

**Third session of the Preparatory Committee for the 2020 Review Conference of the Parties
to the Treaty on the Non-Proliferation of Nuclear Weapons
May 1, 2019**

Creating the Conditions for International Peace and Human Security (CCIPHS)

An abridged version of this statement was presented
by Phyllis Olin, Board President, Western States Legal Foundation

I am honored to present this statement on behalf of Western States Legal Foundation and 46 organizations in 16 countries*.

Many delegations have rightly pointed to modernization of nuclear weapons and massive nuclear weapons spending as areas of grave concern. An even more urgent reality is the increased scale and tempo of war games by nuclear-armed states and their allies, including nuclear drills. Ongoing missile tests, and frequent close encounters between military forces of nuclear-armed states including the United States and Russia and the U.S. and China, exacerbate nuclear dangers.¹ The U.S. announcement, followed by Russia's, of their intention to withdraw from the Intermediate-Range Nuclear Forces (INF) Treaty are another sign of deepening crisis among the nuclear-armed states. Following the 2002 U.S. withdrawal from the Anti-Ballistic Missile Treaty, it imperils the entire structure of arms control and disarmament, including prospects for extension of the New START Treaty which expires in 2021, and could lead to new, unpredictable rounds of arms racing. *The dangers of wars among nuclear-armed states are real and growing.*

During the second Preparatory Committee Meeting for the 2020 Review of the Nuclear Nonproliferation Treaty (NPT) in April 2018, the United States introduced a Working Paper entitled "Creating the Conditions for Nuclear Disarmament" ("the CCND approach"), which broadly rejected the generally understood benchmarks for assessing progress on the NPT's disarmament obligation, instead declaring that the international security environment must improve before disarmament can take place.²

Yet, just two months earlier, the Trump administration had released a new Nuclear Posture Review (NPR), dramatically undermining the international security environment and prospects for nuclear disarmament. The NPR set forth in some detail U.S. plans to maintain, upgrade, and diversify its nuclear arsenal and the infrastructure to support it. The NPR carries forward existing plans for the replacement and upgrading of submarine-based, land-based, and air-based nuclear forces, while adding a new sea-based cruise missile. It also calls for near-term deployment of some low-yield warheads on submarine-based missiles. And it describes how nuclear weapons might be used in response to attacks of a non-nuclear nature, including cyber-attacks against critical U.S. infrastructure. In its entirety this program, which envisions U.S. reliance on extensive and diversified nuclear forces for decades to come, is, in effect, an *anti-disarmament* plan.

Mirroring the U.S. stance, announcing his own anti-disarmament plan, Russian President Vladimir Putin in a March 2018 speech boasted about new "invincible" Russian nuclear

weapons, and gave a detailed description, complete with video animations, of an array of new nuclear weapons delivery systems, including a nuclear-powered cruise missile and an underwater drone.

In December 2018 remarks at a conference on “The Nuclear Nonproliferation Regime - Towards the 2020 NPT Review Conference” in the United Kingdom, Dr. Christopher Ford, U.S. Assistant Secretary, Bureau of International Security and Nonproliferation, elaborated on the “Development of the New ‘Conditions’ Discourse.” He declared: “This new initiative aims to move beyond the traditional approach that had focused principally upon ‘step-by-step’ efforts to bring down the number of U.S. and Russian nuclear weapons but that did so in ways that did *not* provide a pathway to address the challenge of worsening security conditions.... For this reason, our initiative offers a more viable path toward the ultimate goal of disarmament than is offered either by traditional approaches or by the newer but conditions-blind absolutism of the TPNW.” The only specific proposal was the establishment of a “Creating the Conditions Working Group” or CCWG.³

In a March 26, 2019 statement to the Conference on Disarmament in Geneva, Dr. Ford unveiled a new name for the project, with an even more ambiguous term than “conditions”, while proposing a vague new drawn-out process, outside the NPT. “In the face of such challenging questions, our new initiative — on “Creating an Environment for Nuclear Disarmament” (CEND) — aims to help the international community find a path forward by setting in motion a “Creating an Environment Working Group” (CEWG) process. Under its auspices, participating countries would work together first to identify a number of key questions or challenges that would need to be overcome along the road to eventual disarmament, and then to explore possible answers to those questions.” While stating, “we would be delighted to see participants from across all the world’s relevant political divisions,” countries were not specified, nor was a timeline.⁴

We agree with Dr. Ford that “the prevailing security conditions have been worsening, rather than improving”, but we believe the U.S. has it backwards. We advocate an approach we’re calling “Creating the Conditions for International Peace and Human Security” (the CCIPHS approach), premised on the understanding that real progress on nuclear disarmament is an *essential* contribution to international peace and human security – and probably to our very survival. (In this context “International Peace” refers to relations among nations. “Human Security” refers to the universal, indivisible security of all people everywhere.)

Instead of establishing an open-ended “Creating an Environment Working Group” under the supervision of the world’s leading nuclear-armed state, implementing the NPT’s nearly 50-year old disarmament obligations *without further delays or distractions* would be an excellent way to start rebuilding mutual trust and confidence in the global order. These include not only the obligation to negotiate “effective measures” in good faith for the elimination of nuclear weapons, but to seek as well the “cessation of the nuclear arms race at an early date.”

The NPT itself establishes the conditions for nuclear disarmament. As the South African representative told the Security Council on April 2, 2019: “While we are aware that some States are arguing for the creation of a so-called special environment for nuclear disarmament, it is our view that this was already established with the entry into force of the NPT on the basis of its ‘grand bargain’”.⁵

The NPT’s disarmament obligations, enshrined in the Preamble and Article VI, have been reiterated and reinforced by agreements made in connection with the 1995 Extension Decision, the 2000 and 2010 Review Conferences, and the International Court of Justice’s 1996 Advisory Opinion, which provided the authoritative interpretation of Article VI. The Court found unanimously, “There exists an obligation to pursue *in good faith* and *bring to a conclusion* negotiations leading to nuclear disarmament in all its aspects under strict and effective international control.” (emphasis added)⁶

The “Principles and Objectives for Non-Proliferation and Disarmament” adopted in connection with the 1995 NPT extension decision⁷; the 13 “practical steps for the systematic and progressive efforts to implement article VI of the Treaty on the Non-Proliferation of Nuclear Weapons”, including: “*An unequivocal undertaking by the nuclear weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, to which all States parties are committed under article VI*”;⁸ adopted by the 2000 Review Conference; and the 64-point Action Plan, which includes concrete steps for the total elimination of nuclear weapons, adopted at the conclusion of the 2010 Review Conference,⁹ created a robust environment for nuclear disarmament.

A viable international order requires the good-faith execution of agreements whether considered political or legal. That is certainly true with respect to disarmament and non-proliferation. You might even say that it’s a “condition”! Yet NPT disarmament obligations and commitments have mostly not been implemented. And in another striking and disturbing blow to a rules-based international order, a member of the Permanent Five, the United States, has chosen to renounce its commitments under the Joint Comprehensive Plan of Action (JCPOA) and to disregard a closely integrated Security Council resolution. Indeed, based on International Court of Justice precedent,¹⁰ Resolution 2231’s “call” for implementation of the JCPOA is legally binding. NPT states parties at this PrepCom and the 2020 Review Conference should demand compliance with the JCPOA and Resolution 2231.

Unfortunately, the current disarmament situation is that after an all-too brief post-Cold War lull, with its missed opportunities for more meaningful and irreversible progress on disarmament, arms racing has resumed among the nuclear-armed states, this time mainly qualitative in nature.

As a step towards reducing tensions and demonstrating good faith, the accelerating cycle of replacing aging nuclear weapons systems with new ones – in some cases, with enhanced military capabilities – should cease. Instead, the cycle of retiring and dismantling nuclear warheads should accelerate. It is concrete actions like this that build confidence and reduce tensions, and that help to create the conditions for negotiations on reduction and elimination of nuclear arsenals. To be successful, these negotiations likely must also address cessation of the growing

arms race in strategically significant *non-nuclear* weapons systems. This competition makes confrontations among nuclear-armed states more dangerous, and its uneven development leads in some instances to more, rather than less, reliance on nuclear weapons.¹¹

Both the U.S. and Russia accuse each other of violating the INF Treaty. Wherever the truth lies, the solution is not to pull out of the Treaty, but to redouble diplomatic efforts to resolve the allegations. Last fall, Russian Foreign Minister Sergei Lavrov stated that Russia is ready to renew dialogue with the U.S., warning that a lack of dialogue with the U.S. on arms control using diplomatic channels which are currently “frozen” is simply “unacceptable.” According to Lavrov, negotiations must deal with all aspects of strategic stability including U.S. missile defense systems, and should include serious dialogue aimed at preventing the militarization of space, a danger underlined by President Trump’s announcement last June, directing the U.S. Defense Department to establish a Space Force as a new branch of the U.S. Armed Forces.¹²

In a statement last October, former U.S. Secretary of Energy Ernest Moniz and former Senator Sam Nunn warned: “If the United States gives formal notice and withdraws from the [INF] Treaty in six months, a cascade of negative consequences for the United States, Europe and the world could be triggered.” Echoing Lavrov, they declared: “To turn this potential mistake into an opportunity, Presidents Trump and Putin should follow through on their commitment at Helsinki last summer to begin a new dialogue on strategic stability focused on nuclear dangers.... Broadening the aperture of engagement to include forward-deployed U.S. and Russian nuclear weapons in and near Europe, missile defense, “prompt-strike” forces, cyber and space is also essential for reducing nuclear risks.”¹³

It is noteworthy that previous opportunities for such broad-scope arms negotiations were missed. Against the favorable backdrop of the negotiations leading to the INF Treaty in 1987 and the first Strategic Arms Reduction Treaty (START) in 1991, the complicated calculus of “strategic stability” was addressed in the June 1990 “Soviet- United States Joint Statement on Future Negotiations on Nuclear and Space Arms and Further Enhancing Strategic Stability.” The Joint Statement declares: “The United States of America and the Union of Soviet Socialist Republics, building on the results of the current negotiations, agree to pursue new talks on strategic offensive arms, and on the relationship between strategic offensive and defensive arms. The objectives of these negotiations will be to reduce further the risk of outbreak of war, particularly nuclear war, and to ensure strategic stability, transparency and predictability through further stabilizing reductions in the strategic arsenals of both countries. This will be achieved by seeking agreements that improve survivability, remove incentives for a nuclear first strike and implement an appropriate relationship between strategic offenses and defenses.”¹⁴

However, in yet another backwards development, the U.S. government has just halted, without explanation, its nearly decade-long practice of disclosing the current size of its nuclear weapons stockpile.¹⁵ This is another strike against increasing transparency by nuclear-armed states – a widely acknowledged condition for creating the environment for nuclear disarmament.

It is unlikely that any of the other nuclear-armed powers will be willing to engage in negotiations to control or eliminate nuclear weapons if the U.S. and Russia are abandoning arms control and moving in the opposite direction.

We stand at a nuclear crossroads, in a starkly divided world. The nuclear-armed states and their allies and the non-nuclear states must find a way to start talking with each other. The nuclear-dependent states should welcome the Treaty on the Prohibition of Nuclear Weapons as a contribution to creating an environment for nuclear disarmament by strengthening the nuclear nonproliferation regime and reinforcing implementation of NPT Article VI. All the states that voted to adopt the TPNW are already non-nuclear weapon state members of the NPT. And most are also members of Nuclear Weapon Free Zones. Thus, the TPNW adds another layer of nonproliferation protection while compellingly articulating principles and aspirations for a nuclear-weapons free world – a world which nuclear-dependent states *claim* to seek.

To achieve the elimination of nuclear weapons and a global society that is more fair, peaceful and ecologically sustainable, we will need to move from the irrational fear-based ideology of deterrence to the rational fear of an eventual nuclear weapon use, whether by accident, miscalculation or design. We will also need to stimulate a rational hope that security can be redefined in humanitarian and ecologically sustainable terms that will lead to the elimination of nuclear weapons and dramatic demilitarization, freeing up tremendous resources desperately needed to address universal human needs and protect the environment.

Nuclear disarmament should serve as the leading edge of a global trend toward demilitarization and redirection of resources to mitigate environmental collapse and address human needs.

- *By Jacqueline Cabasso, Executive Director, Western States Legal Foundation*

*This statement presented on behalf of Western States Legal Foundation, Oakland California, USA and the following 46 organizations.

International Organizations

Global Action to Prevent War

Global Security Institute

International Physicians for the Prevention of Nuclear War (IPPNW)

Vision GRAM-International

World Future Council

Aotearoa/New Zealand

Aotearoa Lawyers for Peace

iCAN Aotearoa New Zealand

New Zealand Peace Foundation

Peace Movement Aotearoa

Australia

Hunter Peace Group, Newcastle

Burundi

Colonie des Pionniers du Développement (CPD)

Croatia

The City of Biograd na Moru

Germany

Forum Friedensethik (FFE) in der Evangelischen Landeskirche, Baden
Friedenswerkstatt Mutlangen e.V.

Greece

Greek IPPNW

Guatemala

ECPAT/Guatemala

Italy

Italian Medical Association for the Prevention of Nuclear War (IPPNW Italy)

Japan

Peace Depot Inc.

Nepal

Women for Peace and Democracy (WPD)

Netherlands

PAX

Philippines

Center for Peace Education-Miriam College, Quezon City

Sweden

Glokala Sjuhärad

Switzerland

Basel Peace Office, Basel

United Kingdom

C N D Cymru - Campaign for Nuclear Disarmament, Wales

United States of America (national organizations)

Peace Action

Physicians for Social Responsibility (U.S. affiliate of IPPNW)

September 11th Families for Peaceful Tomorrows

United for Peace and Justice

U.S. Peace Council

Veterans for Peace

Womens International League for Peace and Freedom, U.S. Section

United States of America (local/regional organizations)

Arlington United for Peace and Justice, Arlington, Massachusetts

Campaign for Peace, Disarmament and Common Security, Cambridge, Massachusetts

Center for Political Ecology, Santa Cruz, California

Concerned Citizens for Nuclear Safety, Santa Fe, New Mexico

Lawyers Committee on Nuclear Policy, New York, New York

Maryknoll Office for Global Concerns, Washington, DC

Massachusetts Peace Action

Minnesota Peace Project, Minneapolis, Minnesota

Newton Dialogues On Peace and War, Newton Massachusetts

Nuclear Age Peace Foundation, Santa Barbara, California

Nuclear Watch, Santa Fe, New Mexico

Nukewatch, Luck, Wisconsin

Oak Ridge Environmental Peace Alliance, Oak Ridge, Tennessee

Pax Christi Northern California

P.E.A.C.E. (Peace, Education And Community Effort), Easton, Maryland

Peace Farm, Amarillo, Texas

Physicians for Social Responsibility, San Francisco Bay Area Chapter, California

Proposition One Campaign, Washington, D.C.

Watertown Citizens for Peace, Justice & the Environment, Watertown, Massachusetts

¹ A look at the US military's close calls with China, Russia in the air and at sea

<https://abcnews.go.com/Politics/us-militarys-close-calls-china-russia-air-sea/story?id=58239230>

Did Russia really chase a US bomber out of its airspace?

<https://edition.cnn.com/2019/03/22/europe/russia-us-cold-war-confrontation-intl/index.html>

2 USB-52s fly over South China Sea, second time in a month: report

<https://www.foxnews.com/world/us-sends-nuclear-capable-bombers-to-south-china-sea-for-second-time-amid-chinas-growing-militarization>

² <http://reachingcriticalwill.org/images/documents/Disarmament-fora/npt/prepcom18/documents/WP30.pdf>

³ <https://www.state.gov/t/isn/rls/rm/2018/288018.htm>

⁴ <https://www.state.gov/t/isn/rls/rm/2019/290676.htm>

⁵ <https://undocs.org/en/S/PV.8500>, p. 14

⁶ *Legality of the Threat or Use of Nuclear Weapons, Advisory Opinion, I.C.J. Reports 1996*, p. 226, para. 105(2)(F)

⁷ https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/assets/WMD/Nuclear/1995-NPT/pdf/NPT_CONF199501.pdf

⁸ <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/npt/revcon2000/docs/2000FD.pdf>, p. 14

⁹ <http://www.reachingcriticalwill.org/images/documents/Disarmament-fora/npt/revcon2010/FinalDocument.pdf>, p. 19

¹⁰ *Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) notwithstanding Security Council Resolution 276 (1970), Advisory Opinion, I.C.J. Reports 1971*, p. 16, at pp. 53-54.

¹¹ “A circle that can’t be squared: Broad-spectrum arms racing and nuclear disarmament” by Jacqueline Cabasso and Andrew Lichterman, Western States Legal Foundation, in *Rethinking General and Complete Disarmament in the Twenty-First Century*, UNODA Occasional Papers No. 28, October 2016, pps. 64 - 74

<https://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/assets/publications/occasionalpapers/en/op28.pdf>

¹² <https://sputniknews.com/world/201811021069444203-russia-us-inf-start-treaties/>

¹³ <https://www.nti.org/newsroom/news/statement-ernest-j-moniz-and-sam-nunn-us-withdrawal-inf-treaty/>

¹⁴ Soviet-United States Joint Statement on Future Negotiations on Nuclear and Space Arms and Further Enhancing Strategic Stability – 1990

<https://www.presidency.ucsb.edu/documents/soviet-united-states-joint-statement-future-negotiations-nuclear-and-space-arms-and>

¹⁵ US Halts Recent Practice of Disclosing Nuclear Weapon Total

<https://www.nytimes.com/aponline/2019/04/17/us/politics/ap-us-nuclear-weapons-stockpile.html?searchResultPosition=9>