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Nuclear Materials Management and the NPT

**Remarks by Ambassador Thomas Graham, Jr.
President of the Lawyers Alliance for World Security
Center for Strategic and International Studies – Washington, D.C.
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I would like to thank the Center for Strategic International Studies for organizing this important and timely discussion of the issue of Global Nuclear Materials Management. Although this issue has been with us since the Trinity test, recent events, such as the dissolution of the former Soviet Union, have brought it into acute focus as a part of the debate regarding nuclear weapons proliferation. As is commonly recognized, acquisition of weapons-usable fissile material is the most difficult technical hurdle in the development of a nuclear weapon. Awareness of this fact, and the great burden nuclear materials management has permanently imposed on the existing nuclear weapon states, will be increasingly important in political discussions about nuclear proliferation and its prevention in the future.

When the Nuclear Non-Proliferation Treaty, the NPT, was being originally contemplated in the 1960s, there were predictions that there might be twenty to thirty nuclear weapon states by the end of the 1970s. The proposed NPT was a radical solution at a time when many states were uncertain whether or not the world would develop into a place in which status, sovereignty, and security would dictate the rapid acquisition of nuclear weapons by every state

capable of producing them. This outcome was averted, narrowly in my view, by the conclusion of the NPT in 1968.

But the issue was not closed out forever. Many of today's bulwarks of nuclear non-proliferation, such as Germany, were reluctant to permanently renounce nuclear weapons because it was unclear whether or not the concept of non-proliferation would work forever. It was decided that the Treaty would have a unique feature; its duration would be limited to twenty-five years, after which its continued viability would be reviewed and its extension considered by a conference of all the states parties.

The 1995 NPT Review and Extension Conference ended in a great victory for all the nations of the world: the indefinite and unconditional extension of the NPT. The formal agreement that the world would be better off without nuclear weapons was strengthened and made permanent and has grown to near-universality in membership. Today all but nine states have used the NPT to forswear nuclear weapons in a legally binding manner and the United States, Russia, the United Kingdom, France, and China are partners in the Article VI commitment to work together with the non-nuclear weapon states parties toward the ultimate elimination of nuclear weapons.

The Treaty constitutes a basic bargain, by which the non-nuclear weapon states agree not to acquire nuclear weapons and the nuclear weapon states agree to work to negotiate nuclear disarmament measures aimed at the ultimate elimination of these weapons. This balance of obligations allows both groups of states parties to actively support the central goal of the NPT, a world ultimately free of nuclear weapons, each in their own way. While it is far from perfect, the NPT is the only legally binding international commitment undertaken by the nuclear weapon states to pursue nuclear disarmament; if the NPT dissolves, this commitment will no longer exist.

It is worth noting that all of the original sponsors of the NPT were non-nuclear weapon states. These non-nuclear weapon states subsequently persuaded the nuclear weapon states to make a legal commitment to disarmament as their price for remaining non-nuclear weapon states.

It bears noting that commitments that are not fully honored undermine the bargain. During the Cold War, little was done with regard toward reversing the nuclear arms race and since the end of the Cold War, while much has been accomplished, much more needs to be done and outdated modes of thinking have inhibited the realization of the peace dividend which should have followed. The radical changes in the international political landscape of the past several years have brought new security threats and new challenges, but they have also brought new opportunities for cooperative international action to protect the security of all. The nuclear weapon states parties to the NPT, in particular, have a responsibility to respond to the opportunities for disarmament progress which present themselves. Studies like those of the Canberra Commission and the U.S. National Academy of Sciences have pointed the way, but unwillingness to overcome narrow interests and political concerns have prevented the kind of wholesale progress these studies recommend. The recent tests in South Asia have demonstrated that this cannot continue; that continuing on our current course is an invitation to widespread nuclear proliferation and a catastrophic security situation for everyone.

The United States and the other nuclear weapon states parties to the NPT have for too long contributed to the inappropriately high political value attached to nuclear weapons. The United States retains a policy which explicitly reserves the option of the first use of nuclear weapons, and debate persists in Washington about whether nuclear weapons should be used for new roles, such as the explicit deterrence of chemical or biological attack contrary to NPT related commitments. The use or threat of use of nuclear weapons against non-nuclear weapon

states parties to the NPT was explicitly disavowed by the United States at the first United Nations Special Session on Disarmament in 1978 and this pledge was re-affirmed in the context of the indefinite extension of the NPT in 1995. There is no exception reserved in this negative security assurance for deterrence of chemical or biological weapons. The World Court has declared this negative security assurance legally binding and it is an essential underpinning of the NPT; explicit deterrence of chemical or biological attack is contrary to two decades of American policy and in conflict with this NPT commitment and therefore detrimental to our non-proliferation objectives. The possibility of nuclear weapons assuming new roles is often considered without reference to the adverse effect such actions would have on U.S. non-proliferation efforts. The more the United States relies on nuclear weapons to solve security problems, the harder it will be to convince other states that they do not need nuclear weapons for the same reasons.

While complete nuclear disarmament is not presently foreseeable, the necessary verification and enforcement mechanisms do not yet exist, the world must continue to work toward this goal. No one could have predicted the changes of the last ten years, undoubtedly the future will bring more. Some changes have brought opportunity, others frustration, but the entire world, save India, Pakistan, Israel, and Cuba, is currently legally bound to work toward nuclear disarmament and that opportunity must not be lost.

The New York decision made the NPT permanent, but the legal regime and the global norm it supports are only as strong as the commitments of all its states parties to all of its provisions. Without progress towards nuclear disarmament, without a reduction in the political value of nuclear weapons, without specific progress such as CTBT ratification, the confidence in the capitals of 181 nations that they need not possess nuclear weapons may weaken and,

eventually, disappear. We have a simple choice: we can work toward eventual nuclear disarmament or we can drift toward the only alternative, widespread nuclear proliferation.

I recently raised this point at a conference in India at which the non-nuclear weapon states parties to the NPT were characterized as “pigs agreeing not to fly.” This has never been true...many countries, such as Japan, Germany, Canada, Sweden, Brazil, Argentina, Switzerland, Italy, and many others could have developed nuclear weapon technology if they chose. But the recent challenges the dissolution of the former Soviet Union has imposed on the world’s nuclear materials management capabilities make the legal and political commitment against nuclear proliferation, the NPT, all the more essential. In a world in which tons of weapons-usable fissile material must be protected under increasingly challenging conditions and accountancy is subject to uncertainty, it will become increasingly difficult to keep the small quantities of plutonium and highly-enriched uranium necessary for the construction of a nuclear explosive device out of hands of those operating outside the constraints of the global ban on the proliferation of nuclear weapons. It is worth noting that in addition to the handful of states of longstanding concern, sub-state groups, such as terrorist organizations, criminal conspiracies, or religious cults may now be part of this problem.

Many capable people are struggling to keep their fingers in the proverbial dike which prevents a widespread black market in weapons-usable fissile material from developing. But this is only a delaying tactic. Our efforts to protect fissile material may be more or less successful at preventing nuclear proliferation and nuclear terrorism in the near term, but they will not necessarily stop a potential proliferant state, terrorist organization, religious cult, or criminal conspiracy determined to acquire a nuclear weapon from achieving that objective over time. From now on we must be prepared to respond to the possibility that weapons-usable nuclear

material is for sale. A lasting response to this problem must involve reducing the quantities of weapons-usable fissile material stored anywhere and de-legitimizing nuclear weapons as instruments of policy or war. If the international community can, through responsible action, move toward the deep reduction and ultimate elimination of nuclear weapons, restrict the role of nuclear weapons to the core deterrent function of deterring their use by others, and minimize the number of states and organizations committed to the acquisition of nuclear weapons while simultaneously making such weapons and their constituent materials more difficult to obtain, we may be able to deal with the residual threat through safeguards, technical fixes, intelligence, and law enforcement. But a world in which huge stockpiles of nuclear weapons and weapons-usable nuclear material are hoarded by legitimate governments as symbols of power and wealth is an invitation to nuclear proliferation and terrorism.