

Lawyers Committee on Nuclear Policy INC.



June 22, 2021

Joseph R. Biden Jr.
President of the United States

Dear Mr. President,

We strongly support your stated intention to reduce the role of nuclear weapons in national security policy.¹ Diminishing the role of these weapons should be a guiding directive in the pending revision of the Nuclear Posture Review. The Lawyers Committee on Nuclear Policy since 1981 has advocated for non-use and global elimination of nuclear weapons in accordance with international law. We write to urge you to ensure that the NPR reflect both wise policy, particularly in the view of increased risks arising from technological change, and legal obligations. We applaud the extension of New START and your initiative to hold the June 16 Summit with Vladimir Putin, and we were encouraged that you and President Putin agreed to create a Strategic Security Dialogue and to reaffirm the principle that a nuclear war cannot be won and must never be fought.²

The previous NPR during the Trump administration, like other recent policy statements by the governments of nuclear powers, reflected a disturbing trend toward normalizing nuclear weapons, treating them as just another weapons system to be integrated into general military planning. That trend threatens to weaken the taboo against actual use—a taboo that has held since 1945—and to increase severely the risk of nuclear war by accident, miscalculation, or unintended escalation.

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¹ *Interim National Security Strategic Guidance*, The White House, March 2021, p. 13

² *U.S.-Russia Presidential Joint Statement on Strategic Stability*, June 16, 2021, <https://www.whitehouse.gov/briefing-room/statements-releases/2021/06/16/u-s-russia-presidential-joint-statement-on-strategic-stability/>.

All scenarios of limited nuclear conflict, involving the tactical use of “low yield” weapons, are based on the express or implicit assumption that escalation can be controlled after the nuclear threshold is crossed. That assumption, however, amounts to a dangerous delusion. It presumes, for example, the possibility in a nuclear crisis of calm and rational decision-making and of clear and accurate communications. Such a supposition finds no backing in studies of past nuclear emergencies, notably neither in the Cuban missile crisis nor in subsequent incidents where human or computer error brought the world within minutes of accidental nuclear war.³ On the contrary, communications in such emergencies have generally been marked by confusion, emotional stress, and frequent misinformation.

Moreover, technological developments since these earlier incidents have made the chances for successful escalation control even worse. In 2015, a commission of retired military commanders, chaired by a former Vice Chairman of the U.S. Joint Chiefs of Staff, warned that emerging technology was reducing warning and decision times and consequently increasing opportunities for “catastrophic human error.”⁴ In its 2018 National Defense Strategy report, the U.S. military noted that “we face an ever more lethal and disruptive battlefield, combined across domains and conducted at increasing speed and reach.”⁵ Since then, the technological drive to increased speed and complexity has continued and accelerated.⁶

The risk is compounded by developments in cyber warfare. For years before the Solar Windhack, experts had been warning of the nuclear risk created by cyber vulnerability. In 2013, a study by the Pentagon’s Defense Science Board found that the military’s systems were vulnerable and that the government “was not prepared to defend against this threat,”⁷ and a commander of STRATCOM testified before Congress to being “very concerned” about cyber attacks on nuclear command and control systems and on the weapons themselves.⁸

The danger is radically growing with the rapid advance in cyber war technology. A recent

³ Serhii Plokhyy, *Nuclear Folly: A History of the Cuban Missile Crisis*, W.W. Norton & Co., 2021; William Perry and Tom Collina, *The Button: The New Nuclear Arms Race and Presidential Power from Truman to Trump*, BenBella Books 2020, Patricia Lewis et al., “Too Close For Comfort Cases of Near Nuclear Use and Options for Policy,” Chatham House Report, April 28, 2014,

<https://www.chathamhouse.org/2014/04/too-close-comfort-cases-near-nuclear-use-and-options-policy>

⁴ Global Zero Commission on Nuclear Risk Reduction, Gen. (Ret.) James Cartwright U.S.M.C., Chair, April 2015, https://www.globalzero.org/wp-content/uploads/2018/09/global_zero_commission_on_nuclear_risk_reduction_report_0.pdf.

⁵ “Summary of the 2018 National Defense Strategy of the United States,” U.S. Department of Defense 2018.

⁶ Christopher A. Bidwell and Bruce W. MacDonald, “Emerging Disruptive Technologies and Their Potential Threat to Strategic Stability and National Security,” Federation of American Scientists, September 2018, <https://fas.org/wp-content/uploads/media/FAS-Emerging-Technologies-Report.pdf>; Andrew Futter, “Explaining the Nuclear Challenges Posed by Emerging and Disruptive Technologies: A Primer for European Policy Makers and Professionals,” Stockholm International Peace Research Institute 2021.

⁷ Defense Science Board, *Task Force Report: Resilient Military Systems and the Advanced Cyber Threat*, January 2013.

⁸ “Study Sees Cyber Risk for US Arsenal,” Arms Control Today, April 2013, <https://www.armscontrol.org/act/2013-04/study-sees-cyber-risk-us-arsenal>

expert study warned that “[c]yber threats are expanding at a breathtaking rate and governments are not keeping pace.”⁹ As a result, the risks to the security of nuclear command and control systems are intensifying, including the risks of unauthorized launch and of “spoofing” by false warnings.¹⁰ The same study concluded that improvements in cyber security, while necessary, are unlikely ever to eliminate a substantial degree of risk: “Nuclear weapons are likely to remain vulnerable to cyber threats regardless of what cyber security improvements are made in the future.”¹¹

The heightening complexity of command and control systems expands the danger only further by introducing new points of vulnerability: “The modern nuclear weapons enterprise connects some of the most complex computational systems ever built to the most dangerous weapons in history.”¹²

The likelihood of successful escalation control is moreover diminished by the increasing employment of dual use conventional/nuclear communication systems and delivery vehicles. A conventional attack on, or even espionage of, conventional weapons or warning systems could be construed as a precursor to a nuclear attack.¹³ Any previous threat or ambiguity about a possible first use of nuclear weapons could only add to the peril of such a misinterpretation.

In this connection, the NPR should especially designate for elimination those parts of the bloated modernization program that are not only unneeded, but also categorized by potential adversaries as primarily first strike weapon systems. Moreover, in the Strategic Security Dialogue, such systems, both US and Russian, should be identified as prime candidates for elimination or removal from readiness by treaty or parallel measures.

A leading example of a weapon system deserving close scrutiny is the Ground Based Strategic Deterrent (GBSD) now under development. The vulnerability of fixed silo missiles greatly reduces their value as a deterrent, while creating a “use them or lose them” pressure, which could be catastrophic in the event of a false alarm. It would be a disastrous mistake to lock that vulnerability into place, as the GBSD would do, until 2075—more than half a century. Instead, life extension of the existing ICBMs should be regarded as a temporary stopgap solution while vigorously pursuing arms control negotiations that should include China as well as Russia. In addition, consideration should be given to reducing readiness of ICBMs to remove them from “launch on warning” status, which would reduce the danger of accidental war, and indeed to retiring them altogether.

⁹ Nuclear Threat Initiative, *Nuclear Weapons in the New Cyber Age*, 2018, p.5, https://media.nti.org/documents/Cyber_report_finalsmall.pdf

¹⁰ *Ibid*, pp. 13-20

¹¹ *Ibid*, p.19.

¹² Jon R. Lindsay, “Cyber operations and nuclear weapons,” Nautilus Institute, 2019.

¹³ George Perkovich et al., “China-U.S. Cyber-Nuclear C3 Stability,” Carnegie Endowment of International Peace 2021; G. Perkovich and Ariel Levite, “How Cyber Ops Increase the Danger of Accidental Nuclear War,” *Defense One*, April 21, 2021.

Another candidate for reconsideration should be the Long Range Standoff Weapon program (LRSO) for a new stealth air-launched cruise missile. **With the new B-21 stealth bomber and the enhanced B-61 gravity bomb, the LRSO is not needed to maintain an effective bomber leg of the triad, and its obvious capability as a first strike weapon could be highly destabilizing.** It is important to consider that in the event of a warning later found to be false, which as noted above is a serious possibility, bombers can be recalled but missiles cannot. “No President wants to be told two hours after launching such a weapon that there is nothing that can be done to recall it, which would be the case with the LSRO if it is not halted.”¹⁴

A renewed commitment to reducing the role of nuclear weapons would support the Nonproliferation Treaty (NPT) and thus shrink the dark cloud of nuclear proliferation. The NPT has been severely strained by the frustration of the non-nuclear weapon states at the lack of progress toward disarmament—a frustration deepened by the failure to implement the commitment, made by the nuclear weapon states at the 2000 and 2010 NPT Review Conferences, to reduce the role of such weapons in national security strategy. The recent US-Russian reaffirmation of the Reagan-Gorbachev principle is a significant step, and its adoption by the five NPT nuclear-weapon states (also the Permanent Five of the Security Council) should be seriously pursued.

The NPR should affirm that the United States will take a lead in pressing for good faith multilateral disarmament negotiations, in compliance with Article VI of the NPT. The goal of universal and verifiable nuclear disarmament will never be attained unless steadfast negotiations are resumed. These negotiations should include close attention to the risk of accident or miscalculation, the most likely way a nuclear war could begin,¹⁵ and should have adequate expert support to deal with issues created by disruptive emerging technologies. Negotiations should cover all types of nuclear weapons and should be prepared to address Russian and Chinese concerns about advanced conventional weaponry and missile defense. **The objective must be the total, verifiable, and irreversible abolition of nuclear weapons worldwide.**

Accordingly, we very much welcome the Strategic Security Dialogue agreed to at the Summit, which aims to lay the groundwork for arms control and risk reduction measures. In this context, we note and appreciate your comment at the post-Summit press conference that experts and diplomats will “work on a mechanism that can lead to control of new and dangerous and sophisticated weapons that are coming on the scene now that reduce the times of response, that raise the prospects of accidental war.”¹⁶

The United States was right in declaring, at the 2015 NPT Review Conference, that the record of non-use since 1945 must be continued “forever.”¹⁷ No use of nuclear weapons could possibly comply with the protections of civilians, civilian infrastructure, and the

¹⁴ Andrew C. Webber, “Here Is the Triad We Actually Need for Deterrence,” *The Hill*, May 20, 2021.

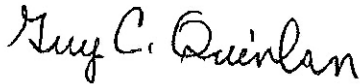
¹⁵ Perry and Collina, N.3 *supra*.

¹⁶ Remarks by President Biden in Press Conference, June 16, 2021, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/06/16/remarks-by-president-biden-in-press-conference-4/>.

¹⁷ Rose Gottemoeller, Under Secretary for Arms Control and International Security, United Nations, May 22, 2015, <https://2009-2017.state.gov/t/us/2015/242778.htm>.

environment required by international law.¹⁸ The new NPR too, tracking the June 16 Summit, should reiterate that **a nuclear war cannot be won and must never be fought, and should implement that principle by ruling out ever initiating the use of nuclear weapons.**

Very truly yours,



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¹⁸ See, e.g., Charles J. Moxley, Jr., John Burroughs and Jonathan Granoff, "Nuclear Weapons and Compliance with International Humanitarian Law and the Nuclear Non-Proliferation Treaty," *Fordham International Law Journal* (Vol. 34, No. 4, 2011), <http://lcn.org/wcourt/Fordhamfinaljoint.pdf>.