

Future Cities 2009: Local democracy in action for a greener, more peaceful world  
Panel I: Future Worlds: Choices on Security, Energy, Development  
November 6, 2009

## **Good Faith and the Elimination of Nuclear Weapons**

John Burroughs, Executive Director, Lawyers Committee on Nuclear Policy, New York  
Outline of presentation

### **Basic Situation**

US and Russia each have about 1000 nuclear warheads on quick-launch status

23,000 warheads in world, intact (Federation of American Scientists)

US – 9,400; Russia - around 10,000

Annual US spending: over \$50 billion (Steve Schwartz, Deepti Choubey)  
Annual global spending (Ben Cramer): about \$90 billion

US \$ 5.5 trillion from beginning until 1996 (Steve Schwartz, Atomic Audit)

### **Nuclear Non-Proliferation Treaty (NPT) obligations**

Article VI: “Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.”

International Court of Justice, unanimous, 1996 opinion:

“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 supplied)

NPT commitments made at 2000 Review Conference include:

- entry into force of the Comprehensive Nuclear-Test-Ban Treaty (CTBT) and a moratorium on nuclear explosive testing in the meantime;
- negotiating a treaty banning production of fissile materials for weapons;
- applying the principle of irreversibility to nuclear weapons reductions and elimination;
- further developing of verification capabilities;
- measures to further reduce the operational status of nuclear weapons;
- a diminishing role for nuclear weapons in security policies to minimize the risk of their use and to facilitate their elimination.

## **Good Faith**

“Good faith is a fundamental principle of international law, without which all international law would collapse,” declared Judge Mohammed Bedjaoui, former President of the International Court of Justice. The Vienna Convention on the Law of Treaties (Article 26) provides: “*Pacta sunt servanda*: Every treaty in force is binding upon the parties to it and *must be performed by them in good faith*.”

Essentially, good faith means keeping promises in a manner true to their purposes and working sincerely and cooperatively to attain agreed objectives.

### *Negotiations in Good Faith*

Good faith negotiations must be meaningful in nature. Good faith negotiations require willingness to compromise, with “awareness of the interests of the other party; and a persevering quest for an acceptable compromise.” Parties are under a duty to negotiate with a genuine intention to achieve a positive result. The International Court of Justice held that the disarmament obligation requires good faith negotiations as an obligation of both conduct and result. States must not only negotiate with serious efforts to achieve the elimination of nuclear weapons but must actually achieve that result.

## **Obama Administration Policies**

The administration generally has signaled US recommitment to NPT obligations and commitments.

President Obama’s April 5, 2009 Prague speech – seek peace and security of a world without nuclear weapons; as the only nuclear power to have used nuclear weapons, US has a moral responsibility to act. To pursue talks with Russia, fissile materials treaty, CTBT.

Commencement of talks with Russia, July, on START replacement.

UN Security Council Summit, September 24, 2009, convened by President Obama. In his remarks at the Summit, President Obama quoted President Reagan: “A nuclear war cannot be won, and must never be fought.... We must never stop until we see the day when nuclear arms have been banished from the face of the Earth.” Mr. Obama went on: “That is our task. That can be our destiny. We will leave this meeting with a renewed determination to achieve that shared goal.” Speaking to the UN General Assembly the day before the Summit, he made a brief but significant promise: “We will complete a Nuclear Posture Review that opens the door to deeper cuts, and reduces the role of nuclear weapons.”

UNSC Resolution 1887, adopted by the Security Council Summit, declares resolve “to create the conditions for a world without nuclear weapons” and endorses US-Russian talks on START replacement, CTBT entry into force, negotiation of fissile materials treaty. Also reinforces and develops measures re non-proliferation and prevention of acquisition by terrorists. Securing

nuclear materials, restrictions on withdrawal, implementation of UNSC resolution 1540 on prevention of acquisition and trafficking by non-state actors, etc. But no innovations whatever regarding disarmament.

**Near-term measures:**

The near-term agenda for the Obama administration includes a Nuclear Posture Review, US-Russian negotiations on reductions, a fissile materials treaty, and ratification of the CTBT. For a discussion of prospects and issues regarding these measures, see a briefing paper I wrote for the Middle Powers Initiative, [Making Good on the Promises: From the Security Council Summit to the 2010 NPT Review](#), October 2009.

**What's lacking: any process for deliberation and negotiation on framework for a nuclear weapons world**

What needs to happen is for the five-year NPT Review Conference to be held in May 2010 to commit to creation of such a process. A petition to Obama I helped developed with Jackie Cabasso makes this point succinctly. It is prefaced by this quote:

*One nuclear weapon exploded in one city -- be it New York or Moscow, Islamabad or Mumbai, Tokyo or Tel Aviv, Paris or Prague -- could kill hundreds of thousands of people. And no matter where it happens, there is no end to what the consequences might be -- for our global safety, our security, our society, our economy, to our ultimate survival.*

-- [President Barack Obama, Prague, April 5, 2009](#)

The petition itself provides:

“Dear President Obama,

We wholeheartedly applaud you for declaring in Prague, “I state clearly and with conviction America’s commitment to seek the peace and security of a world without nuclear weapons.” We commend you for your courageous and historic recognition that “as the only nuclear power to have used a nuclear weapon, the United States has a moral responsibility to act.” We call on you to make good on that commitment and fulfill that responsibility by announcing at the 2010 Nuclear Non-Proliferation Treaty Review Conference your initiation of good faith multilateral negotiations on an international agreement to abolish nuclear weapons, within our lifetimes! Yes we can!!” Signed ....

In addition to creation of a global process to establish a nuclear weapons-free world, it is also important to design and carry out other steps – test ban treaty, fissile materials treaty, US-Russian reductions - with the intent to move toward elimination of nuclear weapons. That rules out, for example, tying ratification of the CTBT or US-Russian reductions to far-reaching

modernization of the nuclear weapons research and production complex, or of delivery systems.

**Citizen/locality Participation**

Mayors for Peace – around 150 US member cities, including Madison – is supporting commencement of negotiations on elimination, with target date of 2020 for actually eliminating nuclear forces. What you can do is recruit your mayor and city to participate: to join Mayors for Peace, and take action, for example, adopt resolutions, hold events.