Is There a Future for Arms Control and Disarmament?

Ambassador Thomas Graham, Jr.
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It is a pleasure to be here this evening. It particularly nice to be here because, as many of you are aware, I grew up in Louisville. So I must begin my remarks by thanking Professor Michael Fowler from the University of Louisville for arranging this presentation and Allen Weiss, a member of the board of directors of my organization, the Lawyers Alliance for World Security, whose idea it was to arrange this.

It is somewhat interesting that I am here today, on April 15, a very important date in world, national and Kentucky history. On this date in 1865 President Lincoln was shot. In 1912 the Titanic sank. In 1947 Jackie Robinson went hitless in his major league debut. And in 1948 the first Arab-Israeli war began. I hope my remarks today go at least a little bit better.

Our topic tonight is one of great interest to me, one that I have spent close to 35 years working on: the global web of international arms control, nonproliferation and disarmament efforts. Specifically, I am here to answer the question: Does disarmament have a future? I think my answer—what I am going to spend the next twenty minutes talking about—can be summed up in three words: It has to. Arms control and disarmament must have a future if the world is ever to be freed from the bonds of nuclear tyranny.

In fact, I would submit that the questions of how to control weapons of mass destruction are more important today than perhaps at any time in the nuclear age. The rising specter of weapons of mass destruction, particularly nuclear weapons, being acquired and used by terrorist organizations is one that should cause concern to us all. And never has the thirst for destruction of modern terrorist organizations and the capacity to inflict such destruction been more evident than now, April 2002. This month should have marked the 28th anniversary of the World Trade

Center, which opened on April 5, 1974. Imagine for a minute the scope of destruction that would have been witnessed on September 11th if those terrorists had used crude nuclear weapons at the World Trade Center and the Pentagon. The death toll in New York City alone, according to conservative estimates published recently in the New York Times, would have been more than 100,000. Indeed, arms control and disarmament must have a future if catastrophes of heretofore-unimaginable scale are to be avoided.

Moreover, as recent media reports of the war on terrorism and the Nuclear Posture Review suggest, questions of the role, the character and importance of international legal arms control arrangements are intimately related to similar questions about the future of international relations in a broader sense. And the answers to these questions are further defined in the context of the new uncertainties of the post-September 11th world. Will the terrible events of last year foster greater cooperation toward common goals, or will they ultimately lead to a world in which the major powers choose instead to pursue their own objectives unilaterally and without regard to the interests of others? Will September 11th eventually lead us to re-focus on the world's most pressing security concerns—finding solutions to the dangerous situations in the Middle East and South Asia, securing nuclear weapon usable materials world-wide, keeping those materials as well as weapons of mass destruction out of the hands of terrorist organization, etc.? Or will we continue to fritter around the edges of security with half-hearted approaches to promoting the rule of law, ultimately ineffective unilateralism, and costly and ineffective missile defense schemes?

Before we can answer these and other questions and the nature of arms control in the post-September 11th world can be examined, it is important to first review some of the overarching lessons of the last five months. First, I think many in the United States have learned

that the international community is not illusory: a global community of nations really exists. And although America's interests and those of the international community are not always compatible, things work better for everyone when they are, as can be seen in the ongoing international response to the terrorist attacks.

Indeed, isolationism and unilateralism are no longer viable options for the United States. Americans are too dependent on the rest of the world—and know that they are—for the nation to retreat from the world or disregard it. They know the dangers of international terrorism. They know about the effect of slumping economies in Europe and Japan on the employment outlook in the United States. They know about imported oil, organized crime, and drug cartels. Many Americans, too, know refugees from Balkan wars and Central American conflicts and the stories that they bring to our shores.

In the wake of September 11th, the world can no longer take for granted the terms and concepts that have dominated national and international security discourse. The notion of, for example, "vital strategic interests" must now be revised to include things previously considered to be strictly "humanitarian" interests. The United States can no longer turn a blind eye to lawlessness and machine gun cultures in remote places like Yemen and Burma. Alleviating ubiquitous poverty in regions of the world, promoting the rule of law, undercutting religious fanaticism, and creating pluralistic, democratic and open societies must now be considered astride such traditional interests as maintaining access to oil, protecting national borders, and preventing the proliferation of weapons of mass destruction.

These are all issues that can only be addressed collectively, as an international community. No unilateralist approach can be expected to solve or protect against the dangers posed by any of these threats. As such, we need to take every step possible to promote

international cooperation in confronting global problems and the related need to de-emphasize unilateral efforts that undermine the spirit of cooperation. As former President Bush noted recently, the September 11 attack should "erase the concept in some quarters that America can somehow go it alone in the fight against terrorism, or in anything else for that matter."

The second lesson that I hope has arisen from the tragedies in New York and Washington is that we need to focus international efforts on finding real solutions to actual threats. Primarily, we need to re-focus the international community on preventing the spread of weapons of mass destruction to terrorist groups and rogue regimes. As devastating as the September 11th bombings were, as I have already suggested, they would have been much worse had those terrorists detonated a stolen or clandestinely built nuclear weapon. Thousands of deaths could have been hundreds of thousands, and no missile defense would have prevented it.

Some have argued that the attacks show how vulnerable the civilized world is and how much we need a missile defense. The Washington Post reported as early as September 17th that the United States was preparing to press ahead with unilateral withdrawal from the ABM Treaty on these grounds—as indeed happened on December 13th. The Post quoted a senior administration official as saying that, "these people had jet plane pilots. And if these same people had access to ballistic missiles, do you think they wouldn't have used them?"

This, I believe, is precisely the wrong message to take from the September 11th attacks. Indeed, as Russian Deputy Foreign Minister Georgy Mamedov noted late last year, terrorism can best be met by "strengthening world order and the fight against terrorism," and that current strategic defense accords (referring to the ABM Treaty) "are an integral part of that order."

America's vulnerability is not to sophisticated ballistic missile systems that leave a recognizable return address, but rather to the demonic use of unsophisticated weapons by hidden

and anonymous opponents determined to undermine our way of life. Focusing on the former, especially at the expense of the latter, is roughly equivalent to shooting above the target. It's time to aim straight. As former U.S. Senator Daniel Patrick Moynihan noted, prior to the September 11th attacks, the United States was "still worrying about intercontinental missiles when we had a wholly new set of threats." He went on to say that "We have to start all over again in what we think we're dealing with." He couldn't have been more correct

Finally, the third lesson that I hope is learned from this tragedy is that, now more than ever, the world needs to concentrate on strengthening the international rule of law. In the face of the new threats to which Senator Moynihan referred, the world will find itself increasingly dependent upon a framework of international security and cooperation governed by a network of interrelated agreements between states of common cause. These agreements provide the rules of the road along which the states of the free world traverse. The rule of law refers to treaties governing the shipment of goods on the open seas, managing international air travel, and providing for international extradition of wanted criminals. The rule of law also includes agreements banning the acquisition or transfer of nuclear weapons, prohibiting the testing and therefore the further development of such weapons, governing activities related to chemical weapons, and prohibiting the production and stockpiling of biological weapons.

Steps that undermine the rule of law should be avoided, especially by those states that attest to be its principal proponents. And central to all of this is the need to maintain the health and viability of the Nuclear Nonproliferation Treaty regime—a cornerstone of international security, of which the ABM Treaty has been an important component and the entry into force of the Comprehensive Test Ban Treaty is essential as well.

After taking office, by its own words the administration set out to selectively put aside multilateral treaty regimes. It moved to block the Kyoto Protocol on greenhouse gases. Last November the administration refused to send even an observer to a conference at the United Nations on the Comprehensive Nuclear Test Ban Treaty, much to the chagrin of some of our closest allies. A few weeks later, the United States single-handedly derailed seven years of international efforts toward the development of a verification protocol for the Biological Weapons Convention despite the importance of such a protocol in this new age of bioterrorism.

On top of this, the administration has announced US withdrawal from the Anti-Ballistic Missile Treaty despite expert testimony that there is no technological requirement to do so at this time. Missile defense testing for systems to protect against rogue states could go on for years without colliding with the treaty's limits.

Nor is there any threat that warrants the type of missile defense sought by the administration. North Korea has indicated its willingness to trade away its missile program, Iran was attempting to move toward the West in the wake of Afghanistan, and everyone agrees that Saddam Hussein's Iraq must be taken care of without waiting a decade or more for a functioning missile shield. But, whatever the threats posed by these three countries and others of similar inclination, they can only be effectively met by a united world community. Eventually, some form of limited missile defense will undoubtedly be deployed as a hedge against some future rogue state, but President Putin made clear over the last year that he was prepared to permit the United States the flexibility to do this within the context of the ABM Treaty, most likely via amendments.

The administration decided instead to withdraw from the treaty. This step may eventually spark an arms race in Asia, with China carrying through on its threat to more rapidly expand and modernize its strategic nuclear forces, perhaps to be followed by India and Pakistan.

And, while President Putin's immediate reaction has wisely been muted, a seriously negative response by Russia in the medium term cannot be ruled out. Already, some in the Duma have proposed legislation calling on the government to review Russia's standing under the Comprehensive Nuclear Test Ban Treaty and the START treaties. And there are already some indications that Russia will MIRV its new ICBMs. As early as December 16, influential members of the President's Unity coalition in the Duma suggested that Russia would now be free to do so.

Indeed the entire structure of strategic arms reductions is very much uncertain right now. The Bush administration is seeking to bypass START II and reduce deployed, operational strategic weapons to the 1750-2200 range, about the same range that President Clinton and Yeltsin agreed to for a START III treaty in 1997. A crucial difference, however, is that under the 1997 agreement, in principle excess delivery vehicles would be destroyed (as in START I and II), but under the Bush administration's plan many would be kept in a reserve capacity.

According to reports describing the Nuclear Posture Review, Russia is still a possible target, but potentially by offensive forces rather than second-strike nuclear forces. China also could be a target, with a "military confrontation over the status of Taiwan" a possible rationale for a nuclear strike.

The Nuclear Posture Review goes even further. It explicitly lists Libya, Syria, Iraq, Iran and North Korea as potential targets for U.S. nuclear forces, putting aside the ambiguity

employed in previous reports. One thing--perhaps the only thing--that these five states have in common, however, is that all are non-nuclear parties to the Nuclear Nonproliferation Treaty.

For 30 years, this treaty has kept nuclear weapons from spreading all over the world, a development that would be devastating to U.S. security.

The problem is, however, that in 1978, to bolster the treaty, the United States, Britain and the Soviet Union formally pledged never to use nuclear weapons against nonnuclear countries that were parties to the treaty except in the case of an attack in alliance with a nuclear weapon state. (No exception was made for responding to chemical or biological attacks.) This pledge, joined by France and China, was reiterated in 1995. And in what could be the most reasonable request in the history of international relations, in exchange for agreeing to never acquire nuclear weapons, 182 nonnuclear nations asked that the five nuclear weapons states promise never to attack them with such weapons. This was done in April 1995 in connection with a U.N. Security Council resolution.

But the Pentagon plan undermines the credibility of that pledge, which underpins the nonproliferation treaty. Further, the basic implication of the Posture Review—that the U.S. reserves the right to target any nation with nuclear weapons whenever it chooses to do so—is itself likely to increase the risk of the nuclear weapons proliferation. If a country believes it's falling out of favor with Washington, what is the first thing it is likely to do? A quote attributed to Indian Defense Minister George Fernandes provides some insight: "Before one challenges the United States, one must first acquire nuclear weapons."

The Nuclear Posture Review also appears to set forth a 50-year plan for developing and acquiring new nuclear weapons. It reportedly calls for new air, sea and land launch platforms to be developed and deployed in 2020, 2030 and 2040, and it calls for new low-yield and variable-

yield warheads that probably would require nuclear testing. Maintaining a permanent rationale for a robust U.S. nuclear arsenal and a resumption of nuclear testing flies in the face of vital U.S. commitments.

Many had hoped that the Nuclear Posture Review would halt the negative trend in arms control and include a call for the significant reductions in the U.S. nuclear arsenal that had been promised during the campaign and announced last November. Here again, the results have been disappointing. In effect, the Posture Review calls for reductions to roughly the same levels proposed by President Clinton, but while the Clinton reductions would have come in the context of a legally binding and irreversible START III-type commitment, the administration is proposing something much different.

The Nuclear Posture Review calls for the United States to maintain some 2,000 warheads in active service plus several thousand more in a so-called "responsive capacity" and an unknown number in an additional "inactive stockpile". This would allow Washington the ability to reverse its "cuts" and return to current or higher deployment levels, potentially within weeks or months. This is not a basis for real reductions in strategic nuclear arsenals.

The nuclear posture review also includes a proposal to cut the lead-time required for a resumption of U.S. nuclear testing from the current 2-3 years to one year. And while the Review appears not to have included this, the grapevine in Washington has reported in past weeks on option papers proposing a formal renunciation of the Comprehensive Nuclear Test Ban Treaty. Such step would be an unmitigated disaster for the Nonproliferation Treaty regime and should be avoided at all costs.

The gravest threat to US security is unquestionably attacks with weapons of mass destruction—particularly nuclear—against our cities by terrorist organizations, unstable states, or

violent subnational groups. The chances of these attacks coming in the form of a ballistic missile are minimal.

And the danger of nuclear weapon states unraveling in the future and nuclear weapons and materials spreading across the globe is also very real. The premier of China recently stated that, if it had not been for heavy government borrowing, the economy of China would have collapsed in 1998. Major sectarian violence between extremist Hindus and Muslims threatens India's fragile federal union. The sustainability of Pakistan's government could be fatally undermined by anger among that country's radical elements over its cooperation in the U.S. war on terrorism. Serious concerns about Russia's long-term stability persist.

These states, which contain more than half of the world's population, share a common reality: their survival as cohesive entities cannot be guaranteed because of significant internal ethnic tensions and/or economic uncertainties. Moreover, all four have nuclear weapons.

Throughout much of the nuclear age—and almost the entire Cold War—the collapse of a nuclear-armed state seemed very remote. But this is precisely what occurred in the early 1990s when the former Soviet Union dissolved into 15 new nations. The world was fortunate that, with a combination of adroit diplomacy and luck, this occurred without a dispersion of nuclear weapons or another nuclear disaster, but could such a storm be weathered again? And again? And again?

There is a very real danger that in the coming decades India or Pakistan or Russia or China could conceivably come apart at the seams. If this should happen, what will become of those countries' nuclear weapons, weapons usable materials, nuclear scientists, etc? The United States and its allies could find themselves awash in a sea of nuclear weapons and nuclear explosive materials floated freely on the black and gray markets available to terrorist

organizations around the world. The only way to avoid this is to promote economic and social development in these countries and to immediately and forcefully pursue meaningful efforts to drastically reduce the quantity of the world's nuclear weapons and nuclear explosive materials. While promoting development is unarguably a difficult challenge in each country, addressing the nuclear questions should be easier to achieve. After all, the groundwork has already been laid, with the Nonproliferation Treaty as its core.

Our only real defense against the threats to which I have referred is to verifiably and irreversibly reduce the number of nuclear weapons and the inventory of weapons usable materials around the world and to prevent the spread of those weapons and materials. At the center of this is the network of international agreements that constitute the international arms control and nonproliferation regime to which I have also referred. So, returning to the question I posed earlier: Is there a future for arms control? The answer must be an unequivocal "Yes." In the current environment, promoting disarmament may seem like too tall a task, but I suggest to you that it pales in comparison to the price of failure. As Sir Winston Churchill observed in his 1930 book on World War I:

> "It is probably—nay certain—that among the means which will next time be at their disposal will be agencies and processes of destruction wholesale...and perhaps, once launched, uncontrollable. Death stands at attention, obedient, expectant, ready to serve, ready to shear away the peoples en masse, ready, if called on, to pulverize, without hope of repair, what is left of civilization."

As in so many other instances, Sir Winston's vision was prescient. The agency of such destruction was indeed unleashed during the next Great War. And it will take a truly global effort to cage it again. With strong and effective leadership from the United States, arms control and disarmament can still flourish. The high ground is ours to seize. Thank you very much.