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# Middle Powers Initiative Briefing Paper

## The Humanitarian Imperative for Nuclear Disarmament

*Briefing Paper for the Middle Powers Initiative/  
Swiss Federal Department of Foreign Affairs Conference*

*From Aspiration to Reality: Nuclear Disarmament after the NPT Review*

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**THE MIDDLE POWERS INITIATIVE**  
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Through the Middle Powers Initiative, eight international non-governmental organizations (the Albert Schweitzer Foundation, Global Security Institute, International Association of Lawyers Against Nuclear Arms, International Network of Engineers and Scientists for Global Responsibility, International Peace Bureau, International Physicians for the Prevention of Nuclear War, Nuclear Age Peace Foundation, and the Women's International League for Peace and Freedom) are able to work primarily through "middle power" governments to encourage and educate the nuclear weapons states to take immediate practical steps that reduce nuclear dangers and commence negotiations to eliminate nuclear weapons.

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# The Humanitarian Imperative for Nuclear Disarmament

## Introduction

The outcome of the 2010 Nuclear Non-Proliferation Treaty Review Conference is a solid foundation for achieving nuclear disarmament. This Conference, *From Aspiration to Reality: Nuclear Disarmament after the NPT Review*, co-sponsored by the Middle Powers Initiative (MPI) and the Swiss Federal Department of Foreign Affairs, will explore how states and civil society can build upon key elements of the outcome. They include the reaffirmation of previous commitments; the Middle East decision; the commitment of the nuclear weapon states to promptly engage on the reduction of the global stockpile and other steps and to report on the results to the 2014 preparatory meeting for the 2015 review; the need for all states to make special efforts to establish a framework to achieve a world without nuclear weapons and the acknowledgement of the UN Secretary-General's proposal for negotiation of a convention or framework of instruments to that end; and the affirmation of the need to comply with international humanitarian law.

This Briefing Paper does not seek to address the Review Conference outcome comprehensively. Central issues have been thoroughly examined in MPI Article VI Forums and the Atlanta Consultation preceding the 2010 NPT Review, and the briefing papers and reports for those meetings. MPI also produced a set of recommendations for the review reflecting years of consultations with middle power governments. (See Appendix for a comparison of the recommendations with the Review Conference outcome.)

What this Briefing Paper does address are two innovative elements of the outcome: the provisions regarding a framework or convention for elimination of nuclear weapons, and the affirmation of the applicability of international humanitarian law (IHL) to nuclear weapons. As to the first element, MPI recommends that middle power governments now launch a preparatory process for negotiations on a nuclear weapons convention. As to the second, NPT parties have taken on the existing obligation of compliance with IHL with respect to nuclear weapons as an *NPT commitment* for which they are accountable within the NPT review process. The most fundamental implication of the Review Conference IHL statement is the imperative of humanitarian disarmament through fulfillment of NPT Article VI.

## A. A Convention or Framework for the Global Elimination of Nuclear Weapons

1. The action plan on nuclear disarmament adopted by the Review Conference includes this new and potentially historic provision: *“The Conference calls on all nuclear-weapon states to undertake concrete disarmament efforts and affirms that all States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons. The Conference notes the five-point proposal for nuclear disarmament of the Secretary-General of the United Nations, which proposes, inter alia, consideration of negotiations on a nuclear weapons convention or agreement on a framework of separate mutually reinforcing instruments, backed by a strong system of verification.”* Another provision is contained in the Final Document’s review portion, undertaken as the responsibility of the President: *“The Conference affirms that the final phase of the nuclear disarmament process and other related measures should be pursued within an agreed legal framework, which a majority of states parties believe should include specified timelines.”* Those provisions are the culmination of work over many years in the General Assembly, the NPT review process, civil society, and various expert bodies including the Canberra Commission, the WMD Commission, and the International Commission on Nuclear Non-proliferation and Disarmament (ICNND). They can and should be the basis for preparing for and commencing negotiations directly aimed at achieving a nuclear weapon-free world.

2. Every year beginning in 1997, the General Assembly has adopted a resolution calling upon all states immediately to fulfill the disarmament obligation unanimously affirmed by the International Court of Justice by commencing multilateral negotiations leading to an early conclusion of a nuclear weapons convention. In 2009, the resolution was adopted by a vote of 124 to 31, with 21 abstentions. Also noteworthy is the 2000 General Assembly resolution, “Towards a Nuclear-Weapon-Free World: The Need for a New Agenda.” Among many other provisions, it affirms “that a nuclear-weapon-free world will ultimately require the underpinnings of a universal and multilaterally negotiated legally binding instrument or a framework encompassing a mutually reinforcing set of instruments.” The resolution was adopted by a vote of 154 in favor, including China, the United Kingdom, and the United States; to three opposed, India, Pakistan, and Israel; with eight abstentions, including France and Russia.

3. As the Final Document acknowledges, UN Secretary-General Ban Ki-moon has repeatedly lent his authority to the approach of the two resolutions, beginning with his October 24, 2008 address. In that address, he stated that the model convention he has circulated to UN member states at the request of Costa Rica and Malaysia is a “good starting point” for negotiations. The model convention was released by three of MPI’s co-sponsors, the International Association of Lawyers Against Nuclear Arms, the International Physicians for the Prevention of Nuclear War, and the International Network of Engineers and Scientists for Global Responsibility.

4. **The Middle Powers Initiative recommends that middle power governments launch collective preparatory work for negotiations on a convention or framework of instruments for the sustainable, verifiable and enforceable global elimination of nuclear weapons.** The ICNND report similarly states: “Work should commence now, supported by interested governments, on further refining and developing the concepts in the model convention now in circulation, with the objective of having a fully-worked through draft available to inform and guide multilateral disarmament negotiations as they gain momentum.” In its final communiqué released on July 5, 2010, the ICNND reiterated its recommendation for the establishment of a Global Centre on Nuclear Non-Proliferation and

Disarmament, and stated that a “major role” of the Centre would be “to lead worldwide research aimed at refining and developing a model Nuclear Weapons Convention, with the object of having a fully worked through draft available to inform and guide multilateral disarmament negotiations as they gain momentum.”

**5. One of the many important tasks for the preparatory process would be to clarify concepts and make decisions regarding a “framework,” four times referred to in the Final Document, as well as “convention”.** A “*framework of instruments*” could tie together agreements and institutions that now exist as well as ones yet to be created. It could, for example, incorporate some or all of the following: the NPT; the Comprehensive Nuclear Test-Ban Treaty (CTBT), still to enter into force; a Fissile Materials Cut-off Treaty, not yet negotiated, but on the present international agenda; nuclear weapon-free zones; bilateral or regional agreements on elimination of nuclear weapons; an agreement on elimination among states that possess nuclear weapons plus other representative states; an agreement providing the IAEA authority and resources to verify nuclear disarmament, or establishing a new agency for this purpose; the International Convention on Suppression of Acts of Nuclear Terrorism; Security Council resolution 1540; and an agreement on governance for the regime. The tendency of this approach is to push finalization of the institutional and legal arrangements for elimination of nuclear weapons well into the future. That tendency is suggested by US Secretary of State Hillary Clinton’s contention in her May 3, 2010, statement to the Review Conference that the new US-Russian START treaty “is consistent with the Secretary General’s call to pursue nuclear disarmament through agreement on a framework of separate, mutually reinforcing instruments.”

6. A “*framework convention*” could set forth basic obligations of non-use of nuclear weapons and elimination of nuclear arsenals, and provide for further negotiations on matters that could not be settled at the outset, for example aspects of verification and enforcement, or possibly the sequence and timing of reductions and achieving zero. A framework convention might be more feasible to negotiate in the near term. However, states might be reluctant to enter into an agreement if crucial issues were left to further negotiations. Also, the process of going to zero would be disrupted if the further negotiations proved unsuccessful.

7. A “*convention*” is often thought of as a single legal instrument addressing all aspects of elimination of nuclear weapons, like the Chemical Weapons Convention. However, given the already well-developed state of nuclear arms control and non-proliferation, in fact a Nuclear Weapons Convention almost surely would incorporate or link to the CTBT, probably also elements of the NPT regime including safeguards agreements, and possibly other existing instruments like Security Council 1540 and treaties on nuclear terrorism and nuclear safety. In this sense, it would be in part a “framework of instruments,” but one that comes earlier in the process of disarmament and defines and shapes that process rather than serving as its culmination.

**8. On those and other issues, there is much to do in a preparatory process. Such a process would not undermine work on the Fissile Materials Cut-off Treaty, further US-Russian negotiations, regulation of nuclear fuel production and supply, and other measures on the existing agenda. On the contrary, it would stimulate and reinforce progress on such measures. Measures now apparently within reach may in fact remain unattainable while a nuclear weapons-free world is not even on the horizon. In that circumstance, they may be perceived as primarily aimed at preserving the advantage of powerful states and deemed unacceptable. It is in any case imperative to squarely address the nature of the overall framework for elimination**

of nuclear weapons; the widely acknowledged challenges to be overcome in achieving disarmament will not go away just because they are ignored.

## **B. International Humanitarian Law and the Delegitimization of Nuclear Weapons**

9. In an important innovation in the NPT context, in the 2010 Review Conference Final Document, the “Conference expresses its deep concern at the catastrophic humanitarian consequences of *any* use of nuclear weapons, and reaffirms the need for all states *at all times* to comply with applicable international law, including international humanitarian law.” (Emphasis supplied.) International humanitarian law (IHL) protects civilians and combatants from indiscriminate and unnecessary effects of warfare. The Review Conference statement implies the unlawfulness of use of nuclear weapons in any circumstance, advancing the 1996 advisory opinion of the International Court of Justice (ICJ).

10. The condemnation of use of nuclear weapons as contrary to humanitarian values and law is as old as the nuclear age. In recent years, several governments and organizations, including the International Committee of the Red Cross (ICRC) and the United Nations Institute for Disarmament Research (UNIDIR), have forcefully brought this dimension to the fore.

11. In the Review Conference general debate on May 4, Micheline Calmy-Rey, Head of the Federal Department of Foreign Affairs, stated that “Switzerland’s aim is to bring the humanitarian aspect to the heart of the current debate on nuclear disarmament.” To that end, on May 10 Switzerland and the James Martin Center on Nonproliferation Studies released the thoughtful publication *Delegitimizing Nuclear Weapons*. It includes an examination of humanitarian disarmament principles and practices as applied to anti-personnel mines, cluster munitions, and small arms as well as the legal legitimacy of nuclear weapons. The study observes that a humanitarian disarmament approach focuses on “the prohibition of a class of weapons” which have indiscriminate and unacceptable effects. This differs from a traditional arms control approach which generally aims for disarmament steps achieved by consensus with an eye to satisfying perceived military needs. The *modus operandi* of a humanitarian disarmament approach is not universal buy-in by all states, but the negotiation of treaties or other measures that make international humanitarian law and the protection of people paramount. The study notes that this approach was successful with landmines and cluster munitions as the treaties were “negotiated with fewer players and a higher common factor rather than the lowest common denominator approach to arms control.” UNIDIR publications, from the 2004 issue of Disarmament Forum, “Human Rights, Human Security, and Disarmament,” to the 2009 book by John Borrie, *Unacceptable Harm: A History of How the Treaty to Ban Cluster Munitions Was Won*, have also developed the concept of humanitarian disarmament.

12. In a probing, comprehensive speech entitled “Disarmament: reframing the challenge” delivered on February 1, 2010, Norwegian Foreign Minister Jonas Gahr Støre stated regarding nuclear disarmament: “We need to make use of the conceptual insights gained through the humanitarian disarmament processes of recent years.” And he stated generally: “We have moved beyond the traditional understanding of disarmament solely as a means of reducing armed forces and eliminating weapons. Although this remains crucial, we have now increased focus on the rights of victims and the prevention of humanitarian tragedy, in short, the rights of civilians, the human factor. Disarmament seen from this perspective has an important norm-setting function, and it is clear that it concerns us all.”

13. In an April 20, 2010 statement, ICRC President Jakob Kellenberger cited a recent ICRC study finding that there is “little” capacity to aid victims of a use of nuclear weapons. He also said that **“the ICRC finds it difficult to envisage how any use of nuclear weapons could be compatible with the rules of international humanitarian law.”** He added: “The position of the ICRC, as a humanitarian organization, goes – and must go – beyond a purely legal analysis. Nuclear weapons are unique in their destructive power, in the unspeakable human suffering they cause, in the impossibility of controlling their effects in space and time, in the risks of escalation they create, and in the threat they pose to the environment, to future generations, and indeed to the survival of humanity. The ICRC therefore appeals today to all states to ensure that such weapons are never used again, regardless of their views on the legality of such use.” Kellenberger concluded: **“In the view of the ICRC, preventing the use of nuclear weapons requires fulfilment of existing obligations to pursue negotiations aimed at prohibiting and completely eliminating such weapons through a legally binding international treaty. It also means preventing their proliferation and controlling access to materials and technology that can be used to produce them.”**

14. As Kellenberger noted, the ICRC’s critique of nuclear weapons began immediately after they were used on Hiroshima and Nagasaki: “Already on 5 September 1945 the ICRC publicly expressed the wish that nuclear weapons be banned.... In a communication to States party to the Geneva Conventions in 1950, the ICRC stated that before the atomic age: ‘[W]ar still presupposed certain restrictive rules; above all ... it presuppose[d] discrimination between combatants and non-combatants. With atomic bombs and non-directed missiles, discrimination became impossible. Such arms will not spare hospitals, prisoner of war camps and civilians. Their inevitable consequence is extermination, pure and simple.... [Their] effects, immediate and lasting, prevent access to the wounded and their treatment. In these conditions, the mere assumption that atomic weapons may be used, for whatever reason, is enough to make illusory any attempt to protect non-combatants by legal texts. Law, written or unwritten, is powerless when confronted with the total destruction the use of this arm implies’. On this basis the International Committee called on States to take ‘all steps to reach an agreement on the prohibition of atomic weapons’.”

15. Other early developments include the 1950 Stockholm Appeal initiated by Frédéric Joliot Curie and others, which demands “the absolute prohibition of atomic arms as instruments of terror and massive extermination of populations,” and the seminal UN General Assembly Resolution 1653 of 1961, which declared the use of nuclear weapons “contrary to the rules of international law and to the laws of humanity.” In a crucial contribution, over the decades, the hibakusha – survivors of the atomic bombings – have grown more and more effective in conveying their simple, powerful message: “No one else should ever suffer as we did.”

16. The issues were revisited in the 1996 advisory opinion of the International Court of Justice. Like the 2010 NPT Review Conference, the Court affirmed that international humanitarian law applies to nuclear weapons. The Court pointed to the “inherently humanitarian character of the legal principles in question which permeates the entire law of armed conflict and applies to all forms of warfare and to all kinds of weapons, those of the past, those of the present and those of the future.” The Court explained that the principles of IHL protecting civilians and combatants are “fundamental” and “intransgressible,” and that “methods and means of warfare, which would preclude any distinction between civilian and military targets, or which would result in unnecessary suffering to combatants, are prohibited.” **It found that “[i]n view of the unique characteristics of nuclear weapons, ... the use of such weapons in fact seems scarcely reconcilable with respect for such requirements.”**



However, given the facts and law available to it, the Court felt that it could go only so far as stating that threat or use of nuclear weapons would “generally be contrary” to international law, and could not reach a conclusion, one way or the other, regarding an “extreme circumstance of self-defence, in which the very survival of a State is at stake.” That outcome was endorsed by seven of the Court’s then 14 members, and carried by the casting vote of the President, Judge Mohammed Bedjaoui. Three members of the Court dissented on the ground that threat or use is illegal in all circumstances. Thus ten members of the Court assessed that threat or use of nuclear weapons is generally or categorically illegal.

**17. Accordingly, when the Review Conference for the first time addressed the question of IHL, it was building on a long history. It is significant that it did so. First, NPT parties have now taken on the existing obligation of compliance with IHL with respect to nuclear weapons as an *NPT commitment* for which they are accountable within the NPT review process. Second, the Conference’s reference to the catastrophic humanitarian consequences of “any” use of nuclear weapons, directly coupled with the call for compliance with law “at all times,” implies that use of nuclear weapons is unlawful in *all* circumstances. Since there is no doubt that IHL applies to armed conflict, the insistence on compliance with applicable international law “at all times” weighs against any suggestion that IHL bends or wavers depending upon the circumstances. That includes the “extreme circumstance” referred to by the ICJ, or second use in “reprisal” intended to discourage further attacks.**

**18. The truth is that compliance with IHL requirements is impossible due to the uncontrollable collateral effects of nuclear weapons.** A major ICRC study published in 2005, *Customary Humanitarian International Law*, is an authoritative statement of the applicable requirements. The study identifies IHL rules based upon exhaustive research into state practice and legal opinion as manifested by armed forces manuals on the law of armed conflict, multilateral treaties including Protocol I to the Geneva Conventions and the Rome Statute, and other sources. Among the general rules most relevant to nuclear weapons are the prohibition of indiscriminate attacks, the requirement of proportionality in attack, and the requirement of due regard for protection and preservation of the natural environment.

19. *Indiscriminate attacks* are defined as those (a) which are not directed at a specific military objective; (b) which employ a method or means of combat which cannot be directed at a specific military objective; or (c) which employ a method or means of combat the effects of which cannot be limited as required by international humanitarian law; and consequently, in each such case, are of a nature to strike military objectives and civilians or civilian objects without distinction. *Proportionality in attack* prohibits launching an attack which may be expected to cause incidental loss of civilian life, injury to civilians, damage to civilian objects, or a combination thereof, which would be excessive in relation to the concrete and direct military advantage anticipated. *Due regard for the environment* imposes a similar requirement of proportionality in attack with respect to damage to the environment. Many of the numerous specific rules identified by the study, for example those protecting hospitals and cultural property, also come into play in view of the immense effects of nuclear weapons.

20. In light of the foregoing, the IHL provision adopted by the Review Conference without question develops the norm of non-use of nuclear weapons. Indeed, when combined with the *practice* of non-use since the US atomic bombings of Japanese cities, the provision strengthens the case for a customary legal obligation categorically prescribing non-use. The welcome US statement in its Nuclear Posture Review is also relevant here: “It is in the US interest and that of all other nations that the nearly 65-year record of nuclear non-use be extended forever.” Further, the ICJ observed that the “adoption each year

by the General Assembly, by a large majority, of resolutions recalling the content of resolution 1653 (XVI), and requesting the member States to conclude a convention prohibiting the use of nuclear weapons in any circumstance, reveals the desire of a very large section of the international community to take, by a specific and express prohibition of the use of nuclear weapons, a significant step forward along the road to complete nuclear disarmament.” However, the ICJ declined to recognize a customary obligation based on the record of non-use and General Assembly resolutions, stating that the “emergence, as *lex lata*, of a customary rule specifically prohibiting the use of nuclear weapons as such is hampered by the continuing tensions between the nascent *opinio juris* on the one hand, and the still strong adherence to the practice of deterrence on the other.” With the Review Conference statement, the world is moving closer to the day when it can be said that the practice of non-use has become a *custom* of non-use recognized by law.

**21. The most fundamental implication of the Review Conference IHL statement is the imperative of humanitarian disarmament through fulfillment of NPT Article VI. As noted above, the ICRC has declared that implication. The ICJ also effectively recognized the implication when it unanimously declared the obligation to pursue in good faith and bring to a conclusion negotiations on nuclear disarmament in response to the General Assembly’s question on legality of threat or use.**

22. Other possible implications deserve thorough examination. First, the inconsistencies of doctrines and actual deployments with the requirements of IHL, and the resulting incoherence and instability of the international legal and political order, must be squarely addressed. Middle power governments and nuclear weapon states should work together to fulfill the requirements of IHL. The most desirable outcome would be for the nuclear weapon states to acknowledge the basic incompatibility of threat or use of nuclear weapons with those requirements, and to change their policies accordingly. One way to formalize such an acknowledgement would be by a Security Council resolution. The existential deterrence arising from possession of nuclear weapons would be left intact until global disarmament is achieved.

23. Second, non-nuclear weapon states can consider means of entrenching the norm of non-use not requiring participation of nuclear weapon states. One is to adopt national legislation prohibiting participation or complicity in acquisition or use of nuclear weapons. This could be done as an extension of implementation of Security Council Resolution 1540, or as a means of enacting measures that would be mandated by a nuclear weapons convention prior to negotiation of such a convention. New Zealand has long had national legislation making it a criminal offence for its nationals to aid, abet or procure any person to manufacture, acquire, possess, or have control over any nuclear explosive device. A related option would be to adopt a simple, categorical non-use treaty, designed so that it could be joined by nuclear weapon states and members of nuclear alliances when they are ready to do so.

24. Those steps by non-nuclear weapon states could be coupled with, or replaced by, an amendment of the Rome Statute of the International Criminal Court (ICC) to make use of nuclear weapons a specific international crime, as proposed by Mexico. This would codify what is already implicit in the Rome Statute’s general provisions on IHL and crimes against humanity, and build upon the Review Conference IHL statement. The prospects for this strategy appear to have improved given the way the recent ICC Review Conference in Kampala handled amendments on aggression and other matters. Those amendments will not apply to states parties not accepting them or to non-states parties. That method is regrettable in one sense because it tends to fragment international law. But if applied to amendments on nuclear and other weapons, it perhaps would also enable states wishing to reinforce

non-use norms to do so without triggering overwhelming resistance from states not yet ready for this step. The ICC Assembly of States Parties will form a working group on amendments in December.

### **Conclusion**

**Law is a means of controlling, directing, and constraining potential actions. If law as an institution is to have international relevance, it must apply to critical issues. The survival of humanity depends on how we address threats posed by nuclear weapons. Science in the service of military means of pursuing peace and security has placed civilization at risk. Law has a duty to control this risk. The Review Conference statement on international humanitarian law is an important building block for the work of subjecting nuclear weapons to law, as is the Conference's recognition that the elimination of nuclear weapons will require the establishment of a legal framework. Those provisions must be acted upon if our common future is to be one of law and humanitarian values.**



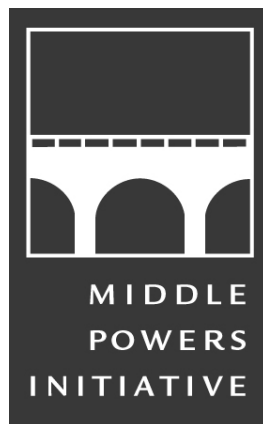
## **APPENDIX**

*Comparison of*  
The Middle Powers Initiative Recommendations  
and  
The Final Document of the 2010 NPT Review Conference

# Final Document of the Review Conference of States Parties to the 2010 NPT Review Conference

New York 3-28 May 2010

## Key Points in Comparison to Recommendations of the Middle Powers Initiative



<p>Recommendations of the Middle Powers Initiative to the 2010 NPT Review Conference Released April 2010</p>	<p>Excerpts from the Final Document of the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons Adopted 28 May 2010 (NPT/CONF.2010/50 (Vol. I))</p>
<p><i>Disarmament:</i> Reaffirm the unequivocal undertaking to accomplish the total elimination of nuclear arsenals. Encourage states parties, especially the nuclear weapon states, to initiate comprehensive national research and development programs to support continued progress toward a world free of nuclear weapons, including expanded work on verification technologies. Agree to begin collective preparatory work for negotiations on a convention or framework of instruments for the sustainable, verifiable and enforceable global elimination of nuclear weapons.</p>	<p><b>I.A.ii (Pg.19)</b> The Conference reaffirms the unequivocal undertaking of the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, to which all States are committed under Article VI.</p> <p><b>I.B.i (Pg.20)</b> The Conference reaffirms the urgent need for the nuclear-weapon States to implement the steps leading to nuclear disarmament agreed to in the Final Document of the 2000 Review Conference, in a way that promotes international stability, peace and security, and based on the principle of undiminished and increased security for all.</p> <p><b>Action 3 (Pg.20)</b> In implementing the unequivocal undertaking by the nuclear-weapon States to accomplish the total elimination of their nuclear arsenals, the nuclear-weapon States commit to undertake further efforts to reduce and ultimately eliminate all types of nuclear weapons, deployed and non-deployed, including through unilateral, bilateral, regional, and multilateral measures.</p> <p><b>95. (Pg.14)</b> The Conference welcomes efforts towards the development of nuclear disarmament verification capabilities that will be required to provide assurance of compliance with nuclear disarmament agreements for the achievement and maintenance of a nuclear-weapon-free world. The Conference notes the cooperation between Norway and the United Kingdom of Great Britain and Northern Ireland in establishing a system for nuclear warhead dismantlement verification.</p> <p><b>I.B.iii (Pg.20)</b> The Conference calls on all nuclear-weapon States to undertake concrete disarmament efforts and affirms that all States need to make special efforts to establish the necessary framework to achieve and maintain a world without nuclear weapons. The Conference notes the five-point proposal for nuclear disarmament of the Secretary-General of the United Nations, which proposes, <i>inter alia</i>, consideration of negotiations on a nuclear weapons</p>

	<p>convention or agreement on a framework of separate mutually reinforcing instruments, backed by a strong system of verification.</p> <p><b>82. (Pg.13)</b> The Conference affirms that the final phase of the nuclear disarmament process and other related measures should be pursued within an agreed legal framework, which a majority of States parties believe should include specific timelines.</p> <p><b>Action 6 (Pg.21)</b> All States agree that the Conference on Disarmament should immediately establish a subsidiary body to deal with nuclear disarmament, within the context of an agreed, comprehensive and balanced programme of work.</p>
<p><i>Transparency:</i> Support establishment of a UN-based, comprehensive accounting system covering size of nuclear arsenals, delivery systems, fissile materials, and spending on nuclear forces.</p>	<p><b>Action 19 (Pg.24)</b> All States agree on the importance of supporting cooperation among Governments, the United Nations, other international and regional organizations and civil society aimed at increasing confidence, improving transparency and developing efficient verification capabilities related to nuclear disarmament.</p> <p><b>Action 21 (Pg.24)</b> As a confidence-building measure, all the nuclear-weapon States are encouraged to agree as soon as possible on a standard reporting form and to determine appropriate reporting intervals for the purpose of voluntarily providing standard information without prejudice to national security. The Secretary-General of the United Nations is invited to establish a publicly accessible repository, which shall include the information provided by the nuclear-weapon States.</p> <p><b>94. (Pg.14)</b> The Conference notes the increased transparency of some nuclear-weapon States with respect to the number of nuclear weapons in their national inventories and encourages all nuclear-weapon States to provide additional transparency in this regard.</p>
<p><i>CTBT:</i> Support early entry into force of the CTBT. Oppose conditioning approval of the CTBT on programs inconsistent with the CTBT's role, stated in the treaty's</p>	<p><b>I.D.i (Pg.22)</b> The Conference recognizes that the cessation of all nuclear test explosions and all other nuclear explosions, by constraining the development and qualitative improvement of nuclear weapons and ending the development of advanced new types of nuclear weapons, constitutes an effective measure of nuclear disarmament and non-proliferation in all its aspects.</p>



<p>preamble, as an “effective measure” in “constraining the development and qualitative improvement of nuclear weapons and ending the development of advanced new types of nuclear weapons.”</p>	<p><b>I.D.ii (Pg.22)</b> The Conference reaffirms the vital importance of the entry into force of the Comprehensive Nuclear-Test-Ban Treaty as a core element of the international nuclear disarmament and non-proliferation regime, as well as the determination of the nuclear-weapon States to abide by their respective moratoriums on nuclear test explosions pending the entry into force of the [CTBT].</p> <p><b>Action 10 (Pg.22)</b> All nuclear-weapon States undertake to ratify the [CTBT] with all expediency, noting that positive decisions by nuclear-weapon States would have the beneficial impact towards the ratification of that Treaty, and that nuclear-weapon States have the special responsibility to encourage Annex 2 countries, in particular those which have not acceded to the NPT and continue to operate unsafeguarded nuclear facilities, to sign and ratify.</p> <p><b>Action 11 (Pg.23)</b> Pending the entry into force of the [CTBT], all States commit to refrain from nuclear-weapon test explosions or any other nuclear explosions, the use of new nuclear weapons technologies and from any action that would defeat the object and purpose of that Treaty, and all existing moratoriums on nuclear-weapon test explosions should be maintained.</p>
<p><i>FMCT:</i> Support negotiations for a fissile materials treaty that comprehensively prevents the use of existing materials outside military programs for weapons acquisition and that fosters disarmament.</p>	<p><b>I.E.i. (Pg.23)</b> The Conference reaffirms the urgent necessity of negotiating and bringing to a conclusion a non-discriminatory, multilateral and internationally and effectively verifiable treaty banning the production of fissile material for nuclear weapons or other nuclear explosive devices.</p> <p><b>Action 15 (Pg.23)</b> All States agree that the Conference on Disarmament should, within the context of an agreed, comprehensive and balanced Programme of Work, immediately begin negotiation of a treaty banning the production of fissile material for use in nuclear weapons or other nuclear explosive devices in accordance with the Report of the Special coordinator of 1995 (CD/1299) and the mandate contained therein. Also in this respect, the Review Conference invites the Secretary-General of the United Nations to convene a high-level meeting in September 2010 in support of the work of the Conference on Disarmament.</p> <p><b>Action 16 (Pg.23)</b> The nuclear-weapon States are encouraged to commit to declare, as appropriate, to the International Atomic Energy Agency (IAEA) all fissile material designated by each of them as no longer required for military purposes and to place such material as soon as practicable</p>

	<p>under IAEA or other relevant international verification and arrangements for the disposition of such material for peaceful purposes, to ensure that such material remains permanently outside military programmes.</p> <p><b>Action 17 (Pg.24)</b> In the context of Action 16, all States are encouraged to support the development of appropriate legally binding verification arrangements, within the context of the IAEA, to ensure the irreversible removal of fissile material designated by each nuclear-weapon State as no longer required for military purposes.</p> <p><b>Action 18 (Pg.24)</b> All States that have not yet done so are encouraged to initiate a process towards the dismantling or conversion for peaceful uses of facilities for the production of fissile material for use in nuclear weapons or other nuclear explosive devices.</p>
<p><i>Doctrines:</i> Reaffirm the commitment to a “diminishing role for nuclear weapons in security policies to minimize the risk that these weapons ever be used and to facilitate the process of their total elimination.” Affirm that the record of non-use of nuclear weapons since World War II should be extended forever. Agree that nuclear weapon states will make legally-binding assurances of non-use of nuclear weapons against non-nuclear weapon states parties to the NPT that are in compliance with the obligation of non-acquisition of nuclear weapons. Encourage all states now part of nuclear alliances to take steps to reduce and phase out the role of nuclear weapons in their security doctrines.</p>	<p><b>Action 5 (Pg.21)</b> [The nuclear weapon states are called upon to promptly engage with a view to, inter alia] (c) To further diminish the role and significance of nuclear weapons in all military and security concepts, doctrines and policies; (d) Discuss policies that could prevent the use of nuclear weapons and eventually lead to their elimination, lessen the danger of nuclear war and contribute to the non-proliferation and disarmament of nuclear weapons; ...</p> <p><b>89. (Pg.14)</b> ... The Conference also welcomes the reductions announced by some nuclear-weapon States in the role of nuclear weapons in their security doctrines, as well as statements by some nuclear-weapon States regarding measures related to strengthening negative security assurances, and notes that China maintains a declaratory policy based on no first use of nuclear weapons.</p> <p><b>I.C.i. (Pg.21)</b> The Conference reaffirms and recognizes that the total elimination of nuclear weapons is the only absolute guarantee against the use or threat of use of nuclear weapons and the legitimate interest of non-nuclear weapon States in receiving unequivocal and legally binding security assurances from nuclear-weapon States which could strengthen the nuclear non-proliferation regime.</p> <p><b>Action 7 (Pg.22)</b> All States agree that the Conference on Disarmament should, within the context of an agreed, comprehensive and balanced programme of work, immediately begin discussion of effective international arrangements to assure non-nuclear-weapon States against</p>

	<p>the use or threat of use of nuclear weapons, to discuss substantively, without limitation, with a view to elaborating recommendations dealing with all aspects of this issue, not excluding an internationally legally binding instrument. The Review Conference invites the Secretary-General of the United Nations to convene a high-level meeting in September 2010 in support of the work of the Conference on Disarmament.</p> <p><b>Action 8 (Pg.22)</b> All nuclear-weapon States commit to fully respect their existing commitments with regard to security assurances. Those nuclear-weapon States that have not yet done so are encouraged to extend security assurances to non-nuclear weapon States parties to the Treaty.</p> <p><b>105. (Pg.16)</b> The Conference calls on the nuclear-weapon States to bring into effect the security assurances provided by nuclear-weapon-free-zone treaties and their protocols.</p>
<p><i>Nuclear Forces:</i> Welcome the new agreement on strategic nuclear forces between the United States and Russian Federation. Agree to build on this progress through the following steps:</p> <p>*Accomplish further reductions in the US and Russian nuclear arsenals in their entirety, deployed and non-deployed, strategic and non-strategic, in accordance with the principles of irreversibility and verification, including through verified dismantlement of warheads. Include other states with nuclear arsenals in the reduction process as soon as possible, to be carried out in coordination with preparations and negotiations for a convention or framework of instruments for the global elimination of nuclear weapons;</p> <p>*All states with nuclear</p>	<p><b>89. (Pg.14)</b> The Conference welcomes the signing of the Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms as well as the unilateral reduction measures announced and implemented by other nuclear-weapon States, including the closing and dismantling of nuclear weapons-related facilities....</p> <p><b>I.B.ii (Pg.20)</b> The Conference affirms the need for the nuclear-weapon States to reduce and eliminate all types of their nuclear weapons and encourages, in particular, those States with the largest nuclear arsenals to lead efforts in this regard.</p> <p><b>Action 4 (Pg.20)</b> The Russian Federation and the United States of America commit to seek the early entry-into-force and early implementation of the Treaty on Measures for the Further Reduction and Limitation of Strategic Offensive Arms and are encouraged to continue discussions of follow-on measures in order to achieve deeper reductions in their nuclear arsenals.</p> <p><b>Action 5 (Pg.21)</b> The nuclear-weapon States commit to accelerate concrete progress on the steps leading to nuclear disarmament, contained in the Final Document of the 2000 Review Conference, in a way that promotes international stability, peace and undiminished and increased security. To that end, they are called upon to promptly engage with a view to, inter alia: (a) Rapidly moving towards an overall reduction in the global stockpile of all types of nuclear</p>

<p>weapons declare the size of their stockpiles and commit not to increase them;</p> <p>*Lower the operational status of nuclear forces and implement steps to reduce quick-launch capability;</p> <p>*Remove all nuclear weapons deployed on the territories of non-possessor states;</p> <p>*Refrain from activities inconsistent with moving toward a world free from nuclear weapons, including expanding capabilities to produce nuclear weapons, designing and manufacturing modified or new-design warheads, modernizing delivery systems, and retaining Cold War deployments based on long gone adversarial relationships.</p>	<p>weapons, as identified in action 3; (b) Address the question of all nuclear weapons regardless of their type or their location as an integral part of the general nuclear disarmament process; ... (e) Consider the legitimate interest of non-nuclear weapon States in further reducing the operational status of nuclear weapons systems in ways that promote international stability and security; (f) Reduce the risk of accidental use of nuclear weapons; ....</p> <p><b>90. (Pg.14)</b> The Conference recognizes that reduction in the operational status of nuclear weapons and announced measures relating to de-targeting contribute to the process of nuclear disarmament through the enhancement of confidence-building measures and a diminishing role for nuclear weapons in security policies.</p> <p><b>I.B.iv (Pg.20)</b> The Conference recognizes the legitimate interests of non-nuclear-weapon States in the constraining by the nuclear-weapon States of the development and qualitative improvement of nuclear weapons and ending the development of advanced new types of nuclear weapons.</p>
<p><i>The Middle East Resolution:</i>          Agree on methods to advance the commitments in the 1995 Middle East resolution, preferably a special representative empowered by the three NPT depository states or an international conference convened by the UN Secretary-General.</p>	<p><b>IV.7 (Pg.30)</b> The Conference emphasizes the importance of a process leading to full implementation of the 1995 Resolution on the Middle East. To that end, the Conference endorses the following practical steps:</p> <p>(a) The Secretary-General of the United Nations and the co-sponsors of the 1995 Resolution, in consultation with the States of the region, will convene a conference in 2012, to be attended by all States of the Middle East, on the establishment of a Middle East zone free of nuclear weapons and all other weapons of mass destruction, on the basis of arrangements freely arrived at by the States of the region, and with the full support and engagement of the nuclear-weapon States. The 2012 Conference shall take as its terms of reference the 1995 Resolution;</p> <p>(b) Appointment by the Secretary-General of the United Nations and the co-sponsors of the 1995 Resolution, in consultation with the States of the region, of a facilitator, with a mandate to support implementation of the 1995 Resolution by conducting consultations with the States of the</p>

	<p>region in that regard and undertaking preparations for the convening of the 2012 Conference. The facilitator will also assist in implementation of follow-on steps agreed by the participating regional States at the 2012 Conference. The facilitator will report to the 2015 Review Conference and its Preparatory Committee meetings;</p> <p>(c) Designation by the Secretary-General of the United Nations and the co-sponsors of the 1995 Resolution, in consultation with the States of the region, of a host Government for the 2012 Conference;</p> <p>(d) Additional steps aimed at supporting the implementation of the 1995 Resolution, including that IAEA, the Organisation for the Prohibition of Chemical Weapons and other relevant international organizations be requested to prepare background documentation for the 2012 Conference regarding modalities for a zone free of nuclear weapons and other weapons of mass destruction and their delivery systems, taking into account work previously undertaken and experience gained;</p> <p>(e) Consideration of all offers aimed at supporting the implementation of the 1995 Resolution, including the offer of the European Union to host a follow-on seminar to that organized in June 2008.</p> <p><b>IV.10 (Pg.31)</b> The Conference further recognizes the important role played by civil society in contributing to the implementation of the 1995 Resolution and encourages all efforts in this regard.</p>
<p><i>Non-Proliferation and the Nuclear Fuel Cycle:</i> Agree that the Additional Protocol is a standard for compliance with non-proliferation obligations. Commit to the multilateral regulation of nuclear fuel production and supply, such as through the establishment of a low enriched uranium fuel bank to assure a guaranteed supply of nuclear reactor fuel. At the same time, encourage increased reliance on renewable sources of energy</p>	<p><b>18. (Pg.4)</b> The Conference notes that many States recognize that comprehensive safeguards agreements and additional protocols are among the integral elements of the IAEA safeguards system. The Conference notes that in the case of a State party with a comprehensive safeguards agreement concluded pursuant to article III, paragraph 1, of the Treaty and supplemented by an additional protocol in force, measures contained in both instruments represent the enhanced verification standard for that State. The Conference notes that the additional protocol represents a significant confidence-building measure. The Conference encourages all States parties that have not yet done so to conclude and bring into force an additional protocol.</p> <p><b>Action 28 (Pg.25)</b> The Conference encourages all States parties which have not yet done so to conclude and to bring</p>

<p>and joining and supporting the International Renewable Energy Agency.</p>	<p>into force additional protocols as soon as possible and to implement them provisionally pending their entry into force.</p> <p><b>Action 58 (Pg.28)</b> Continue to discuss further, in a non-discriminatory and transparent manner under the auspices of IAEA or regional forums, the development of multilateral approaches to the nuclear fuel cycle, including the possibilities of creating mechanisms for assurance of nuclear fuel supply, as well as possible schemes dealing with the back-end of the fuel cycle without affecting rights under the Treaty and without prejudice to national fuel cycle policies, while tackling the technical, legal and economic complexities surrounding these issues, including, in this regard, the requirement of IAEA full scope safeguards.</p>
<p><i>NPT Governance:</i> Agree to strengthen NPT governance by providing for meetings of states parties empowered to assess compliance with non-proliferation and disarmament requirements and to take decisions; establish a standing executive body; and establish a small secretariat.</p>	<p><b>110. (Pg.17)</b> The Conference recognizes the importance of ensuring optimal coordination and continuity throughout the review cycle. In this context, the Conference encourages past and incumbent Presidents and Chairs to be available for consultations with the incoming President and Chair, if necessary, regarding practical matters relating to their responsibilities. Participation in these meetings will be voluntary and without affecting the costs assessed to States parties.</p> <p><b>111. (Pg.17)</b> The Conference recommends that a dedicated staff officer to support the Treaty’s review cycle should be added to the Office for Disarmament Affairs of the United Nations Secretariat. The dedicated officer will function in an independent manner and be responsible to the meetings of States parties to the Treaty. Pending a further decision by States parties, the costs associated with the staff officer will be funded from voluntary contributions from States parties in a position to do so. Such voluntary contributions will be provided without any conditions. The mandate and functions of this officer will be reviewed in the next review cycle.</p> <p><b>112. (Pg.17)</b> The Conference affirmed that improving the effectiveness of the strengthened review process is an ongoing responsibility of States parties and therefore, in this regard, deserves further consideration in the next review cycle.</p>





## MIDDLE POWERS INITIATIVE

[www.middlepowers.org](http://www.middlepowers.org)

A program of the Global Security Institute

Through the Middle Powers Initiative, eight international non-governmental organizations (the Albert Schweitzer Foundation, Global Security Institute, International Association of Lawyers Against Nuclear Arms, International Network of Engineers and Scientists for Global Responsibility, International Peace Bureau, International Physicians for the Prevention of Nuclear War, Nuclear Age Peace Foundation, and the Women's International League for Peace and Freedom) work primarily with "middle power" governments to encourage and educate the nuclear weapon states to take immediate practical steps that reduce nuclear dangers, and commence negotiations to eliminate nuclear weapons.

Middle power countries are politically and economically significant, internationally respected countries that have renounced the nuclear arms race, a standing that gives them significant political credibility.

MPI, which started in 1998, is widely regarded in the international arena as a highly effective leader in promoting practical steps toward the elimination of nuclear weapons.

The work of MPI includes:

- a) **Delegations** to educate and influence high-level policy makers such as Foreign, Defense and Prime Ministers, and Presidents. Delegations focus on leaders who have great impact on nuclear weapon policy making, both domestically and internationally. MPI Delegations are planned to coincide with significant political events such as the NPT Review Conferences and their preparatory meetings, NATO and other summits;
- b) **Strategy Consultations**, which serve as the "off the record" interventions designed to provide a working environment in which ambassadors, diplomats, experts, and policy makers can come together in an informal setting at pivotal opportunities, in order to complement the ongoing treaty negotiations at various forums such as the United Nations or the European Parliament; and
- c) **Publications**, such as Briefing Papers, that examine whether or not the nuclear abolition agenda is progressing and make corresponding recommendations to governments and activists. MPI Briefing Papers serve as intellectual catalysts for the MPI Delegations and MPI Strategy Consultations, and are widely read.



## GLOBAL SECURITY INSTITUTE

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