserted to prevent any reasonable incremental step that might foster conditions for reducing the role of nuclear weapons.

In January 2007, the significant ‘op-ed’ article in the Wall Street Journal from George Shultz, Henry Kissinger, William Perry and Sam Nunn called for “reducing reliance on nuclear weapons, including deallerting operational weapons systems”. These former cold war warriors prompted similar articles from eminent military and political figures from around the world, with the common theme of identifying practical steps towards nuclear disarmament. The December 2009 report of the Australian-Japanese International Commission on Nuclear Nonproliferation and Disarmament (ICNND), which comprised commissioners from 15 countries, recognised the need to delegitimise nuclear weapons, and advocated that the nuclear armed states should commit to an unequivocal no first use declaration “as soon as possible, and no later than 2025”. If that is too far a stretch for some nuclear armed states and their allies at present, the ICNND recommends that at the very least they should accept the “principle that the ‘sole purpose’ of possessing nuclear weapons is to deter others from using such weapons against that state or its allies”.

Obtaining commitments not to use nuclear weapons first would undoubtedly be a positive step away from the broad purpose nuclear doctrines of the cold war and could perhaps make it more likely that the nuclear armed states will take their nuclear forces off alert, thereby facilitating
nuclear security. But such a step taken now will not be as effective a measure to reduce the value of nuclear weapons as treating all nuclear attacks as illegal. This larger step of prohibiting the use of nuclear weapons is now both more necessary and more possible to achieve in the near term than the incremental step is likely to prove. No first use may be part of the logic of reducing arsenals to lower levels but it undermines the logic of zero and may paradoxically make it more difficult to reduce arsenals below a significant level. However, like the ICNND, many nuclear disarmament advocates have convinced themselves that efforts must be made to get no first use declarations before governments are able to consider outlawing the general use of nuclear weapons. Such is the strength of this assumption that it may turn out to be a self-fulfilling prophecy, in which case it will indeed take a long time before the use and threat of use of nuclear weapons is universally rejected. In fact, what could have been a very important step to take during the cold war would only slightly reduce nuclear dangers now. The adoption of no first use declarations is compatible with concepts of deterrence based around second strike. This could be used by nuclear policymakers as reason to hold onto large, dispersed arsenals. By legitimizing the retaliatory use of nuclear weapons when deterrence fails, pushing for no first use doctrines may actually impede nuclear disarmament, keeping alive the dangerous illusion that some uses of nuclear weapons are acceptable. Critically, any such retaliation would fail to be a rational means of defence, but would constitute a bloodthirsty act of vengeance that would indiscriminately kill large numbers of civilians in what former British Prime Minister Harold Macmillan memorably described as ‘posthumous revenge’.16

No first use is not the answer. At best it may serve as a short transitional stage, if it enables nuclear policymakers to face up to the end of the cold war. Today’s challenges require a fresh look at security assurances and demand that all nations and peoples take responsibility to prevent the use and threat of use of nuclear weapons.

While the practical steps of further reductions, the CTBT, de-alerting, verification of the disablement and dismantlement of nuclear arsenals and so on are vitally important in the process towards the irreversible and verified de-nuclearization of national and international security, such steps will take time. Though it is becoming increasingly accepted that some form of a multilaterally-negotiated, universally applicable Nuclear Weapons Convention is realistic and achievable, that will also take time. We need to promote and push for these objectives, but we also need transitional measures that will inspire confidence and get all the logs unjammed and rolling in the right direction.

Those clinging to nuclear deterrence need to wake up to the 21st century. One of the most effective ways to deter terrorists or other potential nuclear weapon users is to make the use of nuclear weapons a crime against humanity and hold suppliers and traffickers to account as well as governments and state and non-state leaders. To build confidence for nuclear abolition and deter adversaries from using nuclear weapons, it is imperative now to bring forward the recognition in law of the widely accepted moral understanding that any use of nuclear weapons would be a crime against humanity.

As nuclear arsenals are reduced, the real tipping point will come when the weapon states understand and demonstrate that there is no role for nuclear weapons in their doctrines and policies. Instead of tinkering around at the edges of nuclear doctrines, it is time to rule out the use of nuclear weapons.

Defence of the Realm: Trident nuclear weapons travelling to their homeport at Faslane, Scotland
nuclear weapons altogether. Global security and deterrence would be enhanced if nuclear weapon possessors, proliferators and suppliers understood that there are no circumstances in which using nuclear weapons would be morally acceptable or consistent with international humanitarian law. This would also greatly diminish any perceived military gains that might be hoped for.

The NPT does not address use, but the International Court of Justice (ICJ) delivered a landmark Advisory Opinion on this question in July 1996, deciding that in almost all situations the use of nuclear weapons would violate international humanitarian law. In view of the “current state of international law, and of the elements of fact at its disposal”, the Court “could not reach a definitive conclusion on the legality or illegality of the use of nuclear weapons by a state in an extreme circumstance of legitimate defence in which its very survival would be at stake”. The Court was divided between a majority of ten Judges who considered that there were no circumstances whatsoever in which the use of nuclear weapons could be lawful and four who thought that there might be a lawful justification for using nuclear weapons if it were the only means to avoid the annihilation of the state. An obvious problem is that such a justification, if valid, would be available to any state, and so would profoundly undermine the nonproliferation regime. The President of the Court when it delivered this Advisory Opinion, Judge Mohamed Bedjaoui, more recently argued that the direct prohibition of the use of nuclear weapons was a problematic “legal grey area” for international law and suggested ways to “put an end to this regrettable legal vagueness”. While some may argue for a negotiated treaty, there are precedents for such measures in numerous Security Council resolutions, most recently in UNSC Resolution 1540 (2004) and UNSC Resolution 1887 (2009). Such a universal approach would extend the commitments and responsibilities of negative and positive security assurances to everyone, not just the five NPT-recognised nuclear weapon states. It would thus greatly reinforce deterrence, denial and nonproliferation, and provide nondiscriminatory and humanitarian security guarantees to all nations and peoples.

Declaring the use of nuclear weapons a crime against humanity would not only provide a dimension of deterrence against terrorists, but would also take the ICJ advice to its logical conclusion and strengthen the NPT.

In addition to universalising and extending the limited, conditional “negative security assurances” voluntarily granted by the five NPT nuclear weapon states and noted in UNSC Resolution 255 (1968) and UNSC Resolution 984 (1995), a universal security assurances approach would need to include a “positive security obligation” on all states and people to render assistance to a country that is threatened or attacked with nuclear weapons and also to track down and bring to justice those responsible for the threat or use of nuclear weapons, including participants in the delivery and decision-making and suppliers or facilitators of the bomb-makers, materials, threats and attacks. There are precedents for such measures in numerous Security Council resolutions, most recently in UNSC Resolution 1540 (2004) and UNSC Resolution 1887 (2009). Such a universal approach would extend the commitments and responsibilities of negative and positive security assurances to everyone, not just the five NPT-recognized nuclear weapon states. It would thus greatly reinforce deterrence, denial and nonproliferation, and provide nondiscriminatory and humanitarian security guarantees to all nations and peoples.

Declaring the use of nuclear weapons a crime against humanity would not eliminate nuclear dangers overnight, but would have major impact in taking nuclear weapons off the proliferation-driving list of objects of desire. They would then truly be treated as weapons of terror that no sane or civilized person would want or be able to use. If the Security Council cannot lead on this issue because five major nuclear weapon states hold veto power as permanent Security Council members, then individual states could start the ball rolling by making unilateral declarations that they would consider and treat any use of nuclear weapons as a crime against humanity. That would strengthen the security of non-nuclear states. In states that are part of military alliances with nuclear states, such as NATO and Japan, civil society could play a particularly useful role with petitions and signature drives in which people would sign their names to individual declarations that they regard the use of nuclear weapons to be a crime against humanity and do not want nuclear
Laying the Groundwork for a Nuclear Weapons Convention

The idea of a world free of nuclear weapons may be very challenging, but it is considerably less unrealistic than to believe that nuclear deterrence is a workable insurance policy or that the possession and proliferation of nuclear weapons can continue indefinitely without, in the words of President Obama, “admitting to ourselves that the use of nuclear weapons is inevitable”. To contemplate the use of nuclear weapons is to raise the spectre of nuclear war and environmental catastrophe that could destroy our planetary habitat as surely as global heating, but many times faster.

Talk of a world free of nuclear weapons without consideration of the legal framework that would be needed to mandate and oversee the process of abolition is little more than rhetoric. Continuing to put further restrictions on states that have already pledged not to pursue nuclear weapons, while guarding one’s own nuclear prerogatives, is a dead end street. To take the vision of future security in a world without nuclear weapons from rhetoric to reality, leaders should now be setting the practical goal of negotiating a treaty or framework agreement for the complete prohibition of the use, development, production, acquisition, stockpiling and transfer of nuclear weapons and nuclear weapon technologies and components. As the 1993 Chemical Weapons Convention did for chemical stockpiles, a nuclear weapons convention would have to set out realistic benchmarks, timetables and conditions for the verified dismantlement and elimination of all nuclear forces. The nuclear dependent states resist this, portraying the concept of a nuclear weapons convention as “premature”. Forty years after the NPT’s article VI established an obligation to pursue nuclear disarmament, it is simply dishonest to employ feel-good rhetoric about a nuclear-weapon-free world without coming to grips with the legal, technical, safety, and verification requirements necessary to ensure the comprehensive elimination of existing nuclear weapons and creation of the norms, institutions and controls necessary to build nuclear security and prevent break-out.

The concept of a nuclear weapons convention has been around for decades, discussed in the United Nations and promoted by a number of governments as well as NGOs. In October 2008, the UN Secretary-General put consideration of a nuclear weapons treaty at the top of his five-point disarmament proposals and talked about states pursuing the goal of nuclear disarmament through agreement on a framework of separate, mutually reinforcing instruments or by “negotiating a nuclear-weapons convention, backed by a strong system of verification, as has long been proposed at the United Nations.”

One of the major incentives for pursuing a nuclear weapons convention is to draw states that have remained outside the NPT - most notably India, Israel and Pakistan - into accepting increasing levels of restraints and controls on their weapons programmes. The obligatory calls on these states to join the NPT as non-nuclear weapons states are now just ritual, carrying little expectation and even less likelihood of being fulfilled. The US-India deal used back-door means to give India some of the privileges of NPT mem-
bership, including access to nuclear materials for non-military purposes. It freed India up to use its limited national uranium resources to increase and modernise its nuclear weapons capabilities, justifying concerns about its impact on nonproliferation efforts and regional security, particularly with regard to nuclear decision-making in China and Pakistan. Of course, any formal attempt to amend the NPT for additional countries to join as nuclear weapon states would be disastrous, and could precipitate the treaty’s collapse.

India and Pakistan have made clear that they will not join the NPT as non-nuclear states, but they would enter into collective negotiations on a nuclear weapons convention, provided that the abolition objective and obligations were imposed equally on all nuclear-armed states. In keeping with its policy of nuclear opacity, Israel has refused to comment. Though many advocate regional initiatives, including progress towards a zone free of nuclear and other weapons of mass destruction in the Middle East, as a necessary mechanism for engaging Israel in nuclear disarmament talks, Middle East politics and conflicting attitudes towards regional security and acceptance of Israel’s statehood have greatly complicated efforts to get negotiations on a regional nuclear weapon free zone. A global abolition process may now be the best inclusive path forward, but ways will have to be found to address the underlying causes of conflict, especially in the Middle East and South Asia, or there is a real risk that long-standing regional hostilities will derail any nuclear disarmament process.

Though engaging the non-NPT states is an important objective, the May 2010 NPT Review Conference could be the fulcrum of efforts to put the concept of a nuclear weapons convention into the mainstream. Encouraged as part of a civil society strategy coordinated by the International Campaign to Abolish Nuclear Weapons (ICAN), which launched an updated version of a ‘model’ nuclear weapons convention in 2007, it is expected that many more states will be including the need to consider negotiations on a nuclear prohibition treaty in their statements and working papers to the 2010 Conference. Some are taking their lead from the UN Secretary General’s endorsement of a nuclear prohibition treaty in his five-point disarmament plan. It would be useful to move away from the long-standing Non-Aligned Movement call for a “timebound framework” on nuclear disarmament because it carries too much political baggage nowadays. How long it will take to establish the verification regime and oversee the dismantlement of existing weapons and nuclear facilities will depend on a number of technical, financial and political factors, as safety and security must take precedence over speed. Some target dates may be useful, providing a sense of urgency and a benchmark to work towards. As NPT states enter into the final phase of troubleshooting and trading objectives and compromises before the 2010 Review Conference, it would be realistic to argue for negotiations on a nuclear weapons convention to begin before the 2015 NPT Review Conference opens. Once underway, the process of negotiations and the physical and technical dismantling of nuclear arsenals could take much less time than the naysayers and pessimists currently predict.

Another set of concerns raised by some NPT parties is that a nuclear weapons convention would undermine the NPT. This has not happened with comparable treaties and there is no reason for scaremongering that it will occur here. As with the chemical and biological weapons conventions, a nuclear prohibition treaty would build on and eventually incorporate and supersede previous legal instruments. In practical terms it would do all the things that UNSC resolution 1887 called for, enhancing nuclear security, reinforcing the nonproliferation regime and implementing a host of UN Security Council resolutions dealing with weapons of mass destruction, nuclear safety and security and terrorism. For example, the 1963 Partial Test Ban Treaty (PTBT) remains valid but has been superseded by the far more comprehensive CTBT, which drew in important non-signatories to the PTBT, such as China and France, and provided a multifaceted verification regime to oversee implementation of a ban on testing in all environments. Similarly, the NPT would remain legally valid and provide an important brake on proliferation until the security role stated in its preamble had been fully covered by a comprehensive and internationally verifiable nuclear weapons prohibition treaty.

Once a nuclear weapons convention has been concluded it would go beyond the NPT to restructure the international nuclear security regime and establish much more effective mech-
anisms and controls to prevent the further proliferation, development and acquisition of nuclear weapons technologies and materials. It would need stringent enforcement provisions to roll back proliferation and monitor implementation of the phases and conditions under which all nuclear weapons and facilities would be decommissioned, dismantled and their components and materials rendered safe and secure. The process of negotiations would itself contribute to strengthening the barriers to proliferation, establishing targets, stages and verification for the elimination of existing arsenals and closure of nuclear weapon research and production bases, converting remaining facilities to serve the purposes of verification, disarmament and nuclear security, as well as curating the legacy of the nuclear age to help our descendants to avoid our mistakes.

Building an effective architecture for national and international security in a world without nuclear weapons is necessary, but it will not be easy. The earlier the international community embarks on such negotiations, the sooner will the security benefits be felt. In view of their public statements, President Obama and UK leaders should be at the forefront of such initiatives, but they are also under pressure from domestic opponents. Concerted political action from their voters will be needed to encourage them not to apply anxious brakes when they need to accelerate out of danger and head for higher ground.

Though negotiations need to be comprehensive, the process of eliminating existing nuclear arsenals and programmes will probably require a process of mutually reinforcing steps. Past experience and current deadlocks teach us, unfortunately, that disarmament will not be accomplished by clinging to the current nonproliferation agenda. Governments and people that seek to abolish nuclear weapons have to rework the mainstream framework, which is largely geared towards managing nuclear weapons and proliferation. That does not mean throwing the baby out with the bathwater, as the current agenda still contains useful measures. Most of these were agreed as part of the “thirteen practical disarmament steps” adopted by consensus in May 2000. As we approach 2010, it is useful to recall that the 2000 NPT Review Conference was widely regarded as a significant success. Its substantive final document covered a range of measures, from deplored the 1998 nuclear tests in South Asia to diplomatic language on Iraqi noncompliance. It reaffirmed the goals of the 1995 Resolution on the Middle East, emphasised the importance of the strengthened IAEA safeguards, and raised concerns on issues such as the trans-shipment of radioactive materials and the environmental harm associated with the nuclear fuel cycle. The states parties endorsed an “unequivocal undertaking by the nuclear weapon states to accomplish the total elimination of their nuclear arsenals”, as part of a 13-step plan of action for the implementation of Article VI, which included: CTBT entry into force; negotiations on a fissile materials ban; moratoria both on testing and on fissile material production, pending entry into force of those treaties; deeper unilateral and bilateral US-Russian reductions in nuclear forces; transparency (i.e. the provision of more open information on nuclear capabilities and the implementation of disarmament agreements); reductions in non-strategic nuclear weapons; concrete measures to reduce the operational status of nuclear weapons (a dilution of the intended recommendation to take the weapons off alert); diminishing the role of nuclear weapons in security policies (understood to mean initiatives to downgrade deterrence and the potential first use of nuclear weapons that underpins NATO and Russian nuclear doctrines); the principle of irreversibility to be applied to nuclear arms control; five power disarmament approaches; further initiatives to put fissile materials (declared “excess”) permanently under safeguards; verification; and pursuit of the “ultimate objective” of complete and general disarmament under effective international control. 14
The steps have been rearranged or reprioritised in various initiatives, ranging from the 2006 WMD Commission Report to the 2009 ICNND Report, and in the steps identified by Messrs Shultz, Kissinger, Nunn and Perry and many of the subsequent editorials by eminent military and political leaders, including from across the UK political spectrum and in recent official publications and statements from Downing Street and the Foreign and Commonwealth Office. Desirable though many of these proposals are, most have run aground in the shallow waters of political trade-offs, deprioritisation and indifference. Within months of receiving consensus in May 2000, they were impaled on the jagged contradictions of the high value still accorded to nuclear weapons by certain states, and remain stuck to this day: no CTBT entry into force, no FMCT, reassertion of nuclear deterrence roles and value as existential ‘insurance’, ‘compensation’ for reductions in the largest arsenals, force-balancers against conventional arsenals or force projection with regional justifications and all the other excuses for proliferation, dependency and nuclear possession.

Having been required in 1968 to include the nuclear disarmament obligation enshrined in the NPT’s article VI, the nuclear weapon states have at best treated this as a voluntary pledge to reduce numbers, while allowing themselves to refine roles and renew weapons systems, like Trident, for a further generation. Such self-serving interpretations of the NPT by some of the treaty’s parties is one reason why there is so much cynicism and pessimism as the 2010 Review Conference approaches. Few now believe that the steps on the current agenda will be achievable on their own or in a narrowly-conceived nonproliferation context. Repositioned in the deeper context of nuclear abolition and the collective objective of a nuclear weapons convention, the implementation of disarmament progress will become more credible and therefore more - not less - achievable.

This recognition underpinned the Wall Street Journal articles and President Obama’s Prague speech: the incremental steps they advocated were linked to the comprehensive objective (or at least vision) of a world free of nuclear weapons - not just the management and reduction of nuclear arms, but their abolition. But recognising the logic and taking the tough political decisions are two different things. Civil society has a crucial role to play in pushing our politicians towards changing their doctrines of nuclear dependence and taking the practical decisions to lay the groundwork for nuclear abolition. As demonstrated by the history of efforts to ban other weapons and practices that violated human rights and our fundamental security interests, abolition requires a change in the political and military mindset away from viewing certain weapons or techniques as valid and potentially useful instruments to seeing them as inhumane and essentially ineffective and unusable. This tipping point will not arise through a linear process of rededicating to the current nuclear management agenda. Changing the nuclear mindset and paradigm will require pursuit of the two transformative commitments proposed in this paper: outlawing the use of nuclear weapons; and putting a nuclear weapons convention onto the negotiating agenda. It will also necessitate transforming the international security framework and assumptions to put human security rather than national defence at the centre.

In recent decades, civil society has engaged actively and effectively to reinforce the disarmament and nonproliferation of nuclear, chemical and biological weapons, to ban landmines and cluster munitions, and to control and eliminate guns, small arms and light weapons. There have been successes and setbacks, but one of the most important lessons is that for transformational progress to occur, civil society must rise up and push governments to go beyond the powerful but narrow interests of the nuclear and military establishments that continue to manufacture and profit from the tools and technologies that bring us destruction and insecurity. Unless people in

Demonstration banner at Aldermaston
the streets are motivated to demand nuclear abolition, governments will remain too timid to face up to the challenges of disarmament. Concerted civil society and international action to rule out nuclear uses and promote an abolition treaty is needed to change the terms of the security debate - and hence the nuclear calculus. As incremental steps are repositioned in the more coherent context of creating the conditions for the abolition of nuclear weapons, the most relevant will become more readily achievable and others will be overtaken as greater steps are prioritised. Only such transformative disarmament objectives can genuinely lay the groundwork for a world free of nuclear dangers. Unlike the minutiae of NPT processes and interpretations, they make obvious and inspirational sense to people in the streets, and so have the power to create political momentum.

That said, the 2010 NPT Review Conference has an important role to play. How the states parties deal with the institutional and substantive challenges they face may determine the future direction of governmental approaches on non-proliferation and disarmament. If they adopt decisions or a final document the Review Conference may be judged a success, but the longer term impact will depend on the nature of the debate and whether strong enough tools for compliance and implementation are also adopted. If there is chaos and deadlock with no agreements, then it will be considered a failure. If politics and diplomatic tactics cause the Review Conference to fail, it could leave current disarmament objectives and aspirations in tatters even if the reasons for failure were structural and political. Even if the Conference itself can be regarded as a success, the experiences from 1995 and 2000 contain warnings as well as hopes. It is not enough to get a lowest common denominator agreement or another “to do list” that won’t be achieved because the NPT lacks enforcement mechanisms and powers. The Thirteen Steps from 2000 remain important benchmarks and it will be useful for the nonproliferation regime if the relevant measures are strengthened and made even more concrete and progressive. Yet this would not be enough to engage the public in the streets or reduce the perceived value of nuclear deterrence sufficiently for the abolition of nuclear weapons to become a real possibility. To sustain nonproliferation, governments need to advocate not only practical and progressive steps but the comprehensive objective of a nuclear weapons convention. And whether the NPT review process delivers these objectives or fails further, governments and civil society need to think beyond the review process and work together to prepare for how best to use the outcome to mobilise for the total abolition of nuclear weapons. If not now, then when? Creating the political will and security conditions for the abolition of nuclear weapons will come with social, military and political input to change security thinking. As progress on nuclear disarmament is made, it will lead to further changes in how conflicts are addressed, security is reframed and other kinds of weapons are delegitimised. This is a dynamic process, where each level of increased confidence and security stimulates and reinforces the next. There will never be a more propitious time to set this in motion.
Proposed Elements for an Action Plan on Nuclear Disarmament and Nonproliferation for the 2010 NPT Review Conference

Reducing the Role of Nuclear Weapons

- reaffirm commitments to diminish the role of nuclear weapons in security policies;
- affirm that, pending their total elimination, the sole purpose for nuclear weapons is to deter the use of nuclear weapons;
- reaffirm commitments to lower the operational status of nuclear forces and implement practical steps to take nuclear weapons off hair-trigger, high alert and continuous deployment configurations;
- end deployments of nuclear weapons outside the territory of possessor states;
- phase out extended nuclear deterrence and strengthen a range of non-nuclear deterrence approaches and regional cooperative security mechanisms;
- universalise positive and negative security assurances, extending the legally binding obligations on all nations and individuals not to use nuclear weapons, to come to the aid of people and countries threatened or attacked with nuclear weapons, and to hold perpetrators and their suppliers to account under international law;
- delegitimize nuclear reliance and reinforce the nonproliferation regime by declaring the use of nuclear weapons a crime against humanity.

The Disarmament Process

- reaffirm the "unequivocal undertaking" to accomplish the total elimination of nuclear arsenals;
- support US-Russian negotiations and agreements on bilateral deep reductions to follow-on from START, with second-phase negotiations after the initial START-Plus treaty is signed - the second phase needs to see further progress on eliminating tactical nuclear weapons and reducing aggregate numbers (strategic and non-strategic, deployed and stored);
- encourage all nuclear-armed states to undertake unilateral reductions in their respective arsenals, with a view to commencing mutual, plurilateral disarmament negotiations;
- reaffirm the principle of irreversibility, with commitments by the states with nuclear weapons not to increase or modernize their nuclear capabilities;
- reaffirm the principles of transparency, verification and accountability in fulfilling NPT obligations and agreements;
- support the 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;
- commit to commencing preparatory work leading to negotiations on a universal nuclear weapons convention or framework of instruments for the sustainable, verifiable and enforceable abolition of nuclear weapons worldwide.

Non-Proliferation, Security and Creating the Conditions for a World Free of Nuclear Weapons

- support ratification of the Comprehensive Nuclear Test-Ban Treaty (CTBT) by the remaining Article XIV states without conditions, leading to entry into force no later than 2015, and call for nuclear test sites to be dismantled and environmentally cleaned up;
- consider ways and means to make progress on the commitment of a ban on the production of fissile materials for weapons purposes, taking into account the need to cap, reduce and ultimately eliminate stockpiles of high-enriched uranium and plutonium;
- support initiatives to promote a zone free of nuclear, biological, and chemical weapons in the Middle East;
- pursue practical initiatives to improve NPT governance and accountability, including strengthening mechanisms to ensure compliance and deter withdrawal;
- encourage universalisation of the IAEA Additional Protocol, in conformity with Article III of the NPT, and accept this inspections standard as a condition of nuclear supply.

Developed by Dr Rebecca Johnson (contact rej@acronym.org.uk, website www.acronym.org.uk) in association with Dr John Burroughs’ Briefing Paper for the Middle Powers Initiative (contact johnburroughs@lcnp.org, website www.middlepowers.org).
Basic elements for a Nuclear Weapons Convention

Preamble: enshrining the vision, context, ideals and exhortations.

General Obligations: A Nuclear Weapons Convention would need to prohibit the development, testing, production, stockpiling, transfer and use of nuclear weapons. States possessing nuclear weapons will be required to destroy their arsenals according to a series of phases. The treaty would also need to prevent the production of weapons-useable fissile material and address delivery vehicles, which would either need to be destroyed or converted to make them non-nuclear capable. The obligations on states would be both negative (i.e. prohibition) - not to develop, test, produce, otherwise acquire, stockpile, deploy, maintain, retain or transfer nuclear weapons; and positive (i.e. disarmament) - to dismantle, destroy, prevent and convert nuclear weapons and facilities (as required). The treaty will also need to promulgate obligations on "persons", that is a requirement on individuals and corporations as well as states not to assist anyone in developing, producing, acquiring or otherwise supplying or trading in nuclear weapons, their components, technologies or materials.

Phases for Elimination: A Nuclear Weapons Convention would need to identify steps and stages for the reduction and elimination of nuclear weapons. For example, the Model NWC outlines a series of five phases: take nuclear weapons off alert, remove weapons from deployment, remove nuclear warheads from their delivery vehicles, disable the warheads, removing and disfiguring the "pits" and placing the fissile material under international controls and safeguards. In the initial phases, the United States and Russia would be required to make the deepest cuts in their nuclear arsenals.

Verification and Implementing Authority: A Nuclear Weapons Convention would need to establish a comprehensive verification regime backed up by a strong implementing authority. Considerations would include: Declarations and registration, providing enhanced transparency and confidence-building measures; an international monitoring system; intelligence and reporting (both 'national technical means' and societal monitoring by citizens, including protection for whistleblowers); open skies provisions; preventive controls (the Proliferation Security Initiative (PSI) would be more acceptable if it were turned into a Prohibition Security Initiative); provisions for routine and 'challenge' on-site inspections covering previous nuclear-weapons-related sites, declared civilian facilities and also undeclared sites that might prompt concern.

International and National Implementation:
A Nuclear Weapons Convention would also require provisions on entry into force; compliance and enforcement; irreversibility and transparency; technology and resources for dismantlement and destruction; securing the nuclear materials (transport, storage and disposal); training and technical infrastructure and resources for verification.

Security considerations during the transition to abolition would likely include securing and dismantling warheads and delivery vehicles; securing nuclear materials, facilities and technology; preventing theft and cleaning up contaminated sites to minimise health and environmental harm due to toxic and radioactive materials; deterring break-out and attempts by the current nuclear-armed states to retain a clandestine hedge; addressing rogue proliferators and terrorists; developing collective security approaches to promote peace and provide cooperative stability and confidence in place of the nuclear-weapons-related concepts of strategic stability.

These and other ideas were developed by an international team of scientists, lawyers, and disarmament specialists who got together in the 1990s to work out what would be entailed in prohibiting and eliminating nuclear weapons in a way that enhanced security, increased safety and prevented break-out. The result was published in 1997 as a "Model Nuclear Weapons Convention, and subsequently submitted to the United Nations by Costa Rica to stimulate discussion on the practical ways and means of banning nuclear weapons as chemical and biological armaments have been banned. Reflecting the changed security environment since the events of 11 September 2001, a revision of the Model Nuclear Weapons Convention was published in Securing Our Survival, www.icanw.org.
# NUCLEAR ARSENALS 2009


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<tr>
<th>Country</th>
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Sources: These figures represent the Commission’s best judgment, based on published estimates and compilations by the Bulletin of the Atomic Scientists, Carnegie Endowment for International Peace, Center for Defense Information (CDI), Federation of American Scientists (FAS), International Institute for Strategic Studies (IISS), and the Stockholm International Peace Research Institute (SIPRI), and input from the Commission’s research consultants.

Notes:
1. Most estimates agree on a lower figure of approximately 2000 reserve strategic warheads.
2. Based on lower estimate. The type and yield of weapons in the higher estimate is not known.
3. Most of the sources used in this table agree on a figure around 2800. However, both the Carnegie Endowment (3113) and CDI (3300 – 3400) give higher estimates.
4. Rough approximation due to lack of transparency on this category of weapon.
5. China releases no official figures on its nuclear forces. These figures are thus approximations.
6. China strongly denies having tactical nuclear weapons, though this is queried.
7. President Sarkozy has stated that France would reduce its warheads to under 300 in 2009.
8. According to the FAS, France is thought to have a small inventory of ‘spare’ warheads, but no reserve of the sort that the United States and Russia have.
9. All sources used agree the UK has “fewer than 160 operationally available” nuclear warheads.
10. Some warheads on British submarines have ‘sub-strategic’ (previously “tactical”) missions.
11. Israel maintains a policy of opacity as to whether it possesses nuclear weapons or not.
12. The arsenals of India, Pakistan and Israel are thought to be only partly deployed.
13. Estimates: India and Pakistan release no official figures on their nuclear forces.
### Table of military expenditures

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<th>GDP*** (%)</th>
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</tr>
</tbody>
</table>

* Published spending figures to nearest billion $ from SIPRI 2009 Yearbook.
** estimates.
*** military budgets as % of GDP (estimates from World Fact Book 2008, pub. Central Intelligence Agency).


### Notes and bibliography

1. Barack Obama, President of the United States of America, Speech at Hradcany Square, Prague, 5 April, 2009.
2. Gordon Brown, UK Prime Minister, speech at the Chamber of Commerce, Delhi, 21 January 2008.
3. See UNSC resolution 1325: www.peacewomen.org/un/sc/1325.html
4. Nuclear fuel for civilian purposes would normally require uranium enriched in the U235 isotope to no more than 3.5-4 percent, while nuclear weapons generally use around 90 percent enriched uranium.
9. Decision E, International Court of Justice Reports 1996, p 225. [Reported for July 8, 1996, General List No. 95]. The full decision, documentation and dissenting decisions also formed the Annex to ‘Advisory Opinion of the International Court of Justice on the
legality of the threat or use of nuclear weapons', Note by the Secretary-General, United Nations General Assembly A/51/218, October 15, 1996 pp 36-37. See also Declaration of President Bedjaoui, ICJ Reports, 1996, p. 273, 22.

10 Excerpt from a keynote address by Judge Mohamed Bedjaoui in the margins of the NPT Preparatory Committee meeting, Geneva May 1, 2008.

11 See: ‘Security and Survival: The case for a Nuclear Weapons Convention’, published by the International Association of Lawyers Against Nuclear Arms (IALANA), International Network of Engineers and Scientists Against Proliferation (INESAP), and the International Physicians for the Prevention (IPPNW) in 1997 (first edition; See also footnote 13).

12 UN Secretary-General Ban Ki Moon, Speech to the EastWest Institute Consultation on Breakthrough Measures to build a new EastWest Consensus on WMD and Disarmament, New York, October 24 2008.

13 The text of an NGO-drafted Model Convention on the Prohibition of the Development, Testing, Production, Stockpiling, Transfer, Use and Threat of Nuclear Weapons and on their Elimination, was submitted by Costa Rica to the UN General Assembly and issued in the UN languages as A/C.1/52/7. This was updated and reissued in 2007 as Securing Our Survival (SOS): The Case for a Nuclear Weapons Convention, edited by Merav Datan, Felicity Hill, Alyn Ware and Jürgen Scheffran, published by IPPNW, IALANA and INESAP, 2007. This Model Convention is not intended to be held up as a draft treaty, but its research and the options it discusses can be used as a resource and starting point for consideration of what should be included in multilateral negotiations.


15 See, for example, ‘Lifting the Nuclear Shadow: creating the conditions for abolishing nuclear weapons’. Policy Information Paper by the UK Foreign and Commonwealth Office (February 2009) and ‘The Road to 2010: addressing the nuclear question in the twenty first century’ Cm. 7675 (July 2009).

16 Commander Robert Green, Royal Navy (Ret'd), Security Without Nuclear Deterrence (Astron Media/Disarmament & Security Centre, Christchurch, New Zealand, 2010).


Glossary

NPT, 1968 Treaty on the Non-Proliferation of Nuclear Weapons.
CTBT, 1996 Comprehensive Nuclear-Test-Ban Treaty
FM(C)T, Fissile Materials (Cut-off) Treaty
NWC, Nuclear Weapons Convention
ICNND, International Commission on Nuclear Nonproliferation and Disarmament
ICC, International Criminal Court
ICJ, International Court of Justice
IAEA, International Atomic Energy Agency
IPPNW, International Physicians for the Prevention of Nuclear War
IALANA, International Association of Lawyers against Nuclear Arms
INESAP, International Network of Engineers and Scientists against Proliferation