

Notes

Introduction

- 1 Weapons of Mass Destruction Commission, final report, *Weapons of Terror: Freeing the World of Nuclear, Biological, and Chemical Arms*, Stockholm, June 1, 2006 (“*Weapons of Terror*”). Online at http://www.wmdcommission.org/files/Weapons_of_Terror.pdf.
- 2 Hans Kristensen, “Status of World Nuclear Forces, 2007,” The Nuclear Information Project, March 29, 2007 (“*World Nuclear Forces, 2007*”). Online at <http://www.nukestrat.com/nukestatus.pdf>.
- 3 Natural Resources Defense Council, “Table of Global Nuclear Weapons Stockpiles, 1945-2002.” Online at <http://www.nrdc.org/nuclear/nudb/datab19.asp>.
- 4 *World Nuclear Forces, 2007*; Robert Norris and Hans Kristensen, “U.S. nuclear forces, 2007,” *Bulletin of the Atomic Scientists*, January/February 2007, pp. 79-82; Hans Kristensen, “US Air Force Decides to Retire Advanced Cruise Missile,” *Strategic Security Blog*, Federation of American Scientists, March 7, 2007 (“*Kristensen*”). Online at http://www.fas.org/blog/ssp/2007/03/us_air_force_decides_to_retire.php#more. Since states possessing nuclear weapons are not transparent about their holdings, it deserves emphasis that the figures supplied by these well-regarded non-governmental sources are only estimates and are subject to considerable uncertainty. The difference between the figure of 26,000 total warheads in the world given in *World Nuclear Forces, 2007* and the figure of 27,000 used by the WMD Commission is mainly due to Russian and U.S. dismantlements since the Commission’s report was prepared.
- 5 *Kristensen*.
- 6 *World Nuclear Forces, 2007*.
- 7 *Id.*
- 8 International Court of Justice, *Legality of the Threat or Use Of Nuclear Weapons*, Advisory Opinion of 8 July 1996, *ICJ Reports* (1996), p. 226, para. 105(2)E and F (“*Nuclear Weapons Opinion*”).
- 9 United Nations Monitoring, Verification and Inspection Commission. See <http://www.unmovic.org>.
- 10 *Weapons of Terror*, pp. 11-12.
- 11 *Id.*, p. 206.
- 12 *Id.*, p. 60.
- 13 *Id.*, p. 23.
- 14 *Id.*, p. 160.
- 15 *Id.*, p. 19.
- 16 *Id.*, p. 109.
- 17 See *id.*, pp. 12, 28.
- 18 Felicity Hill provided guidance regarding the history of commissions.
- 19 The Independent Commission on Disarmament and Security Issues, *Common Security: A Blueprint for Survival*, Simon and Schuster, New York, 1982.
- 20 *Id.*, Introduction.
- 21 “Executive Summary,” Report of the Canberra Commission on the Elimination of Nuclear Weapons, 1996. Online at http://www.dfat.gov.au/cc/cc_report_exec.html.

- 22 “Part Four: Achieving Nuclear Disarmament,” Report of the Tokyo Forum for Nuclear Non-Proliferation and Disarmament, July 25, 1999. Online at <http://www.mofa.go.jp/policy/un/disarmament/forum/tokyo9907/report-4.html>.
- 23 *Weapons of Terror*, p. 160.
- 24 *Id.*, p. 22.
- 25 *Id.*, p. 23.
- 26 *Id.*
- 27 M.V. Ramana, “Bombing Bombay? Effects of Nuclear Weapons and a Case Study of a Hypothetical Explosion,” International Physicians for the Prevention of Nuclear War, 1999.
- 28 *Nuclear Weapons Opinion*, para. 36.

Section 1.1: Treaty Regimes and International Law

- 1 *Weapons of Terror*, p. 94.
- 2 *Id.*, pp. 167-168. See also Randy Rydell, “Disarmament without Agreements?” *International Negotiation*, Vol. 10, No. 3, 2005, pp. 363-380.
- 3 Nicole Deller, Arjun Makhijani, and John Burroughs, eds., *Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties*, The Apex Press, New York, 2003 (“*Rule of Power or Rule of Law?*”).
- 4 *Rule of Power or Rule of Law?* preface, p. xiii.
- 5 *The Paquete Habana*, 175 U.S. 677, 700 (1900). Online at <http://supreme.justia.com/us/175/677/case.html>.
- 6 The fact that U.S. international legal obligations have the status of law binding on the U.S. government does not mean that they are readily enforceable in U.S. courts. Citizens are not granted standing by courts to challenge alleged U.S. violations of international obligations unless they can demonstrate a harm personal to themselves as opposed to one generally suffered by the public. Courts have also developed what is known as the “last-in-time” rule, under which when there is a conflict between a treaty and a federal statute, the most recently adopted prevails. Additionally, a “non-self-executing” treaty will not be applied absent implementing legislation. Courts do recognize, however, that regardless of its enforceability in U.S. courts, a treaty obligation remains a legal obligation of the United States on the international plane. See *Rule of Power or Rule of Law?*, p. 2.
- 7 In remarks at Simon Fraser University in Vancouver, Canada on June 28, 2006, about a month after the WMD Commission Report was released, Hans Blix made similar observations:

[A]fter the end of the Cold War, at the beginning of the ‘90s, there was a feeling of sort of relief that we no longer risked the sort of MAD Mutually Assured Destruction of the U.S. and Russia in which the rest of us might be wiped off as collateral damage. That concern, that anguish, was over and we all expected a sort of harvest for disarmament. Well there was some harvest. There was the Chemical Weapons Convention, which had been negotiated for decades. There was also the Comprehensive Test Ban Treaty, which had also been negotiated.... We also got something that was very important during the ‘90s and that was the decision of the Security

Council under the inspiration and proposal from the President of the United States, from Bush Senior, to intervene in Iraq to stop the Iraqi aggression against Kuwait and the Security Council was standing wholeheartedly behind it. And it was stated that for the first time the UN security system really functioned. And President Bush talked about the new international order and they were all very hopeful. Regrettably, it didn't last very long and in the '90s we began to see a stagnation also with disarmament and arms control and since then we have seen much worse. We have seen arms races appearing and we have seen also the stagnation in the organs established for arms control.

Online at http://globalactionpw.org/meetings/WMDC_GAPWsession.htm.

- 8 This paragraph and parts of the rest of this section and of section 1.2, draw upon John Burroughs, Nicole Deller, and Arjun Makhijani, "Global Security Treaties Under Siege: U.S. Rejection of Agreements on Nuclear Weapons," in Michael Flynn, ed., *The Second Nuclear Age: Political and Psychocultural Perspectives*, forthcoming from University Press of Kentucky.
- 9 *Weapons of Terror*, pp. 129-130, 132-133. See also remarks of Jonathan Tucker, "Hans Blix Reports on WMD Dangers and Solutions," Arms Control Association press briefing, June 7, 2006. Online at http://armscontrol.org/events/20060607_Blix_WMDC_Transcript.asp.
- 10 See Nicole Deller and John Burroughs, "Arms Control Abandoned: The Case of Biological Weapons," *World Policy Journal*, Vol. 20, No. 2, Summer 2003, pp. 37-42. Online at <http://worldpolicy.org/journal/articles/wpj03-2/deller.html>.
- 11 See Mark Wheelis and Malcolm Dando, "Back to Bio-weapons?" *Bulletin of the Atomic Scientists*, January/February 2003, pp. 40-46.
- 12 Judith Miller, Stephen Engelberg, and William Broad, "U.S. Germ Warfare Research Pushes Treaty Limits," *New York Times*, September 4, 2001. Online at <http://commondreams.org/headlines01/0904-02.htm>; Scott Shane, "Army confirms making anthrax in recent years," *Baltimore Sun*, December 13, 2001. Online at <http://www.baltimoresun.com/news/custom/attack/bal-te.anthrax13dec13,0,4104922.story?coll=bal-attack-utility>.
- 13 *Weapons of Terror*, p. 116.
- 14 *Id.*, p. 25.
- 15 "Just What is a War Criminal?," *Insight on the News*, August 2, 1999, responding to moves by a lawyer seeking to indict the then President Clinton and Secretary of Defense William Sebastian Cohen for war crimes and crimes against humanity in Yugoslavia. Online at http://www.findarticles.com/p/articles/mi_m1571/is_28_15/ai_55410553.
- 16 See John Bolton, "Is There Really 'Law' in International Affairs," *Transnational Law and Contemporary Problem*, Vol. 10, No. 1, 2000, p. 10.
- 17 *Weapons of Terror*, p. 168.
- 18 *Id.*, p. 176.
- 19 "Notes For An Address By The Honourable Bill Graham, Minister of Foreign Affairs, To The Conference On Disarmament, Geneva, Switzerland," March 19, 2002, cited in *Rule of Power or Rule of Law?* p. 131. Online at <http://www.reachingcriticalwill.org/political/cd/speeches02/can190302cd.pdf>.
- 20 On issues of compliance and enforcement, see *Rule of Power or Rule of Law?* pp. 131-137. See also Peter Weiss, "The Future of Universal Jurisdiction," in

Wolfgang Kaleck, Michael Ratner, Tobias Singelstein and Peter Weiss, eds., *International Prosecution of Human Rights Crimes*, Springer, Berlin, 2006.

Section 1.2: The Nuclear Non-Proliferation Treaty

- 1 Natural Resources Defense Council, "Table of Global Nuclear Weapons Stockpiles, 1945-2002," Archive of Nuclear Data. Online at <http://nrdc.org/nuclear/nudb/datab19.asp>; Hans Kristensen, "Status of World Nuclear Forces," The Nuclear Information Project, updated February 17, 2007. Online at <http://www.nukestrat.com/nukestatus.htm>.
- 2 *Weapons of Terror*, p. 63.
- 3 *Id.*
- 4 *Id.*
- 5 *Id.*
- 6 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Decision 2, "Principles and Objectives for Nuclear Non-Proliferation and Disarmament," *Final Document*, Part I, NPT/CONF.1995/32, Annex, p. 10 ("1995 Final Document"). Online at <http://disarmament2.un.org/wmd/npt/1995nptrevconfdocs.html>.
- 7 "Middle East Resolution," *1995 Final Document*, pp. 13-14.
- 8 International Court of Justice, "Legality of the Threat or Use of Nuclear Weapons," Advisory Opinion of 8 July 1996, *ICJ Reports* (1996), p. 226 (hereafter "*Nuclear Weapons Opinion*"). Online at <http://www.icj-cij.org/icjwww/icas/iunan/iunanframe.htm>.
- 9 *Id.*, para. 105(2)(E). See also paras. 33, 78-79, 89.
- 10 *Id.*, para. 42.
- 11 Committee on International Security and Arms Control, National Academy of Sciences, *The Future of U.S. Nuclear Weapons Policy*, National Academy Press, Washington, 1997, p. 87. Online at <http://books.nap.edu/html/fun>.
- 12 *Nuclear Weapons Opinion*, para. 105(2)(F) (emphasis supplied). In reaching this conclusion, the Court drew on both Article VI and other international law sources. See paras. 99, 100, 103. Thus while not stated explicitly, the Court's analysis makes it reasonably clear that the disarmament obligation applies to states outside the NPT, including India, Pakistan, and Israel.
- 13 *Weapons of Terror*, p. 109.
- 14 A/RES/61/83 (2006).
- 15 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, *Final Document*, Vol. I, NPT/CONF.2000/28, Part I, pp. 14-15. Online at <http://disarmament.un.org/wmd/npt/finaldoc.html>.
- 16 John Burroughs and William Epstein, "Hopes for Revival of Nuclear Disarmament Efforts?" *Nuclear Disarmament Commentary* (December 2000). Online at <http://www.lcnp.org/disarmament/Commentary/Commentary10.htm>.
- 17 See Peter Weiss, John Burroughs, and Michael Spies, "The Thirteen Practical Steps: Legal or Political?" Lawyers' Committee on Nuclear Policy, May 2005. Online at <http://www.lcnp.org/disarmament/npt/13stepsaper.htm>.
- 18 A/RES/61/74 (2006).
- 19 A/RES/61/65 (2006).
- 20 Members of the New Agenda Coalition are Brazil, Egypt, Ireland, Mexico, New Zealand, Sweden, and South Africa.

- 21 For the U.S. position on the Practical Steps and Article VI, see J. Sherwood McGinnis, Deputy U.S. Representative to the Conference on Disarmament, Remarks to the Second Session of the Preparatory Committee for the 2005 Review Conference, Geneva, May 1, 2003. Online at <http://geneva.usmission.gov/press2003/0501NPTMcGinnis.htm>.
- 22 See David E. Sanger, "Month of Talks Fails to Bolster Nuclear Treaty," *New York Times*, May 28, 2005.
- 23 *Weapons of Terror*, pp. 63-64.
- 24 See Canada's working paper submitted to the 2005 NPT Review Conference, "Achieving Permanence with Accountability." May 17, 2005, NPT/CONF.2005/WP.39. This paper proposes annual meetings and a standing "bureau" composed of representatives of states parties. Online at <http://reaching-criticalwill.org/legal/npt/RevCon05/wp/WP39.pdf>.
- 25 See Jayantha Dhanapala with Randy Rydell, *Multilateral Diplomacy and the NPT: An Insider's Account*, United Nations Institute for Disarmament Research, Geneva, 2005, pp. 129-132.

Section 1.3: The Role of the UN Security Council

- 1 *Weapons of Terror*, p. 182.
- 2 *Id.*, p. 54.
- 3 Article XII(3) of the CWC provides that in the case of prohibited activities, the Conference of the States Parties, "may recommend collective measures to States Parties in conformity with international law." The NPT and BWC have no such provision, but there is no doubt that review conferences or other meetings of states parties could call for states to apply sanctions. One obstacle to overcome would be the practice of consensus.
- 4 *Weapons of Terror*, p. 18.
- 5 See generally José E. Alvarez, *International Organizations as Law-Makers*, Oxford University Press, Oxford, 2005, pp. 184-217.
- 6 See *id.*
- 7 Regarding some of these cases, see *Weapons of Terror*, pp. 180-181.
- 8 *Id.*, pp. 63-64.
- 9 United Nations Monitoring, Verification and Inspection Commission (UNMOVIC) was the second body established by the Security Council to verify Iraq's compliance with requirements of dismantling chemical and biological weapons and missile programs. Its fate remains to be determined by the Security Council.
- 10 See Michael Spies and John Burroughs, "Commentary on Security Council Resolution 1696 on Iran," Lawyers' Committee on Nuclear Policy, New York, July 31, 2006, online at <http://lcnp.org/disarmament/iran/UNSCres-jul06.htm>; John Burroughs, "The Iran Situation: Options for the Security Council," Lawyers' Committee on Nuclear Policy, New York, May 2, 2006, online at <http://lcnp.org/disarmament/iran/remarks-may2.htm>.
- 11 Arms Control Association, "Hans Blix Reports on WMD Dangers and Solutions," June 7, 2006. Online at http://www.armscontrol.org/events/20060607_Blix_WMDC_Transcript.asp.
- 12 International Court of Justice, "Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding

- Security Council Resolution 276, Advisory Opinion of June 21, 1971,” *ICJ Reports*, 1971.
- 13 Security Council Resolution 1695 (2006), July 15, 2006.
- 14 Security Council Resolution 1696 (2006), July 13, 2006.
- 15 See Michael Spies, “Iran and the Role of the Security Council,” Lawyers’ Committee on Nuclear Policy, New York, March 8, 2007. Online at <http://lcnp.org/disarmament/iran/iran-UNSC.pdf>.
- 16 See *id.*
- 17 Article 26 provides that the Security Council is to be assisted in developing plans for regulation of armaments by a Military Staff Committee. For an explanation of how that committee become non-functional, see Felicity Hill, “The Military Staff Committee: A Possible Future Role in UN Peace Operations?” Global Policy Forum. Online at <http://www.globalpolicy.org/security/peacekpg/reform/2001/msc.htm>. The UN Charter also gives the General Assembly the role of making recommendations regarding “disarmament and the regulation of armaments” (Article 11). Unlike the Council, the Assembly has fulfilled that role through resolutions that have initiated treaty negotiations on control or elimination of a wide range of weapons.
- 18 *Weapons of Terror*, p. 181.
- 19 For suggestions on how governments could implement resolution 1540 in ways reaching both non-proliferation and disarmament objectives, see Alyn Ware, “International Ju-Jitsu: Using United Nations Security Council Resolution 1540 to advance nuclear disarmament,” Lawyers’ Committee on Nuclear Policy, New York, July 2004, online at http://www.lcnp.org/disarmament/Ju-Jitsu_UNSC1540.pdf. For example, Ware advocates that states apply laws pertaining to acquisition and trafficking in NBC weapon-related items to both non-state and state actors.
- 20 *Weapons of Terror*, p. 57.
- 21 Lars Olberg, “Implementing Resolution 1540: What the National Reports Indicate,” *Disarmament Diplomacy No. 86*, Spring 2006. (“*Olberg*”). Online at <http://www.acronym.org.uk/dd/dd82/82lo.htm>.
- 22 *Weapons of Terror*, p. 55.
- 23 *Olberg*; see also Merav Datan, “Security Council Resolution 1540: WMD and non-State trafficking,” *Disarmament Diplomacy No. 79*, April/May 2005. (“*Datan*”). Online at <http://www.acronym.org.uk/dd/dd79/79md.htm>.
- 24 Security Council Resolution 1267 (1999), October 15, 1999.
- 25 Article 13(1) of the Charter provides that the General Assembly shall “make recommendations for the purpose of (a) promoting international cooperation in the political field and *encouraging the progressive development of international law and its codification*” (emphasis supplied). The Assembly often adopts resolutions that call upon member states, for example in the Conference on Disarmament, to negotiate multilateral treaties.
- 26 Eric Rosand, “The Security Council as ‘Global Legislator’: Ultra Vires or Ultra Innovative?” *28 Fordham International Law Journal*, February 2005, pp. 542, 544.
- 27 See *Datan*.
- 28 Axel Marschik, “IILJ Working Paper 2005/18: The Security Council as World Legislator?: Theory, Practice, and Consequences of an Expanding World Power,” Institute for International Law and Justice, New York, 2005. Online at

<http://www.iilj.org/papers/2005.18Marschik.htm>. Marschik believes that states have subsequently consented and acquiesced in resolution 1373, but reserves judgment regarding resolution 1540.

- 29 See *Olberg*. See also Olivia Bosch and Peter van Ham, eds., *Global Non-Proliferation and Counter-Terrorism: The Impact of UNSCR 1540*, Brookings Institution Press, Washington, D.C., 2007, pp. 211-212.

Section 1.4: The Breakdown of Disarmament Machinery

- 1 “CD/1693/Rev.1: Initiative of the Ambassadors Dembri, Lint, Reyes, Salander and Vega (“A5 Proposal”),” Proposal of a Programme of Work at the Conference on Disarmament, Geneva, September 5, 2003. Online at <http://reachingcriticalwill.org/political/cd/A5.pdf>.
- 2 “CD/2007/L.1: Initiative of the 2007 CD Presidents: South Africa, Spain, Sri Lanka, Sweden, Switzerland, and Syria (“2007 P6”),” Presidential Draft Decision at the Conference on Disarmament, Geneva, March 23, 2007. Online at <http://www.reachingcriticalwill.org/political/cd/papers07/L1.pdf>.
- 3 Ambassador Christina Rocca, “The P6 proposal for continuing work in the CD in 2007,” Statement to the Conference on Disarmament, Geneva, March 23, 2007. Online at <http://www.reachingcriticalwill.org/political/cd/speeches07/1session/Mar23US.pdf>.
- 4 See Paul Meyer, “The Conference on Disarmament: Getting Back to Business,” *Arms Control Today*, December 2006.
- 5 The U.S. is unlikely to support any amendments referring to negotiations on PAROS, and on March 27, 2007 France said that while it would not oppose the proposal as it stands, it would oppose it if any changes were made to the mandates for nuclear disarmament or NSAs.
- 6 Nicole Deller, Arjun Makhijani, and John Burroughs, eds., *Rule of Power or Rule of Law? An Assessment of U.S. Policies and Actions Regarding Security-Related Treaties*, The Apex Press, New York, 2003, pp. 94-95.
- 7 Stephen Rademaker, U.S. Acting Assistant Secretary, Bureau of International Security and Nonproliferation, “Confronting Today’s Threats,” Statement to the First Committee of the General Assembly, United Nations, New York, October 3, 2005. Online at <http://www.reachingcriticalwill.org/political/1com/1com05/statements/us3oct.doc>.
- 8 Highly enriched uranium refers to uranium enriched to the concentration of 20% or above of the fissile isotope uranium-235. Other fissile isotopes include uranium-233, neptunium-237, and americium-241. Most of the world’s nuclear power reactors operate on low enriched uranium. Uranium enriched to reactor grade is not considered usable in nuclear weapons. Plutonium, any type of which is considered weapons-usable, does not exist in nature and is produced in nuclear reactors as a by-product (*see section 3.1*). See International Panel on Fissile Materials, *Global Fissile Materials Report 2006*, Princeton University, Princeton, NJ, 2006, pp. 6-10. Online at http://www.fissilematerials.org/ipfm/site_down/ipfmreport06.pdf.
- 9 *Weapons of Terror*, p. 103.
- 10 UN General Assembly Resolution GA/48/75L, December 16, 1993.
- 11 Ambassador Gerald E. Shannon, “Consultations on the Most Appropriate Arrangement to Negotiate a Treaty Banning the Production of Fissile Material

- for Nuclear Weapons or Other Nuclear Explosive Devices (“Shannon Mandate”),” Report CD/1299 of the Conference on Disarmament, Geneva, March 24, 1995. Online at <http://www.reachingcriticalwill.org/political/cd/shannon.html>.
- 12 “NPT/CONF.1995/32 (Part I), Annex: Decision 2: Principles and Objectives for Nuclear Non-Proliferation and Disarmament,” 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, New York, 1995, para. 4(b). Online at <http://www.reachingcriticalwill.org/legal/npt/1995dec.html#2>.
 - 13 “NPT/CONF.2000/28: Final Document: Part I, Step 3.” 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, New York, 2000, pp. 14-15. Online at <http://disarmament.un.org/wmd/npt/finaldoc.html>.
 - 14 Permanent Mission of the U.S. to the UN in Geneva, “White Paper on a Fissile Material Cutoff Treaty,” Geneva, May 18, 2006. Online at <http://www.ipfmlibrary.org/usm06.pdf>.
 - 15 Permanent Mission of the U.S. to the UN in Geneva, “Treaty on the Cessation of the Production of Fissile Material for Use in Nuclear Weapons or Other Nuclear Explosive Devices,” draft mandate and treaty text to the Conference on Disarmament, Geneva, May 18, 2006. Online at <http://reachingcriticalwill.org/political/cd/speeches06/18MayDraftTreaty.pdf>.
 - 16 *Weapons of Terror*, pp. 104-105.
 - 17 See Stephen Rademaker, “The Conference on Disarmament: Time is Running Out,” *Arms Control Today*, December 2006.
 - 18 Rebecca Whiteair and Seth Brugger, “BWC Protocol Talks in Geneva Collapse Following U.S. Rejection,” *Arms Control Today*, September 2001. Online at http://www.armscontrol.org/act/2001_09/bwcsept01.asp.
 - 19 *Weapons of Terror*, p. 146.
 - 20 U.S. Air Force Space Command, *Vision for 2020*, February 1997. Online at <http://www.fas.org/spp/military/docops/usspac/visbook.pdf>.
 - 21 “As long as the potential for such attacks [against U.S. satellites] remains, our Government will continue to consider the role that space-related weapons will play in protecting our assets.” John Monaco, Permanent Mission of the U.S. to the UN in Geneva, “Statement to the CD,” Statement to the Conference on Disarmament, Geneva, June 13, 2006. Online at <http://reachingcriticalwill.org/political/cd/speeches06/13JuneUS.pdf>. This was likely a response to Russia’s June 8, 2006 call to all states with military space technology to refrain from practical activities aimed at putting weapons in space.
 - 22 Office of Science and Technology Policy, *U.S. National Space Policy*, Executive Office of the President, The White House, Washington, D.C., August 31, 2006, p. 2. Online at <http://www.ostp.gov/html/US%20National%20Space%20Policy.pdf>.
 - 23 *Space Security 2006*, Spacesecurity.org, July 2006, p. 148. Online at <http://www.spacesecurity.org/SSI2006.pdf>.
 - 24 In October of 2004, Russia declared it would not be the first to put weapons in space, and has since repeatedly called on other states to make similar declarations. See Ambassador Leonid Skotnikov, Permanent Representative of Russia to the UN in Geneva, “Statement of the Russian Federation,” Statement to the First Committee of the UN General Assembly, United Nations, New York, October, 5, 2005. Online at <http://www.reachingcriticalwill.org/political/>

1com/1com04/statements/Russia.pdf.

- 25 Kofi A. Annan, Secretary-General of the UN, *'We the Peoples': The Role of the United Nations in the 21st Century*, United Nations Publications, New York, March 2000, p. 53.
- 26 A summary of polls can be found at <http://www.greenpeace.org/international/campaigns/peace>:

US: A survey carried out in 1997 by Lake, Sosin and Snell found that 87% of those polled in the US felt, "the US should negotiate an agreement to eliminate nuclear weapons."

UK: A poll carried out by MORI in 2005, on behalf of Greenpeace, showed a majority (54%) of the British public oppose the development of a new nuclear weapons system. Only one in three (33%) support their development. [In addition, 87% of those polled in Britain by Gallup in 1997 agreed, "Britain should help to negotiate a global treaty to prohibit and eliminate nuclear weapons."]

Russia: In 1998 61% of Russians polled by Vox Populi commissioned by TASS said, "All nuclear weapons states should eliminate such weapons."

India: 62% of Indians polled by The Hindu in 1998 said, "India should not produce nuclear bombs."

Japan: In a Japanese poll by Asahi Shimbun in 1998 78% agreed that, "all nuclear weapons states should eliminate such weapons."

Australia: A resounding 92% of Australians polled by Roy Morgan Research Co. in 1998 agreed, "Australia should help negotiate a global treaty to ban and destroy all nuclear weapons."

Norway: Similarly 92% of Norwegians polled in 1998 by 4 fakta A/S agreed "Norway should work actively for a ban on nuclear weapons."

Belgium: 72% of Belgian polled in 1998 by Market Response said they were for "an initiative on behalf of Belgium with an aim of initiating talks concerning a treaty for the abolition of nuclear weapons."

Canada: 93% of Canadians polled in 1998 by the Angus Reid Group agreed that, "Canada should take a leadership role in global negotiations to eliminate nuclear weapons."

Turkey: In 2004, an Infakto poll, commissioned by Greenpeace, found that 72% of Turkish people supported the idea of making Turkey a nuclear-free zone and 75% would support Turkey leading an international campaign for international nuclear disarmament.

A Greenpeace International-commissioned public opinion survey, carried out by Strategic Communications in April and May 2006, polled Europeans living in the six host countries for NATO U.S. nuclear weapons: Belgium, Britain, Germany, Italy, Netherlands, and Turkey. More than two-thirds said they want Europe to be free of nuclear weapons. "Two thirds of Europeans want Nuclear Weapon free Europe: Greenpeace calls upon Defence Ministers to send US nuclear weapons home," Press Release, Greenpeace International, May 30, 2006.

Section 2.1: Article VI Non-Compliance

- 1 “The Commitment of the United States to Implementation of Article VI of the Treaty on Nonproliferation of Nuclear Weapons,” submitted by the United States to the 2005 NPT Review Conference, New York, May 2-11, 2005. Online at <http://www.reachingcriticalwill.org/legal/npt/RevCon05/nonpapers/USArtVI.pdf>. See also Stephen G. Rademaker, “Statement by Stephen G. Rademaker, U.S. Assistant Secretary of State for Arms Control,” Statement to the 2005 NPT Review Conference, New York, May 2, 2005. Online at <http://www.reachingcriticalwill.org/legal/npt/RevCon05/GDstatements/U.S.pdf>.
- 2 See the Natural Resource Defense Council’s Archive of Nuclear Data at <http://www.nrdc.org/nuclear/nudb/datainx.asp>, and Robert Norris and Hans Kristensen, “U.S. nuclear forces, 2007,” *Bulletin of the Atomic Scientists*, January/February 2007, pp. 79-82.
- 3 “NPT/CONF.1995/32: Principles and Objectives for Nuclear Non-Proliferation and Disarmament,” 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, New York, 1995.
- 4 *Weapons of Terror*, p. 94.
- 5 *Id.*, p. 53.
- 6 CD 1308, April 6, 1995, later issued as a document of the 1995 Review and Extension Conference (NPT/CONF.1995/20).
- 7 The following analysis of research and development, and portions of the rest of this section, draw upon Middle Powers Initiative, “Fulfilling the NPT Bargain for Disarmament and Non-Proliferation: *Next Steps*,” Briefing Paper for the Third Meeting of the Article VI Forum, Ottawa, September 28-29, 2006. The paper was prepared by John Burroughs, Lawyers’ Committee on Nuclear Policy.
- 8 See, “Compliance Assessment: The NPT Declared Nuclear Weapon States,” Part One, Civil Society Presentation to the 2005 NPT Review Conference, Lawyers’ Committee on Nuclear Policy and Western States Legal Foundation, May 2005. Online at <http://lcnp.org/disarmament/npt/ArtVIcompliance.pdf>.
- 9 Bruno Tertrais, “Nuclear policy: France stands alone,” *Bulletin of the Atomic Scientists*, July/August 2004, pp. 48-55.
- 10 Robert S. Norris and Hans M. Kristensen, “Russian Nuclear Forces, 2006,” *Bulletin of the Atomic Scientists*, March/April 2006, pp. 64-67.
- 11 Jonathan Medalia, *Nuclear Weapons: The Reliable Replacement Warhead Program*, Congressional Research Service, updated: March 9, 2006; Amb. Linton Brooks, Administrator, National Nuclear Security Administration, “The Future of the U.S. Nuclear Weapons Stockpile,” Arms Control Association Panel Discussion, January 25, 2006 (“Brooks”). Online at http://www.armscontrol.org/pdf/20060125_brooks.pdf.
- 12 Michael Smith, “Focus: Britain’s secret nuclear blueprint,” *The Sunday Times*, March 12, 2006.
- 13 Alan Cowell, “Blair Wins Vote to Renew Atom Arsenal,” *New York Times*, March 15, 2007.
- 14 Steve Henry, Deputy Assistant to the Secretary of Defense for Nuclear Matters, statement cited in: Jonathan Medalia, *Nuclear Weapons: The Reliable Replacement Warhead Program*, Congressional Research Service, March 9, 2006.
- 15 Secretary of Energy Advisory Board, Nuclear Weapons Complex Infrastructure

- Task Force, "Recommendations for the Nuclear Weapons Complex of the Future," U.S. Department of Energy, July 13, 2005.
- 16 *Brooks*.
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A: The Administration's policy on this is very clear. We will respond decisively with devastating force.

Q: The reason I ask is because if some of these targets are buried targets, the best weapons to get after them are the nuclear penetrating bombs. Has that been ruled out?

A: I don't think we've ruled anything in or out in this regard. Our position is that we would respond very aggressively.

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- 8 “But I have no interest in diplomacy for the sake of returning Lebanon and Israel to the status quo ante. I think it would be a mistake. What we’re seeing here, in a sense, is the growing —the birth pangs of a new Middle East.... And whatever we do, we have to be certain that we are pushing forward to the new Middle East, not going back to the old one.” “Secretary Rice Holds a News Conference,” *The Washington Post*, CQ Transcripts Wire, July 21, 2006. Online at <http://www.washingtonpost.com/wp-dyn/content/article/2006/07/21/AR2006072100889.html>.
- 9 U.S. Department of Defense, *Nuclear Posture Review*, Submitted to Congress December 2001 (“*Nuclear Posture Review*”), provided in “Nuclear Posture Review Excerpts,” *Globalsecurity.org*, p. 7. Online at <http://www.globalsecurity.org/wmd/library/policy/dod/npr.htm>.
- 10 U.S. Air Force Space Command, *Strategic Master Plan FY06 and Beyond*, 2003, p. 4.
- 11 See, *E.g.*, “Exhibit R-2, RDT&E Budget Item Justification,” Air Force, February 2007, Program Element 0603851F ICBM - DEM/VAL; “Exhibit R-2, RDT&E Budget Item Justification,” Navy, February 2007, Program Element 0101221N Strategic Sub & Wpns Sys Spt.
- 12 Amy Woolf, *U.S. Nuclear Weapons: Changes in Policy and Force Structure*, Congressional Research Service Report to Congress, CRS-28, Updated January 13, 2005.
- 13 Air Force Major General Thomas H. Neary, ret., remarks at Air Force Space Command “Guardian Challenge 2004” competition, quoted in Scott R. Gourley, “ICBM Transformation,” *Military Aerospace Technology Online*, Vol. 3, #2, June 25, 2004.
- 14 U.S. Air Force Space Command, “Final Mission Need Statement, Land Based Strategic Nuclear Deterrent,” AFSPC 001-00, January 2002 (unpaginated).

- 15 Robert S. Norris and Hans M. Kristensen, "U.S. nuclear forces, 2006," *Bulletin of the Atomic Scientists*, January/February 2006, pp. 68-71. http://www.williambowles.info/wmd/us_nukes_2006.html; see also Department of the Navy, Fiscal Year (FY) 2006/FY 2007 Budget Estimates, RDT&E Project Justification, January 2005, Program Element 0101221N, Strategic Sub & Wpns Sys Spt, Technology Applications 2228.
- 16 U.S. Department of Defense, *Report of the Defense Science Board Task Force on Future Strategic Strike Forces*, Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics, Washington, D.C., 2004, p.5-8, see also Department of Defense, "Contracts," News Release, November 26, 2003.
- 17 See, for example, U.S. Department of the Air Force, Research, Development, Test and Evaluation (RDT&E), Descriptive Summaries, February 2007, Program Element 0604240F, B-2 Advanced Technology Bomber, requesting funds for various electronics upgrades including "a secure, survivable communication and Net Ready infrastructure systems upgrade, preserving the critical ability to guarantee communication in a nuclear environment" and other upgrades that "will provide a dramatic increase in the data flow into and out of the B-2, paving the way for integration into the Global Information Grid (GIG)."
- 18 U.S. Department of the Air Force, Air Force Materiel Command, AFRL, Space Vehicles Directorate, "Concepts and Technologies Study for Enhance [sic] Cruise Missile (ECM)," Sources Sought Notice, Reference Number AFNWCA002, December 7, 2004 (modified December 9, 2004).
- 19 U.S. Air Force Space Command, *Prompt Global Strike (PGS) Analysis of Alternatives (AoA) Study Plan Draft* 28 October 2005, p. 9.
- 20 *Id.*, p. 10.
- 21 *Id.*, p. 9.
- 22 See U.S. Air Force Space Command, "Final Mission Need Statement, Land Based Strategic Nuclear Deterrent," AFSPC 001-00, January 2002 (unpaginated); U.S. Defense Advanced Research Projects Agency, "FALCON (Force Application and Launch from CONUS)," Broad Agency Announcement, PHASE I Proposer Information Pamphlet (PIP) for BAA Solicitation 03-35, July 29, 2003. More about these programs can be found in Andrew Lichterman, *Missiles of Empire: America's 21st Century Global Legions*, Western States Legal Foundation Information Bulletin, Fall 2003 ("*Missiles of Empire*"). Online at <http://www.wslfweb.org/docs/missiles03.pdf>.
- 23 For more on the Common Aero Vehicle, see *Missiles of Empire*, pp. 3-6.
- 24 In 2004, Congress expressed concern that "nations possessing nuclear weapons capabilities" might "misinterpret the intent or use of the FALCON/CAV programs." Congress directed that funds appropriated for hypersonics research could not be used "to develop, integrate, or test a CAV variant that includes any nuclear or conventional weapon," or "to develop, integrate, or test a CAV for launch on any Intercontinental Ballistic Missile or Submarine Launched Ballistic Missile." The Conference Report noted, however, that "The Committees on Appropriations will consider expanding the scope of this program in subsequent years if safeguards negotiated among our international partners have been put in place." House Rpt. 108-622 - Making Appropriations for the Department of Defense for the Fiscal Year Ending September 30, 2005, and for Other Purposes. See also Exhibit R-2, RDT&E Budget Item Justification, February 2007, 0604856F Common Aero Vehicle.

- 25 U.S. Department of Defense, *Quadrennial Defense Review Report*, February 6, 2006 (“*QDR 2006*”), p. 6.
- 26 See Exhibit R-2, RDT&E Budget Item Justification, Navy, February 2006, PE 0604327N-Hard & Deeply Buried Target Defeat System Program. Online at <http://www.dtic.mil/descriptivesum/Y2007/Navy/0604327N.pdf>.
- 27 For a good overview of the policy implications of the conventional Trident proposal and of its current status in Congress, see Steve Andreasen, “Off Target? The Bush Administration’s Plan to Arm Long-Range Ballistic Missiles with Conventional Warheads,” *Arms Control Today*, July/August 2006.
- 28 U.S. Department of the Air Force, *Space Force Application Mission Area Development Plan*, 1997, p. 38 (obtained in part via the Freedom of Information Act by the Western States Legal Foundation).
- 29 U.S. Department of Defense, *Deterrence Operations Joint Operating Concept*, Version 2.0, December 2006 (“*Joint Concept*”), p. 41.
- 30 *Id.*
- 31 “Classified or ‘black’ programs appear to account for about \$28.0 billion, or 19 percent, of the acquisition funding included in the fiscal year (FY) 2006 Department of Defense (DoD) budget request.... This total includes \$14.2 billion in procurement funding and \$13.7 billion in research and development (R&D) funding. These figures represent 18 percent and 20 percent, respectively, of the total funding requested for procurement and R&D.” Steven M. Kosiak, “Classified Funding in the FY 2006 Defense Budget Request,” Center for Strategic and Budgetary Assessments, March 23, 2006, p.1—only has FY07 page—Online at <http://www.csbaonline.org/4Publications/PubLibrary/U.20060517.FY07BlackBudget/U.20060517.FY07BlackBudget.pdf>.
- 32 *QDR 2006*, p. 31.
- 33 *Id.*
- 34 See *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion of the International Court of Justice, July 8, 1996, I.C.J. Reports (1996), p. 226, paragraph 41, quoting *Case Concerning Military and Paramilitary Activities In and Against Nicaragua* (Nicaragua v. United States of America), Opinion of the International Court of Justice, I.C.J. Reports 1986, p. 94, para. 176.
- 35 U.S. Department of the Air Force, *United States Air Force Strategic Planning Directive for Fiscal Years 2006-2023*, p.20.
- 36 *QDR 2006*, p.49. See also *Joint Concept*, p. 40:

“Advances in conventional kinetic and non-kinetic means (e.g., cyberspace warfare, High Energy Radio Frequency (HERF) and directed energy (DE), etc.) may supplement US nuclear capabilities by 2015, nuclear weapons that are reliable, accurate, and flexible will retain a qualitative advantage in their ability to demonstrate US resolve on the world stage. Improving our capability to integrate nuclear and non-nuclear strike operations should further enhance these capabilities. Providing the President an enhanced range of options for both limiting collateral damage and denying adversaries sanctuary from attack will increase the credibility of US nuclear threats, thus enhancing deterrence and making the actual use of nuclear weapons less likely. Additionally, nuclear weapons allow the US to rapidly accomplish the wholesale disruption of an adversary nation-state with limited US national resources.”

- 37 “Sustaining and increasing the qualitative military advantages the United States enjoys today will require transformation - a transformation achieved by combining technology, intellect and cultural changes across the joint community. The goal is Full Spectrum Dominance—the ability to control any situation or defeat any adversary across the range of military operations.” U.S. Joint Chiefs of Staff, *The National Military Strategy of the United States*, 2004, p. viii. Online at <http://www.defenselink.mil/news/Mar2005/d20050318nms.pdf>.
- 38 Lieutenant General Henry A. Obering III, USAF, Director, Missile Defense Agency, Statement Before the Strategic Forces Subcommittee, House Armed Services Committee, March 9, 2006 (emphasis supplied).
- 39 “Advances in defensive technologies will allow U.S. non-nuclear and nuclear capabilities to be coupled with active and passive defenses to help provide deterrence and protection against attack, preserve U.S. freedom of action, and strengthen the credibility of U.S. alliance commitments.” *Nuclear Posture Review*, p. 7, provided in “Nuclear Posture Review Excerpts,” [Globalsecurity.org](http://www.globalsecurity.org), at <http://www.globalsecurity.org/wmd/library/policy/dod/npr.htm>
- 40 U.S. Department of Defense, *Strategic Deterrence Joint Operating Concept Version 2.0*, December 2006, p. 38.
- 41 *Nuclear Posture Review*, p. 13.
- 42 Brad Roberts, *Asymmetric Conflict 2010*, Institute for Defense Analyses, Defense Threat Reduction Agency, Alexandria, Virginia, 2000, p. 4.
- 43 National Research Council, Naval Studies Board, Commission on Physical Sciences, Mathematics, and Applications, *Post Cold War Conflict Deterrence*, National Academy Press, Washington, D.C., 1997, Chapter 3. Online at <http://www.nap.edu/html/pcw/Dt-3.htm>.
- 44 As the recently retired Commander of U.S. Joint Forces Command stated in the fall of 2000, “This issue’s been studied by panel after panel after panel and we got it—Our current policy is one that I support and understand. The priority is lower tier theater ballistic missile defense systems first, upper tier systems second, national missile defense third. That’s the way the threat is arrayed.” Admiral Hal Gehman, ret., former Commander-in-Chief, U.S. Joint Forces Command, speaking at a Washington, D.C. conference, “National Strategies and Capabilities for a Changing World,” November 16, 2000, transcript at <http://www.fletcherconference.com/oldtranscripts/2000/panel5.htm>
- 45 See on this point John Steinbruner, “National Missile Defense: Collision in Progress,” *Arms Control Today*, November 1999, pp. 4-5. It is important to note that the full capabilities of satellite sensing systems often are not apparent until the system is deployed, and are likely to evolve as both ground and space-based elements of the system are improved and replaced over time. In a recent speech to the Air Force Association, the Vice Commander of Air Force Space Command predicted that the Space Based Infrared System (SBIRS), a major component of anticipated missile defense systems, would have a variety of applications beyond missile defense:

SBIRS brings exciting new capabilities to the battle space.... But people forget that SBIRS has far more capability than just as a missile warning sensor. The intelligence capabilities, the battle space characterization kinds of capabilities that this fire-improved sensor is going to bring to our national security equation, I think, would have important advantages....

When we get that kind of capability in orbit, we are going to discover all kinds of applications in a horizontal sense across the battle space that we never envisioned because we've never had experience with that kind of phenomenology and that kind of timeliness and that kind of sensitivity. It is very difficult to speculate exactly how powerful that will turn out to be. Lieutenant General Roger G. DeKok, Vice Commander Air Force Space Command, Air Force Association National Symposium, Los Angeles, CA, November 16, 2001. Transcript at <http://www.afa.org/AEF/pub/dekok1101.asp>.

For a useful account of the way in which some past U.S. satellite sensing systems have provided military capabilities beyond those originally envisioned, see Jeffrey T. Richelson, *America's Space Sentinels: DSP Satellites and National Security*, University Press of Kansas, Lawrence, Kansas, 1999.

- 46 *Nuclear Posture Review*, pp. 16-17.
- 47 For example, "Active and passive defenses have little or no ability to encourage adversary restraint. In fact, because they have the synergistic impact on our perceived willingness to impose costs described above, they have the potential to increase adversary concerns regarding preemption. Such concerns, in certain circumstances, could worsen an adversary's perception of the consequences of restraint. Deterrence planning and operations need to account for this possibility." *Joint Operating Concept*, p. 39.
- 48 For an in depth version of these arguments, see David Wright, Laura Grego, and Lisbeth Gronlund, *The Physics of Space Security: A Reference Manual*, American Society of Arts and Sciences, Cambridge, Massachusetts, 2005.
- 49 The United States currently, however, appears determined to keep all its military space options open. The *U.S. National Space Policy* released in October 2006, at p. 2, states that:

The United States will oppose the development of new legal regimes or other restrictions that seek to prohibit or limit U.S. access to or use of space. Proposed arms control agreements or restrictions must not impair the rights of the United States to conduct research, development, testing, and operations or other activities in space for U.S. national interests.

Section 2.5: Understanding U.S. Policy

- 1 *Weapons of Terror*, p. 53.
- 2 *Id.*, p. 54.
- 3 For similar remarks, see the Arms Control Association press briefing, "Hans Blix Reports on WMD Dangers and Solutions," June 7, 2006. Online at http://armscontrol.org/events/20060607_Blix_WMDC_Transcript.asp.
- 4 See Kevin Phillips, *American Dynasty: Aristocracy, Fortune, and the Politics of Deceit in the House of Bush*, Penguin, New York, 2004.
- 5 See Michael O. Wheeler, "INSS Occasional Paper 62: International Security Negotiations: Lessons Learned from Negotiating with the Russians on Nuclear Arms," USAF Institute for National Security Studies, February 2006, pp. 35-48.

- 6 Center for Counterproliferation Research at the National Defense University and Center for Global Security Research at Lawrence Livermore National Laboratory, *US Nuclear Policy in the 21st Century: A Fresh Look at National Strategy and Requirements*, Executive Report, July 1998 (emphasis supplied). Online at <http://www.ndu.edu/WMDCenter/nucpolicy.html>.
- 7 See Human Security Centre, University of British Columbia, *Human Security Report 2005: War and Peace in the 21st Century*, Oxford University Press, Oxford, 2005, pp. 148-149.
- 8 See Andrew Lichterman, *War is Peace, Arms Racing is Disarmament: The Non-Proliferation Treaty and the U.S. Quest for Global Military Dominance*, Western States Legal Foundation Special Report, May 2005, pp. 17-19.
- 9 Jonathan Schell, *The Gift of Time: The Case for Abolishing Nuclear Weapons*, Henry Holt & Company, New York, 1998.

Section 3.1: Climate Change and Nuclear Power

- 1 Robert T. Watson, et al., *Climate Change 2001 Synthesis Report*, International Panel on Climate Change, University of Cambridge Press, Geneva, 2001 (“IPCC 2001”), p. 44.
- 2 *Id.*, p. 48.
- 3 Richard Alley, et al., *Climate Change 2007: The Physical Science Basis, Summary for Policy Makers*, International Panel on Climate Change, Geneva, 2007, p. 10. Under scenarios where alternative technologies and energy sources largely displace fossil fuels, the range of the predicted increase in average global surface temperature is 1.4 to 3.8°C. *Id.*, p. 11 & 14.
- 4 *IPCC 2001*, p. 61.
- 5 *Id.*, p. 68.
- 6 *Id.*, p. 64.
- 7 *Id.* p. 77.
- 8 Brice Smith, *Insurmountable Risks: The Dangers of Using Nuclear Power to Combat Global Climate Change*, Institute for Energy and Environmental Research, IEER Press, Washington, 2006, (“Smith”) p. 97.
- 9 *Weapons of Terror*, p. 74.
- 10 John Deutch and Ernest J. Moniz et al., *The Future of Nuclear Power: An Interdisciplinary MIT Study*, 2003, (“MIT”). The 1,000 gigawatt growth scenario is based on several assumptions including a steady expansion of energy production at a rate of roughly 2% per year, and nuclear power either retaining or increasing its market share relative to other sources of electricity.
- 11 See *Smith*.
- 12 *MIT*, p. 61.
- 13 *Weapons of Terror*, p. 74.
- 14 *Smith*, p. 113.
- 15 *Multilateral Approaches to the Nuclear Fuel Cycle*, INFCIRC/640, International Atomic Energy Agency, Vienna, 2005, p. 27.
- 16 Assuming the IAEA standard of 8 kg per weapon. David Albright and Kimberly Kramer, “Plutonium Watch: Tracking Plutonium Inventories,” Institute for Science and International Security, Washington D.C., 2005. Online at http://www.isis-online.org/global_stocks/end2003/plutonium_watch2005.pdf.
- 17 Edwin Lyman, “Can Nuclear Fuel Production in Iran and Elsewhere be

- Safeguard Against Diversion?” *After Iran: Safeguarding Peaceful Nuclear Energy*, NPEC/King’s College-London Conference October 2-3, 2005.
- 18 Marvin M. Miller, “Are IAEA Safeguards on Plutonium Bulk-Handling Facilities Effective?” Nuclear Control Institute, Washington, D.C., 1990. Online at <http://www.nci.org/k-m/mmsgrds.htm>.
- 19 *MIT*, p. 34.
- 20 *Id.*, p. 75.
- 21 Chris Abbott, Paul Rogers and John Sloboda, *Global Responses to Global Threats: Sustainable Security for the 21st Century*, Oxford Research Group, 2006, p. 11.
- 22 *Smith*, p. 69.
- 23 See “Variability of Wind Power and Other Renewables: Managements options and strategies,” International Energy Agency Publications, Paris, June 2005.
- 24 *Id.*
- 25 *MIT*, p. 26.
- 26 *MIT*, p. 109. For the purposes of their study, the MIT authors define “more advanced developing states” as those developing countries they project to increase per capita electricity consumption to 4000 kWh per year or beyond by 2050. 4000 kWh per person per year is the empirical dividing line between developed and developing economies utilized by the UN Human Development Index.
- 27 Abolition 2000, “International Sustainable Energy Agency: Proposed Model Statute,” Grace Policy Institute, New York, 2006.

Section 3.2: Iran and the Nuclear Fuel-cycle

- 1 *Weapons of Terror*, pp. 63-64.
- 2 *Id.*, p. 76.
- 3 John Burroughs, “The Iran Situation: Options for the Security Council,” Remarks to Diplomats Representing Some Elected Members of the Security Council, United Nations, New York, May 2, 2006. Online at <http://www.lcnp.org/disarmament/iran/remarks-may2.htm>.
- 4 *Implementation of Safeguards in the Islamic Republic of Iran: Report of the Director General*, GOV/2005/67, International Atomic Energy Agency, Vienna, September 2, 2005, paragraph 4.
- 5 William Broad and David Sanger, “New Worries Rise on Iranian Claim of Nuclear Steps,” *New York Times*, April 17, 2006.
- 6 H.E. Rajmah Hussain, Representative of Malaysia to the IAEA, Statement by the Non-Aligned Movement, IAEA Board of Governors Meeting, Vienna, February 2, 2006.
- 7 *Weapons of Terror*, p. 71.
- 8 Thomas B. Cochran, “Adequacy of IAEA’s Safeguards for Achieving Timely Detection,” Natural Resources Defense Council, *After Iran: Safeguarding Peaceful Nuclear Energy Conference*, London, October 2-3, 2005.
- 9 See box.
- 10 1995 Review and Extension Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Decision 2, Principles and Objectives for Nuclear Non-Proliferation and Disarmament, New York, 1995 (emphasis supplied).

- 11 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Final Document, Vol. I, Part I, Articles IV and sixth and seventh preambular paragraphs, New York, 2000, p. 8, para. 2.
- 12 See box.
- 13 *Annual Report 2004*, International Atomic Energy Agency, Vienna, 2005, p. 62.
- 14 *Id.*
- 15 GOV/2005/67, paragraph 51.
- 16 *Annual Report 2005*, International Atomic Energy Agency, Vienna, 2006.
- 17 IAEA, *Annual Report 2004*.
- 18 *The Structure and Content of Agreements Between the Agency and States Required in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons*, INFCIRC/153 (corrected), International Atomic Energy Agency, Vienna, June 1972, paragraph 19; Statute of the International Atomic Energy Agency, Vienna, October 23, 1956, Article XII.C.
- 19 *Weapons of Terror*, p. 63.
- 20 *Id.*
- 21 *Id.*
- 22 *Implementation of Safeguards in the Islamic Republic of Iran*, IAEA Board of Governors Resolution, GOV/2005/77, September 24, 2005, paragraph 1.
- 23 *Implementation of Safeguards in the Islamic Republic of Iran: Report of the Director General*, GOV/2004/83, International Atomic Energy Agency, Vienna, November 15, 2004, paragraph 107.
- 24 *Agreement between Iran and the Agency for the application of safeguards in connection with the Treaty on the Non-Proliferation of Nuclear Weapons*, INFCIRC/214, International Atomic Energy Agency, Vienna, May 15, 1974.
- 25 IAEA, GOV/2004/83, paragraph 112; IAEA, GOV/2005/67, paragraph 51.
- 26 The actual reporting was deferred.
- 27 IAEA, GOV/2005/77, paragraph, 2.
- 28 Agreement signed in Paris between Iran, France, Germany, United Kingdom, and the High Representative of the European Union, November 26, 2004.
- 29 Permanent Mission of Iran to the IAEA, Communication to the Agency, Vienna, August 1, 2005. Online at <http://www.iaea.org/Publications/Documents/Infcircs/2005/infcirc648.pdf>.
- 30 UN Security Council Resolution 1696, July 31, 2006. see Michael Spies and John Burroughs, "Commentary on Security Council Resolution 1696 on Iran," Lawyers' Committee on Nuclear Policy, July 31, 2006. Online at <http://www.lcnp.org/disarmament/iran/UNSCres-jul06.htm>.
- 31 Traditionally, following from the legal mandate of the Council set forth in the UN Charter, there are three elements a resolution must contain in order to be binding: 1) the Security Council must make a finding or determination that a given situation represents a threat to international peace and security (Article 39); 2) the Security Council must state it is acting under Chapter VII of the UN Charter; 3) the Security Council must use language in the operative portion of the resolution that confers a legal obligation (the Security Council decides rather than the Security Council calls upon or urges).
- 32 The sanctions are limited to freezing financial assets of persons or entities identified by the Council as engaged in those activities (operational paragraph [OP] 12). The resolution also requires all states to take measures to prevent contributions to the proscribed activities, e.g. by shipment of goods or provision of training (OP 4-7). Should Iran not comply with the resolution

- within 60 days, the Security Council stated its intent to adopt further punitive measures not including the use of force (OP 24(c)).
- 33 UN Security Council Resolution 1737, December, 23 2006, operative paragraph 2.
- 34 See Michael Spies, “UN Escalates Nuclear Situation with Iran,” Lawyers Committee on Nuclear Policy, New York, January 10, 2007. Online at <http://www.lcnp.org/disarmament/iran/UNSCres-dec06.htm>.
- 35 *Id.*, operative paragraph 8.
- 36 *Id.*, operative paragraph 24(b).
- 37 *Implementation of Safeguards in the Islamic Republic of Iran: Report of the Director General*, GOV/2006/27, International Atomic Energy Agency, Vienna, April 28, 2006, paragraph 36.
- 38 *Id.*
- 39 *Id.*
- 40 David Albright, Corey Hinderstein, “ISIS Issue Brief: Iran’s Next Steps: Final Tests and the Construction of a Uranium Enrichment Plant,” Institute for Science and International Security, Washington D.C., January 12, 2006. Online at <http://www.isis-online.org/publications/iran/irancascade.pdf>.
- 41 BBC News, “Iran nuclear bomb ‘in 10 years,’” June 2, 2006. Online at http://news.bbc.co.uk/2/hi/middle_east/5039956.stm.
- 42 White House, National Security Strategy of the United States of America, March 2006.
- 43 Leonard Weiss, “Atoms for Peace,” *Bulletin of the Atomic Scientist*, November/December 2003.
- 44 *Weapons of Terror*, p. 75.
- 45 *Id.*, p. 60.
- 46 See generally International Panel on Fissile Materials, *Global Fissile Material Report 2006*, Princeton, 2006, pp. 57-66.

Section 3.3: Toward Nuclear Abolition

- 1 Merav Datan, Felicity Hill, Jürgen Scheffran, Alyn Ware, *Securing our Survival (SOS): The Case for a Nuclear Weapons Convention*, International Physicians for the Prevention of Nuclear War, 2007. Online at www.icanw.org. *Securing our Survival* is a revised version of Merav Datan and Alyn Ware, *Security and Survival: The Case for a Nuclear Weapons Convention*, International Physicians for the Prevention of Nuclear War, 1999.
- 2 *Weapons of Terror*, pp. 19, 109.
- 3 *Nuclear Weapons Opinion*, para. 105(2)E (emphasis supplied).
- 4 *E.g.*, “Follow-up to the advisory opinion of the International Court of Justice on the Legality of the Threat or Use of Nuclear Weapons,” 2006 General Assembly resolution, (A/RES/61/83), adopted by a vote of 125 to 27 with 29 abstentions. The resolution is one of a series going back to 1996 (A/RES/51/45). The second operative paragraph “[c]alls once again on all states to immediately fulfill that obligation by commencing negotiations leading to an early conclusion of a nuclear weapons convention prohibiting the development, production, testing, deployment, stockpiling, transfer, threat or use of nuclear weapons and providing for their elimination.” The first operative paragraph “[u]nderlines once again the unanimous conclusion of the International Court of Justice that

- there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.” In a separate vote, that paragraph was approved by a vote of 168 to three (United States, Russia, Israel) with five abstentions (including France and Britain).
- 5 A/RES/55/33C, para. 18. The resolution was adopted by a vote of 154 in support (including China, Britain, United States) to three opposed (India, Israel, Pakistan) with eight abstentions (including France and Russia).
 - 6 See “Verification of nuclear disarmament: final report on studies into the verification of nuclear warheads and their components,” working paper submitted by the United Kingdom of Great Britain and Northern Ireland to the 2005 NPT Review Conference, NPT/CONF.2005/WP.1, and previous working papers cited therein. Online at http://www.reachingcriticalwill.org/legal/npt/RevCon05/wp/verification_UK.pdf.
 - 7 Committee on International Security and Arms Control, National Academy of Sciences, *Monitoring Nuclear Weapons and Nuclear-Explosive Materials: An Assessment of Methods and Capabilities*, 2005. Online at <http://www.nap.edu/catalog/11265.html>.
 - 8 *Id.* pp. 219-220.
 - 9 International Panel on Fissile Materials, *Global Fissile Material Report 2006*, Princeton University, Princeton, NJ, 2006, pp. 51-56.
 - 10 *Program Statement*, Global Action to Prevent War, New York, 2003, p.13. Online at <http://globalactionpw.org/prev/GlobalAction403.pdf>.
 - 11 *Weapons of Terror*, p. 183.
 - 12 Stephen G. Rademaker, U.S. Assistant Secretary of State for Arms Control, “U.S. Compliance With Article VI of the Non-Proliferation Treaty (NPT),” Remarks at a Panel Discussion of the Arms Control Association, Carnegie Endowment for International Peace, Washington, D.C., February 3, 2005. Online at http://armscontrol.org/events/20050203_rademaker_text.asp. For rebuttal of this claim, see section 1.2. See also “Compliance Assessment: The NPT Declared Nuclear Weapon States,” Part Three, Civil Society Presentation to the 2005 NPT Review Conference, Lawyers’ Committee on Nuclear Policy and Western States Legal Foundation, May 2005. Online at <http://lcnp.org/disarmament/npt/ArtVIcompliance.pdf>.

Section 4.1: The Word as Arrow

- 1 Václav Havel, “A Word About Words,” Acceptance Speech for the Peace Prize of the German Booksellers Association, Oct. 15, 1989. Online at <http://www.vaclavhavel.cz/index.php?sec=2&id=1&setln=2>.
- 2 For details, consult the Natural Resource Defense Council’s Archive of Nuclear Data at <http://www.nrdc.org/nuclear/nudb/datainx.asp>, and Robert Norris and Hans Kristensen, “U.S. nuclear forces, 2007,” *Bulletin of the Atomic Scientists*, January/February 2007, pp. 79-82.
- 3 See M.V. Ramana, “Bombing Bombay? Effects of Nuclear Weapons and a Case Study of a Hypothetical Explosion,” *IPPNW Global Health Watch*, No. 3, International Physicians for the Prevention of Nuclear War, Cambridge, Massachusetts, 1999.
- 4 See *section 1.2*. The Court unanimously concluded that: “There exists an

- obligation to pursue in good faith and bring to a conclusion negotiations on nuclear disarmament in all its aspects under strict and effective international control.” (Nuclear Weapons Opinion, para. 105(2)F)
- 5 McGraw-Hill, 1965. For a discussion of the term “sufficiency” in this context, see Edward Morgan’s letter to the New York Review of Books, June 5, 1969. Online at <http://www.nybooks.com/articles/11296>.
 - 6 Cf. Walter Dorn, “Human Security: An Overview.” Online at http://www.rmc.ca/academic/gradrech/dorn24_e.html. *See also* The Hague Agenda for Peace and Justice in the 21st Century. online at <http://haguepeace.org/resources/HagueAgendaPeace+Justice4The21stCentury.pdf>.
 - 7 See <http://en.wikipedia.org/wiki/Thule>.

Section 4.2: A Gender Perspective

- 1 Carol Cohn, Felicity Hill, and Sara Ruddick, “The Relevance of Gender for Eliminating Weapons of Mass Destruction,” *Weapons of Mass Destruction Commission*, published study No. 38, Stockholm, December 2005 (“Cohn”).
- 2 *Weapons of Terror*, pp. 18, 43-44.
- 3 *Id.* p. 87.
- 4 *Cohn*, p. 3.
- 5 *Weapons of Terror*, p. 35. Here, the Commission actually says states might seek WMD, not nuclear weapons, to enhance their status, but it later says possessing biological weapons “would not enhance the status of any state.” *Id.*, p. 40. As chemical weapons are outlawed like biological weapons, presumably the WMD to which the Commission is referring are nuclear weapons.

Section 4.3: Redefining Security in Human Terms

- 1 *Weapons of Terror*, p. 24.
- 2 *Id.*, p. 161 (emphasis supplied).
- 3 *Id.*, p. 160 (emphasis supplied).
- 4 *Id.* (emphasis supplied).
- 5 Don Oberdorfer, “Strategy for Solo Superpower; Pentagon Looks to ‘Regional Contingencies,’” *The Washington Post*, May 19, 1991. Online (for purchase) at <http://www.highbeam.com/doc/1P2-1065534.html>.
- 6 See <http://www.abolition2000.org>.
- 7 *Weapons of Terror*, p. 109.
- 8 See section 2.2.
- 9 See <http://www.unitedforpeace.org>.
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