

**Weapons of Mass Destruction Commission
Panel Discussion at the World Peace Forum**

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Good morning. The Lawyers' Committee on Nuclear Policy (LCNP) and its international body, the International Association of Lawyers Against Nuclear Arms, are members of Global Action to Prevent War. In addition, LCNP hosts the coordinator for Global Action to Prevent War, Waverly de Bruijn, and Professor Saul Mendlovitz, a Global Action founder, is LCNP vice-president. Personally I have worked closely with Global Action. My remarks here, however, reflect in particular LCNP's perspectives on issues relating to nuclear weapons.

The Lawyer's Committee on Nuclear Policy together with the Western States Legal Foundation and Reaching Critical Will, in partnership with the Arms Control Association, has a program of assessment and outreach regarding the Blix report. We're planning to do an in-depth analysis, probably available by the fall, but you can see our preliminary responses at www.wmdreport.org.

One of the things we like about the Blix report is that it reflects, to some degree, what civil society groups like ours have been saying and doing for the past decade or 15 years. On page 109 there is a reference to a nuclear disarmament treaty. In the mid-1990s, my organization and others drafted a model nuclear weapons convention to prohibit and eliminate nuclear weapons, just as the Chemical Weapons Convention does for chemical weapons. Also on page 109 there is a reference to the unanimous holding of the International Court of Justice in its 1996 advisory opinion that there is an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects. There was a major civil society campaign, in which the Lawyers' Committee was deeply involved, in the early 1990s to support the General Assembly's request for that opinion. It was one of the best things that occurred in the 1990s; among other things, it highlighted the goal of achieving a nuclear-weapon-free world.

Indeed, one of the greatest strengths of the Blix report is its emphasis on the importance of international law. It explains very clearly how nuclear, biological, and chemical weapons can be and are being controlled through treaty regimes. It explains that treaty regimes bring stability. It explains that they involve implementing agencies and review

processes. It explains that states around the world buy into these regimes and buy into the rules on non-use, non-possession of nuclear, biological, and chemical (NBC) weapons. This may all seem rather basic, but it needs to be understood. It needs to be understood, that there are functioning, effective treaty regimes, and that there is a system of international law which applies to NBC weapons.

The report also very effectively gets across that regimes work when there is reciprocity and cooperation. Certainly what I've learned at the UN and the NPT is that for states to accept the Additional Protocol as the standard for compliance with their obligations regarding civilian nuclear power under the NPT and the safeguards agreements, they need to see some action on the disarmament side of the regime. That's an example of how reciprocity and cooperation works.

The report is refreshingly frank about the lack of reciprocity. On page 94, it says quite clearly, "It's easy to see that the nuclear-weapon states-parties to the NPT have largely failed to implement" their NPT nuclear disarmament obligation.

The principles of verification and irreversibility affirmed by the 2000 NPT review conference were not applied in the Moscow Treaty of 2002.

There has not been a diminishing role of nuclear weapons in security policies-another of the commitments made in 2000. President Chirac of France earlier this year signaled that nuclear weapons could be used in response to a terrorist attack on France. This month the U.S. Department of Energy was planning on blowing up 700 tons of ammonium nitrate fuel oil at the Nevada test site in order to model the effects of a low-yield nuclear attack on underground structures. Fortunately, local opposition from Western Shoshones and anti-nuclear activists and down-winders has led to the indefinite delay of that test, but it's certainly illustrative of the dynamic of U.S. policy.

The report also touches on the need to comply with UN Charter requirements on resort to war and effectively rejects the Bush doctrine of preventive war as a means of counterproliferation.

In its emphasis on the importance of international law and treaty regimes, the Blix report parallels the Global Action to Prevent War program statement. The statement says that Global Action goals of demilitarization and conflict prevention, of the abolition of war, are ambitious, but "they have a basis in the existing treaty obligations of most countries," in the NPT, the UN Charter, and other instruments.

Let me now compare some of the specifics of the Blix report and the Global Action program regarding nuclear abolition. The Blix report focuses mostly on near-term measures, like bringing the CTBT into force, negotiating a treaty banning production of fissile materials for weapons, implementing *verified* deep reductions of U.S. and Russian arsenals, standing down or "dealerting" nuclear forces now poised for immediate launch (just as during the Cold War), and bringing all nuclear weapon possessing countries into the disarmament process. But it also states clearly the imperative of "planning for

security without nuclear weapons,” and as I mentioned earlier, says that a “nuclear disarmament treaty is achievable and can be reached through careful, sensible, and practical measures. Benchmarks should be set; definitions agreed; timetables drawn up and agreed upon; and transparency requirements agreed.”

The Global Action program is not inconsistent with the approach of the Blix report, but seeks to delineate more precisely the path to abolition over several decades. In the first phase, U.S. and Russian arsenals would be reduced to no more than 1000 total warheads each, and the arsenals of other states would be capped. In the second phase, arsenals in each country would be reduced to no more than 100 warheads. In the third phase, remaining stocks would be immobilized in internationally monitored storage. Also, there would be a global treaty for control of missiles, aircraft, and other means of delivering WMD. In the fourth phase, elimination of nuclear weapons would be completed through destruction of remaining warheads and delivery systems and the infrastructure to produce them, and a treaty to ban their possession or use would be brought into force.

One clear difference between the two documents is that the Global Action statement is absolutely clear on the requirement of control of missiles and other long-range delivery systems. In contrast, the Blix report describes the problems posed by ballistic and cruise missiles and notes that there have been discussions on missile control, but makes no clear recommendations for missile disarmament. It does say that states should not deploy missile defenses without first attempting to negotiate the removal of missile threats.

The WMDC was too cautious on this matter. Historically U.S./Soviet arms control was accomplished through limitation and reduction of bombers and missiles. It is true that verified warhead dismantlement now needs to be undertaken, as was contemplated in the START process rejected by the Bush administration. But it is also true that the delivery systems must be controlled, not only as between the United States and Russia, as in the past, but globally. This is well illustrated by the current crisis over North Korea’s development of long-range missiles. The focus on Iran is also driven in part by its development of intermediate-range missiles.

In the vocabulary of specialists, missiles, like NBC warheads, are “strategic” weapons that must be controlled. When sufficient sophistication is achieved, they can be used for delivery of non-nuclear warheads, whether conventional, biological, or chemical. This was dramatically illustrated by recent reports of the Pentagon’s interest in the destabilizing substitution of conventionally-armed ballistic missiles for nuclear-armed ones on four Trident submarines. The U.S. is also investigating other delivery systems that could be used for all kinds of warheads. As Western States Legal Foundation has reported, the U.S. is researching new kinds of weapons with global reach, including gliding, maneuvering reentry vehicles that could carry a variety of weapons and that could be delivered by re-useable launch vehicles, somewhat like smaller, cheaper unmanned versions of the space shuttle.

Missiles and other delivery systems will almost certainly have to be controlled to get to low levels of nuclear weapons and their elimination. It is unlikely that states will want to

give up their nuclear weapons if they are subject to being struck by long-range delivery systems that could carry conventional warheads or, if verification of nuclear warhead dismantlement has not been successful, nuclear warheads that another state was not supposed to have.

The same considerations apply to space-based systems, especially those capable of striking targets on the ground. However, with the possible exception of anti-satellite systems, it is not clear that such space-based systems are likely to be deployed due to their great cost and problems of technical feasibility. In contrast, improvements in missiles and other non-space based delivery systems are definitely feasible and are vigorously being pursued and implemented.

A strength, then, of the Global Action program statement is that it clearly recognizes the need to control on a global basis long-range delivery systems that can have nuclear, biological, chemical or conventional payloads. A more detailed study on this topic in recent years is *Beyond Missile Defense*, by researchers from the International Network of Engineers and Scientists Against Proliferation and Western States Legal Foundation.

The Global Action statement goes beyond the point about delivery systems, which is rooted in the U.S./Soviet experience of arms control, to say that “neither nuclear disarmament nor far-reaching conventional disarmament can be fully implemented without the active contribution of the other.” By far-reaching conventional disarmament, Global Action means phased, treaty-based reductions of tanks, aircraft, artillery – all the means of fighting major conventional war. It is certainly true that demilitarization and institutionalization of conflict prevention would, as Global Action says, “create an environment more conducive to the enduring elimination of all nuclear, chemical, and biological weapons.” The Blix report gestures in the direction of the Global Action analysis in its final section, saying that “the perspective of a world free of WMD must be supplemented by the perspective of a world in which the arsenals of conventional weapons have been reduced drastically.”

However, we must be wary of positing achievements in these areas as preconditions for nuclear reduction and elimination. Based on observing their performance at the NPT, I can assure you that that position would be seized upon by states determined to maintain their nuclear arsenals. The Blix report rightly does not imply any such preconditions. It is also the case that, consistent with the Global Action statement, as reduction and elimination of nuclear arsenals proceed, states will be forced to adjust their security relationships in other respects, for the better.

In closing, let me say that the timing of the Blix report is superb. It comes at a time when the urgent need to revitalize the disarmament process is widely appreciated. Together with the Global Action statement and the model nuclear weapons convention, it can make a great contribution to our understanding of how to achieve a nuclear weapon free world.