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LAWYERS ALLIANCE FOR WORLD SECURITY
COMMITTEE FOR NATIONAL SECURITY

Updating NATO's Nuclear Doctrine

**Written Submission to the
Defense Committee of the House of Commons
Of the United Kingdom
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I appreciate this important opportunity to provide input to the Committee's consideration of conditions under which the United Kingdom would support the use of nuclear weapons by NATO. While the Cold War has ended and the prospect of a deliberate Russian nuclear attack on NATO has receded beyond probability, there are still many threats to the security of the Alliance and its member states. Excessive reliance on nuclear weapons for decades has left the world with thousands of nuclear weapons ready for launch, tons of weapons-usable fissile material at risk for theft or diversion, and numerous states questioning whether or not nuclear weapons are necessary to assert international relevance. These conditions have greatly complicated and increased the risk of nuclear proliferation.

In many ways the danger of a major city in the United States, the United Kingdom, or somewhere else being destroyed by a nuclear weapon is greater now than before. The NATO Alliance clearly commands the destructive power to deter those who can be deterred, but the prevention of proliferation to undeterrable actors has become a chief security concern that will require revision of NATO's Cold War doctrine regarding nuclear weapons. NATO's policy of reserving the right to use nuclear weapons first may have been appropriate during the Cold War,

but now it is contrary to our international commitments associated with the Non-Proliferation Treaty, the NPT, and a direct contradiction to our non-proliferation efforts. In 1995, in association with the effort to extend the NPT indefinitely, the United States and the United Kingdom, as well as the other three nuclear weapon states, undertook a formal commitment never to use or threaten to use nuclear weapons against non-nuclear weapon state parties to the NPT, now some 181 countries, unless they attacked in alliance with a nuclear weapon state (no exception was made for chemical or biological weapons). In 1996, the World Court found this commitment to be legally binding. It is difficult to reconcile a NATO first use option with this commitment. The only states which this commitment does not apply to 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, thus if we are to be faithful to our international commitments, the United States, the United Kingdom, and France – the three nuclear weapon states in the Alliance – the first use option rationally applies only to India, Pakistan, Israel, and Cuba, while it significantly damages our worldwide non-proliferation efforts. It is not easily justified when considered in this light.

The right 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 powerful conventional force in the world would need to use nuclear weapons first strains NATO's credibility, as well as the belief by the world's non-nuclear weapon states that their own security does not require a nuclear weapons guarantee.

The civilized world's principal defense against the proliferation of nuclear weapons to irresponsible states, terrorist organizations, or criminal conspiracies is the Nuclear Non-Proliferation Treaty (the NPT). In order to preserve this necessary 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 states 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. When it was being negotiated, many predicted that there could be as many as thirty 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.

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 weapon 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. Many of those that have voluntarily foresworn the nuclear weapon option on the conditions that only five states would have nuclear weapons, and that those five would work 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.

The threat of use of chemical or biological weapons is not a valid reason to retain a first use policy. First, because the added deterrent value that nuclear weapons give beyond NATO's overwhelming conventional superiority is debatable. Second, because continuing to invest high political value in nuclear weapons erodes the nuclear non-proliferation regime, as described above, and impresses on the world that weapons of mass destruction are necessary instruments of policy. Third, because if we violate our international commitments not to threaten to use or use nuclear weapons first against non-nuclear weapon states because we face chemical or biological weapons threats, we are inviting other states which also face serious chemical and biological threats, such as Iran, to acquire nuclear weapons themselves. Fourth, chemical and biological attacks are unlikely to cause a level of damage proportional to a nuclear response. Fifth, assuming a truly disastrous chemical or biological attack were perpetrated against a NATO member state, one that would be proportionate to a nuclear response and that could not be stopped without resort to nuclear weapons, the longstanding international legal doctrine of belligerent reprisal would recognize our right to step outside our international commitments in self-defense. NATO's first use policy does not protect us against chemical or biological attacks, it makes nuclear proliferation, and other weapons of mass destruction proliferation, more likely.

The world is at a fork in the road with regard to nuclear proliferation. If the NPT is to be preserved, and the number of states and other groups armed with nuclear weapons is to be limited, all of the Treaty's states parties must work together towards its fundamental goal: the ultimate abolition of nuclear weapons. One milestone will be the Third Preparatory Committee Meeting this Spring for the year 2000 NPT Review Conference. The first two Preparatory Committee Meetings ended in diplomatic disaster, and the third is likely to do the same unless

the nuclear weapon states do more to live up to their disarmament commitments. But the NATO Summit, which will happen at almost the same time as the NPT Preparatory Committee Meeting, is likely to reinforce the overly high political value of nuclear weapons by not revising the outdated, Cold War language which pervades the old NATO Strategic Concept document and which extols the value of nuclear weapons. This could lead to a diplomatic train wreck which would gravely endanger the NPT and it should not happen; NATO's strategy review preceding the Summit must be a real review, and those who already realize the dangers of consistency only for the sake of consistency must speak out to make it so. The far too high political value of nuclear weapons, a relic of the Cold War, continues. The Indian Prime Minister said, in effect, after the tests last Spring, that *India is a big country now that we have the bomb*. If this high political value of nuclear weapons is not lowered, nuclear weapons will simply be too attractive politically and the 1945-era technology too simple to acquire for many nations to continue to forswear them. Nothing would do more to lower the political value of nuclear weapons and strengthen the NPT regime than to limit the role of nuclear weapons to the core deterrence function of deterring their use by others – in other words, a pledge by NATO that it will not introduce nuclear weapons into future conflicts – that it will follow a no first use policy.

Canada and Germany have both asked the question of whether or not it is time to revisit NATO's first use policy in light of the end of the Cold War and changed security threats and requirements. This is a timely and important question. If the NATO Summit re-affirms the antiquated, Cold War language of the current Alliance Strategic Concept document without revision, and more importantly if it retains the unqualified first use option, this will have a negative impact on the Third Preparatory Committee Meeting for the 2000 NPT Review Conference which will occur at the same time. The first use policy does not protect the Alliance, but if it does not change, it may contribute to greatly increasing the threat of widespread nuclear

proliferation. I was in the United Kingdom last month where I much enjoyed meeting with the Defence Committee among other meetings. Over the last fourteen months I have also led delegations to Bonn, Paris, and Ottawa to discuss this important issue, I will be visiting the capitals of Belgium, the Netherlands, Norway, Germany, France, Spain, and Italy early this year. I am undertaking this effort because I believe NATO will adopt a no first use policy; it is only a matter of when. The issue is too important and close to the surface to go away. But there is considerable danger if we wait too long to take this action. If we continue to insist that despite the greatest conventional military advantage the world has ever known and thousands of nuclear weapons available if that conventional advantage were to be somehow not enough, we must explicitly retain the option to use nuclear weapons first, we are sending a clear message to the world: nuclear weapons are essential for security and greatness. The world is beginning to understand this message and before long it may be impossible to convince twenty, fifty, or a hundred nations otherwise. In such a world, security and greatness would be beyond the reach of all.