

# Nuclear Security and the Nuclear Non-Proliferation Treaty

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Conference

*Building Up or Breaking Down:  
The Direction of Nuclear Non-Proliferation*

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I wish to begin today by thanking David Ives for inviting me to participate in this forward-looking conference on issues relating to the Nuclear Non-Proliferation Treaty (NPT)—a timely event indeed, with the 2010 Review Conference coming up just around the corner. It is a pleasure for me to return to Quinnipiac University and I am especially grateful that your School of Law and the Albert Schweitzer Institute—the conference co-sponsors—have demonstrated their common interest in this timely and important subject.

Of course, the United Nations Office for Disarmament Affairs attaches great importance to “disarmament and non-proliferation education” and I warmly welcome a deeper involvement of academia both in studying these particular issues and in exploring new initiatives to achieve concrete progress in the years ahead.

The enigmatic title of this Panel—*“What Should? The Politics and Policy of Nuclear Security”*—suggests that we have reached the point in this conference when the discussion must turn to normative issues. We all know that the future of the NPT is entirely in the hands of its States Parties. Yet their individual policies and practices are influenced by an enormous variety of political factors that complicate the process of making predictions about the outcome of the treaty’s next Review Conference—or indeed the future of the treaty itself.

Some of these political factors relate to the treaty review process, in harmonizing efforts to strengthen each of the treaty’s three pillars of nuclear disarmament, nuclear non-proliferation, and the peaceful uses of nuclear energy. The outcomes of the treaty review process, however, are also significantly influenced by diverse trends and developments well outside the meeting rooms of these Review Conferences—including, for example, broader North/South disputes over access to nuclear technology and relevant development assistance.

Other challenges in these Review Conferences relate to differences amongst the States Parties in the use of some basic terminology. Consider, for example, the various meanings that have been attached to this word, “non-proliferation.” When most people hear this term, they think it applies just to the spread of nuclear weapons to additional states—often called “horizontal” proliferation. Almost all stories in the news media, for example, use this sense of the term. Yet experts in this field also recognize what is called “vertical” proliferation, involving the qualitative improvement or expansion of existing nuclear arsenals. And then there is what might be called “geographical” proliferation—namely, the transportation and deployment of nuclear weapons around the world by air, sea and on land.

Another term used in our Panel today—“nuclear security”—is also subject to a wide variety of definitions. Let us consider just for a moment three possible interpretations. Then I will turn to a fourth.

Not surprisingly, states that possess nuclear weapons—along with those that are covered by the “nuclear umbrella”—believe that nuclear weapons serve a legitimate national security purpose,

typically justified in language drawing upon the doctrine of nuclear deterrence. In this interpretation, nuclear security might be thought of as a form of national security that is achieved through the possession of nuclear weapons. While all States that possess nuclear weapons have publicly supported the goal of global nuclear *disarmament*, until that goal is achieved, these states have focused their efforts on nuclear *arms control* activities. The Russian Federation and the United States, for example, are nearing agreement on a replacement for the START treaty, which will lower their numbers of deployed strategic nuclear weapons and their delivery systems. Other States with such weapons have closed down nuclear test sites, halted production of fissile material for weapons, eliminated certain types of nuclear weapons or delivery systems, and other such steps. The common aim of such activities, however, is to preserve some form of nuclear deterrence at lower levels. So I will call this approach, “Nuclear Security I.”

For decades, however, the world community has also sought to achieve a more secure world by preventing additional states from acquiring nuclear weapons—this is the familiar “non-proliferation” approach that I will call “Nuclear Security II.” Safeguards administered by the International Atomic Energy Agency are intended to serve this goal by verifying that nuclear materials are used only for peaceful purposes. This approach also relies upon export controls, information sharing especially among nuclear supplier states, and various other legal, political, and diplomatic means.

Yet since these non-proliferation efforts have customarily centred specifically on activities of states, another approach to nuclear security has emerged in recent years focused on the goal of preventing non-state actors from acquiring nuclear weapons—this represents “Nuclear Security III.” As with non-proliferation, these efforts rely upon export controls and information sharing, but also involve controls over the physical protection of nuclear material and domestic criminal legislation to prohibit the illicit acquisition and use of such material.

To be sure, there have been a lot of activities underway in the world community to address the last two dimensions of nuclear security—namely, those relating to non-proliferation and to preventing nuclear terrorism. Foremost among these are the following:

- In April 2004, the United Nations Security Council adopted Resolution 1540, which obligates all States to have laws and regulations prohibiting the proliferation of nuclear weapons (and other weapons of mass destruction) or their acquisition by non-state actors.
- A year later, the UN General Assembly adopted and opened for signature the International Convention for the Suppression of Acts of Nuclear Terrorism.
- In April 2009, President Obama delivered his historic speech in Prague, where he outlined his vision of achieving a world free of nuclear weapons, and where he first proposed the convening of a “Global Summit on Nuclear Security.”

- At its own summit meeting of 24 September last year, the Security Council reaffirmed that the proliferation of all such weapons constitutes a threat to international peace and security, and adopted Resolution 1887 which focused primarily on non-proliferation and counter-terrorism issues.
- In July 2009, the White House formally announced that President Obama would host a nuclear security summit in 2010 on non-proliferation and nuclear terrorism issues—the “Washington Nuclear Security Summit” is now scheduled for 13 April.

Together, these three approaches to nuclear security that I have just surveyed have guided significant individual and collective efforts in the world community. But do they tell the whole story? Is there another dimension of nuclear security that needs to be discussed?

Yes indeed, and this brings me to “Nuclear Security IV”—which consists of countless efforts that have also been underway to promote nuclear security through the elimination or prohibition of nuclear weapons. This approach is apparent in the work of the International Commission on Nuclear Non-Proliferation and Disarmament and the Global Zero Campaign, which have produced detailed, step-by-step proposals for how to achieve a world free of nuclear weapons. It is a theme that has appeared in op-eds by George Shultz, William Perry, Henry Kissinger, and Sam Nunn in the *Wall Street Journal*, and similar proposals by senior statesmen in additional countries. On 28 October 2008, Secretary-General Ban Ki-moon launched his own five-point proposal for global nuclear disarmament and followed it up on 8 December 2009 with an Action Plan of specific initiatives to implement it—and I will return to his efforts shortly.

Additional initiatives have come both from States and non-governmental organizations, which together share a common premise that the greatest security from nuclear weapon threats will result from the elimination of such weapons. This is an approach that rejects the doctrine of nuclear deterrence. And while it recognizes that nuclear arms control, non-proliferation and counter-terrorism measures each have their own important contributions to make in achieving a nuclear-weapon-free world, the disarmament approach to nuclear security views such roles as necessary but not *sufficient* to eliminate nuclear threats.

Now, what do all of these various interpretations of nuclear security have to do with the NPT and its forthcoming Review Conference?

It is quite clear that the treaty explicitly addresses the goal of disarmament and the prevention of the spread of nuclear weapons. It also obligates its States Parties to undertake certain actions in the pursuit of these goals, including good faith negotiations on nuclear disarmament, the agreement to safeguards, the recognition of the inalienable right to the peaceful uses of nuclear energy, and commitments not to seek nuclear weapons or to assist other States to acquire them.

All of these issues will therefore receive considerable attention at the Review Conference. The NPT, however, was not intended to serve as a treaty against nuclear terrorism, a subject later covered by other legal instruments, including the Convention on the Physical Protection of Nuclear Material and the Nuclear Terrorism Convention.

Yet while there is widespread recognition among all NPT States Parties that disarmament and non-proliferation are legitimate and effective ways to strengthen international peace and security, there are deep and persisting differences over the precise relationship between these approaches to nuclear security, and additional differences over what priority should be given to activities undertaken parallel to the NPT concerning the prevention of nuclear terrorism.

The nuclear-weapon States have been articulating what might be called a sequential approach to achieving the central goals of the NPT. They have, for example, been listing various conditions that must first be satisfied before disarmament can be achieved. A key theme of the nuclear security summit in Washington will be the importance of enhanced controls in non-proliferation and counter-terrorism, as steps that would facilitate future progress in disarmament.

But the vast majority of non-nuclear-weapon States Parties do not accept a sequential approach and view disarmament and non-proliferation as mutually reinforcing activities that must be pursued together. Having already agreed to forswear the acquisition of nuclear weapons and having further agreed to intrusive safeguards to confirm the peaceful uses of their nuclear materials, these States Parties have increasingly been calling for greater progress in the field of disarmament. In their view, disarmament initiatives that satisfy certain multilaterally agreed criteria—namely, transparency, irreversibility, verification, and binding commitments—are the most urgent needs in the field of nuclear security. To these States, appeals for stricter controls over the peaceful uses of nuclear energy, enhanced safeguards, and assorted other measures to reduce the risk of nuclear terrorism—all of these appeals—appear unconvincing, even contrived distractions from what should be a top priority disarmament agenda.

This, I believe, is the best description I can offer right now of the central theme of our panel today: the politics and policy of nuclear security, in the weeks before the 2010 NPT Review Conference. In many respects, the event will be a forum for deliberating different interpretations not just of the NPT—but of nuclear security.

To some extent, a good case could be made for dispensing with this term “nuclear security” all together—both because of its multiple interpretations, and also because of its implication that the central challenge is one merely of limiting nuclear-weapon risks, including the risk of use. A far better approach would be to consider instead what measures will be needed to ensure security for all in a world without nuclear weapons. For lack of a better term, let’s call this, “non-nuclear security.”

Frankly, this is what UN Member States have been seeking for over six decades. The Charter referred briefly to the goals of “disarmament” and the “regulation of armaments.” By 1947,

the General Assembly had adopted resolutions clarifying that “disarmament” referred to the elimination of nuclear weapons and other weapons of mass destruction, while the “regulation of armaments” referred to limits on conventional arms that would allow for states to retain some such arms for uses widely accepted as legitimate, such as self-defence and international peacekeeping. In 1959, the General Assembly combined these goals under the term “general and complete disarmament” which, since 1978, has been the UN’s “ultimate objective” in this field. It is of course also an objective found in the NPT and in a dozen multilateral treaties.

Under the UN Charter, Member States are also subject to additional obligations that go well beyond these commitments relating to weapons. These include duties to refrain from the threat or use of force, to resolve disputes peacefully, and to respect the territorial integrity and sovereign equality of all Member States. The UN has therefore long defined and stood for a form of security—called international peace and security—that far transcends anything offered by the term “nuclear security.”

Given that our present conference is co-hosted by the School of Law at Quinnipiac University, I think it is fitting to note that efforts at the UN in disarmament have placed a heavy emphasis on the importance of strengthening the rule of law in this emerging field that I have called “non-nuclear security”. The entire apparatus of institutions we call the “UN disarmament machinery” is essentially an intricate system dedicated to the advancement of global disarmament and non-proliferation norms. Political deliberations occur in the UN Disarmament Commission and the First Committee of the General Assembly, while the Conference on Disarmament in Geneva has a mandate to negotiate legally binding multilateral treaties.

As I mentioned earlier, Secretary-General Ban Ki-moon has launched his five-point proposal and Action Plan to achieve world free of nuclear weapons—and I would like to draw to your attention to the extent that his proposal incorporated initiatives to strengthen the rule of law.

He first called upon the NPT nuclear-weapon States in particular to fulfil their obligation to undertake negotiations on effective measures leading to nuclear disarmament, as required in Article VI of the treaty. He stated that they could do this by agreeing on a framework of separate mutually reinforcing instruments or by considering negotiating a nuclear-weapon convention.

His second point dealt with the Security Council, which he encouraged to commence discussions on security issues in the nuclear disarmament process. For this purpose, he also urged the Council to convene a summit on nuclear disarmament—and the Council’s summit of 24 September 2009 took a positive first step forward in this field. As the body with primary responsibility under the Charter for the maintenance of international peace and security, and with other mandates relating to disarmament and the regulation of armaments, the Council surely has important contributions to make down the road in all of these areas.

The Secretary-General's third point related to several specific "rule of law" issues, including the need negotiate a fissile material treaty, to bring the Comprehensive Nuclear-Test-Ban Treaty into force, and to encourage the nuclear-weapon States to ratify the protocols to all five regional nuclear-weapon-free zone treaties. He also supported the negotiation of a treaty to establish such a zone in the Middle East, as has long been proposed both in the UN General Assembly and at NPT Review Conferences.

His fourth point referred to the need for certain improvements relating to transparency and accountability in the disarmament process, urging the nuclear-weapon States to provide documentation to the UN Secretariat of the progress they are making in fulfilling their responsibilities in this field.

His fifth and final point related to a series of complementary measures, including additional bans covering missiles and space weapons and limits on the production and trade in conventional arms. He also urged the General Assembly to convene a "world summit" on disarmament, non-proliferation, and terrorist use of weapons of mass destruction. I was pleased to see that the General Assembly will hold a thematic debate next month on "Disarmament and World Security: Challenges for the International Society and the Role of the United Nations."

I must not conclude my remarks today without returning to the normative question posed in the title of this Panel, concerning what should happen next. In terms of nuclear security, despite its multiple political uses, I know it is hard to dispute that a world without nuclear weapons will require some very stringent and reliable controls over nuclear materials, nuclear facilities, and sensitive nuclear technology. The classic challenge in achieving nuclear disarmament is to prevent cheating or opportunities for "break-out" and this alone would argue for a wide variety of controls. Such controls are best pursued as part of the disarmament process itself, not as a precondition for that process.

Yes, we will surely need strict nuclear security controls. Yet we will also need to get on with the hard work in planning for the larger challenge of achieving security in a nuclear-weapon-free world. This will involve a lot more than simply locking down nuclear materials, imposing greater controls on their use, or reiterating trite, serial appeals to keep such weapons from "falling into the wrong hands." In fact, there are no "right" hands holding nuclear weapons.

I have little doubt that the overwhelming majority of participants at the next NPT Review Conference recognize the extent that the future of the treaty really does depend upon concrete progress in disarmament. My fear is that an inflexible insistence by some on the prior achievement of more stringent non-proliferation controls will prove counter-productive to achieving both non-proliferation and disarmament goals. At worst, such an approach could even lead us to a world in which additional countries will pursue their own nuclear deterrents, using the self-help logic of Nuclear Security I.

In his Prague speech of April 2009, President Obama spoke of “America's commitment to seek the peace and security of a world without nuclear weapons.” Notice that he did not say that we must first have peace and security before we could achieve such a goal. He recognized how peace and security will be strengthened in a world without such weapons.

So let us together get on with the hard work of identifying what is needed to shift the agenda to the politics and policy of non-nuclear security. You in this audience—whether as political scientists, lawyers, scientists or as scholars in countless related academic disciplines—each of you has special assets to bring to this process. I urge you to not just to investigate what needs to be done, but how it can be achieved in our volatile, highly political world. You can help in the search for answers to some tough questions, including—What specific domestic laws or multilateral conventions will be needed? What are the strengths and shortcomings of existing proposals for legal reforms? What reforms might be needed in international institutions of disarmament? How can conventional arms control best be pursued in parallel with nuclear disarmament?

I have only one final prescription—do not underestimate the potential contributions you can make to this vexing process of disarmament. The world is more open than you might think to fresh thinking and ideas involving creative, practical solutions to chronic problems in this field. A great door is open, to all who may wish to enter and contribute.