THE RELATIONSHIP BETWEEN NON-PROLIFERATION AND NUCLEAR WEAPON USE DOCTRINE

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BY AMBASSADOR THOMAS GRAHAM, JR.
PRESIDENT, THE LAWYERS ALLIANCE FOR WORLD SECURITY

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Lawyers Alliance for World Security
Committee for National Security

1901 Pennsylvania Ave., NW, Suite 201, Washington, DC 20006
tel: (202)745-2450 *fax:* (202)667-0444 *e-mail:* disarmament@lawscns.org

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by Ambassador Thomas Graham, Jr.
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The NATO Alliance recently conducted its 50th Anniversary Summit meeting in Washington on April 23rd and 24th, 1999. The fifty-year record of success which has permitted in the words of the April 24 Washington Summit Communiqué "the citizens of Allied countries to enjoy an unprecedented period of peace, freedom and prosperity" has been reviewed and paid tribute and a new Alliance has been shaped for the challenges of the 21st century. Among other things, the reformulated Alliance will be "able to undertake new missions including contributing to effective conflict prevention and engaging actively in crisis management, including crisis response operations." This means that NATO has included in its mandate out of area operations through non-Article V (the treaty Article providing that an attack on one Alliance member is an attack on all) responses to crises beyond the borders of NATO which may threaten the interests of the Alliance. Of course, opposing aggression and genocide in Southeastern Europe on the very borders of NATO is one thing, it is quite another to assume a general mandate to deal with crises beyond NATO's borders.

It may be that this new role for NATO is necessary and inevitable, but one aspect of it bares close attention. Even though the new NATO Strategic Concept,

also released on April 24, 1999, describes the use by the Alliance of nuclear weapons as "extremely remote," NATO doctrine still retains the option of the first use of nuclear weapons as appropriate. It is inadvisable, I would submit, to assume for NATO out of area responsibility, while at the same time retaining the doctrine of reserving the right to initiate the use of nuclear weapons in future conflicts. This could be interpreted as threatening non-nuclear weapon states with nuclear weapons. It is an invitation to nuclear proliferation.

NATO's policy of reserving the right to use nuclear weapons first may have been appropriate during the Cold War, but now it is inconsistent with the international commitments associated with the Nuclear Non-Proliferation Treaty (NPT) of the three NATO nuclear weapon state Alliance members and is in direct contradiction to NATO non-proliferation objectives. The option to use nuclear weapons first was thought to be important to the defense of NATO during the Cold War because of the former Warsaw Pact's superiority in conventional forces. But since the fall of the Soviet Union and the dissolution of the Warsaw Pact, it is NATO which maintains conventional superiority in Europe greater than has ever been enjoyed by any force in history. Continued insistence that the most capable conventional force in the world would need to reserve the option to use nuclear weapons first strains NATO's credibility, as well as the belief by the world's non-nuclear weapons states that their own security does not require a nuclear weapons guarantee. Further, one of the lessons of the Cold War was that nuclear weapons are not militarily useful weapons for NATO.

The civilized world's principal defense against the proliferation of nuclear weapons to irresponsible regimes, terrorist organizations, or criminal conspiracies is the NPT. In order to preserve and strengthen this central foundation of post-Cold War security, NATO's nuclear strategy must be consistent with the non-proliferation priorities of its member states which are all

parties to the NPT. Concluded in 1968, the NPT is the legal framework that establishes the international norm against nuclear proliferation and serves as the foundation for all other efforts to control weapons of mass destruction. Before it was negotiated, during the Kennedy Administration, it was predicted that there could be as many as 25-30 nuclear weapon states by the end of the 1970s, and who knows how many today, if the trend toward nuclear proliferation had been left unchecked. The NPT gave the world a thirty-year respite from further proliferation. While three countries – India, Pakistan, and Israel – remained aloof from the Treaty they were careful not to openly defy the regime; until India and Pakistan did so earlier this year.

The world community negotiated the NPT to limit nuclear weapon proliferation to the five states (the United States, the United Kingdom, the former Soviet Union, France and China) that had already tested nuclear weapons. The NPT did not validate the possession of nuclear weapons by those five states, in fact it directly bound them in Article VI to work toward the ultimate elimination of nuclear weapons. The Treaty defined a balance of obligations between the nuclear weapon states and the non-nuclear weapon states, while the non-nuclear weapon states agreed never to acquire nuclear weapons. The nuclear weapon states agreed to pursue nuclear disarmament negotiations with the ultimate objective of the elimination of nuclear weapons and also to share the benefits of peaceful nuclear technology. This is the essential bargain that is the essence of NPT and the basis of negotiated international security today and which made all subsequent nuclear arms control possible.

It bears noting that if the NPT had not been concluded and selective nuclear proliferation had continued to be the policy of the United States, as it was in the early 1960s, then two of the countries most likely to have received nuclear weapons under such a policy would have been

Yugoslavia and Iran. Governments change. If the Serbian President had had nuclear weapons at his disposal during the Kosovo crisis, the United States and NATO would have been in grave danger; it is a valuable exercise to ask ourselves what really stands between Milosevich and this capability. The best answer is the norm of international behavior established by the NPT. Clearly, it is in our interest to keep this norm strong.

Unfortunately, in 1999 there are reasons to believe that the NPT, the civilized world's principal defense against the widespread proliferation of nuclear weapons is in jeopardy. Overt nuclear proliferation in South Asia, amid fervent denunciation of the NPT as a discriminatory and even racist regime, and other ominous developments, now threaten to upset the delicate balance on which both nuclear non-proliferation and disarmament depend. The original NPT signatories in 1968 -- and all of the countries that have joined since to form a nearly global non-proliferation community--agreed that the number of nuclear weapons states in the world should be limited to the five states that already possessed nuclear weapons. The nuclear arsenals of the five were not approved by the NPT; they are specifically challenged by Article VI and their ultimate abolition is mandated by the Treaty. However, the performance of the nuclear weapon states in moving toward nuclear disarmament has been insufficient in the eyes of many non-nuclear weapon states. Some of those that have voluntarily foresworn the nuclear weapon option on the condition that only five states would have nuclear weapons, and that those five would work together toward disarmament, may reconsider their own commitments in light of changes in these conditions. Many have said as much, and if any leave the Treaty regime, more would surely follow.

In 1995, in connection with the indefinite extension of the NPT the five nuclear weapon states, pursuant to a resolution of the United Nations Security Council formally undertook, not just not to use nuclear weapons first, but rather never to use nuclear weapons against the non-nuclear weapon states parties to the NPT – now 181 countries. (These commitments are referred to as negative security assurances.) Cuba is the only truly non-nuclear weapon state which is not an NPT party (not counting of course the three so called "threshold states"-- India, Pakistan and Israel).

Thus, for the Alliance nuclear weapon states, the only states to which these commitments do not apply are Russia and China, because they are nuclear weapon states, and India, Pakistan, Israel and Cuba because they are not NPT parties. Surely, we would not wish to initiate a nuclear war with Russia or China. Therefore if the United States, the United Kingdom and France are to be faithful to their NPT-related commitments, the NATO first use option rationally only applies to India, Pakistan, Israel and Cuba, while it damages NATO's worldwide non-proliferation efforts. It is not easily justified when considered in this light.

The negative security assurances were found to be legally binding the next year by the World Court in its 1996 decision. These obligations were inextricably linked to the indefinite extension of the NPT and were essential to its accomplishment. They are also central to the continuing viability of the NPT; after all this is the least that the nuclear weapon states can do for the 181 countries that have permanently forsworn nuclear weapons, that is to undertake not to use such weapons against them.

Retention by NATO of the option to use nuclear weapons first is inconsistent with the 1995 negative security assurances. On the one hand the United States, the United Kingdom and France have pledged never to use nuclear weapons against the NPT non-nuclear weapon states.

On the other hand, as members of NATO, these three states retain the right to introduce nuclear weapons into future conflicts, presumably against non-nuclear weapon states parties to the NPT. Further, some have argued that the threat of retaliation with nuclear weapons should be used to overtly deter chemical and biological weapons possessed by non-nuclear weapon states. This would cause the United States, the United Kingdom and France to be potentially in violation of the negative security assurances as this would be tantamount to threatening to use nuclear weapons against non-nuclear weapon states, when there was a commitment not to use them. Finally, for the most powerful conventional force in history, the NATO Alliance, to insist that it needs the threat of retaliation with nuclear weapons to say, deter, for example, the biological weapons of Saddam Hussein, raises the question as to why Iran or Egypt or virtually anyone else does not need them as well. The NATO first use option directly undermines efforts to persuade non-nuclear weapon states to continue to refrain from developing nuclear weapons. Continuing to retain a first use option for nuclear weapons suggests that these weapons have many roles and therefore are essential to the security and greatness of a state. Furthermore, by retaining the option to use nuclear weapons first and not limiting their role to the core deterrence function of deterring their use by others, NATO doctrine reinforces the high political value already attributed to nuclear weapons, thereby making reductions and non-proliferation more difficult to achieve.

In addition, the utility of a policy of ambiguity toward a state threatening the use of chemical and biological weapons has vanished with the disclosures in memoirs by relevant senior policy makers that whatever its implied policy was, the United States never had under any circumstances any intention of using nuclear weapons in the Persian Gulf War. General Powell

in his memoirs, "My American Journey," indicated he was strongly opposed to letting "that genie" (that is nuclear weapons) loose during the Gulf War.[1] He had an analysis done of the use of tactical nuclear weapons on a desert battle field and said in his memoirs that he showed the results to Secretary Cheney and then had the analysis destroyed. "if I had any doubts before about the practicality of nukes on the field of battle, this report clinched them," he said.[2] National Security Advisor Brent Scowcroft in "World Transformed," the book he co-authored with President Bush, says in reference to a January 31, 1991 strategy meeting: "What if Iraq uses chemical weapons? We had discussed this at our December 24 meeting at Camp David and had ruled out our own use of them, but if Iraq resorted to them, we would say our reaction would depend on circumstances and that we would hold Iraqi divisional commanders responsible and bring them to justice for war crimes. No one advanced the notion of using nuclear weapons, and the President rejected it even in retaliation for chemical or biological attacks. We deliberately avoided spoken or unspoken threats to use them on grounds that it is bad practice to threaten something you have no intention of carrying out. Publicly we left the matter ambiguous. There is no point in undercutting the deterrence it might be offering."[3]

Secretary Baker in his memoirs "The Politics of Diplomacy" in describing his January 9, 1991 meeting with Iraqi Foreign Minister Tariq Aziz said that "the President had decided, at Camp David in December, that the best deterrence of the use of weapons of mass destruction by Iraq would be a threat to go after the Ba'ath regime itself. He had also decided that U.S. forces would not retaliate with chemical or nuclear weapons if the Iraqis attacked with chemical munitions. There was obviously no reason to inform the Iraqis of this. In hope of persuading

[1] Colin Powell with Joseph E. Persico, *My American Journey* (New York, Ballantine Books, 1995), p. 472.
[2] Powell, *My American Journey*, p. 486.

them to consider more soberly the folly of war, I purposely left the impression that the use of chemical or biological agents by Iraq would invite tactical nuclear retaliation. (We do not really know whether this was the reason there appears to have been no confirmed use by Iraq of chemical weapons during the war. My own view is that the calculated ambiguity regarding how we might respond has to be part of the reason.)[4]

Thus, to the extent there was a policy of "ambiguity" concerning possible use by the United States of nuclear weapons in response to chemical or biological weapons use by Iraq, the world now knows that it was a bluff. In the future a policy of ambiguity will not be believed. If nuclear weapons are to be used to deter chemical or biological weapons, the threat to use nuclear weapons in retaliation would have to be explicit. Then, in addition to being in potential violation of the negative security assurances as I have described, the credibility of, for example NATO or the President of the United States, would become involved and there would be strong pressure to actually use nuclear weapons, if chemical and biological weapons were somehow employed. To lock oneself in to using nuclear weapons would be inadvisable in the extreme.

The objective of preventing the further proliferation of nuclear weapons should be at the center of NATO security policy. During the Cold War nuclear weapons were given a very high political status. The five permanent members of the Security Council are the five nuclear weapon states, an accident of history but nevertheless a fact. The Indian Prime Minister after the tests last May said in effect "India is a big country now, we have the bomb." If the political value of nuclear weapons is to be reduced, which is essential if NATO non-proliferation policies are to succeed and we are to avoid widespread nuclear proliferation creating a nightmare security situation for the 21st century, the Alliance nuclear weapon states members simply must take non-

[3] George Bush and Brent Scowcroft, *A World Transformed* (New York, Knopf, 1998), p. 463.

proliferation seriously. If the political value of nuclear weapons is not lowered, the political attractiveness of these weapons will be too great and the 1945 era technology on which they are based too simple for many states to continue to forswear them for the long term.

At the Washington Summit, NATO opened the door to solution of this problem for the Alliance. The Washington Summit Communiqué states in Paragraph 32: "In light of overall strategic developments and the reduced salience of nuclear weapons, the Alliance will consider options for confidence and security-building measures, verification, non-proliferation and arms control and disarmament. The Council in Permanent Session will propose a process to Ministers in December for considering such options. The responsible NATO bodies would accomplish this..." At a news conference on April 24, Canadian Foreign Affairs Minister, Mr. Lloyd Axworthy confirmed the willingness of NATO "To have a review initiated" of its nuclear weapon policies. Mr. Axworthy added: "It's a message that the [Canadian] Prime Minister took [to] certain NATO leaders...I think we have now gained an acknowledgement that such a review would be appropriate and that there would be directions to the NATO Council to start the mechanics of bringing that about."

It is of great importance that the Alliance positively consider the adoption of a new policy consistent with its new responsibilities: that it will not be the first to introduce nuclear weapons into future conflicts. This would support NATO nuclear non-proliferation goals. It would bring the Alliance commitments of the United States, the United Kingdom and France into line with their NPT related obligations. It would remove any potential conflict between the new out of area mandate of the Alliance and the non-proliferation objectives of the Alliance. And it would provide what is likely to be the only positive development in the nuclear arms control and

[4] James A. Baker, III with Thomas M. DeFrank, *The Politics of Diplomacy: Revolution, War and Peace, 1989-1992* New York: G.P. Putnam's Sons, 1995), p. 359.

disarmament field to be taken to the April 2000 NPT Review Conference to help protect an NPT under siege.