

## 10TH REVIEW CONFERENCE OF THE NUCLEAR NON-PROLIFERATION TREATY



### **Nuclear Threats and Nuclear Sharing Versus the Non-Proliferation Regime**

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5 August 2022

Mr. Chairperson and distinguished delegates:

We face today a grim landscape of credible nuclear threats, inadequate negative security assurances, and new nuclear sharing arrangements—all of which threaten already-stalled disarmament progress and non-proliferation. My remarks today are drawn from Lawyers Committee on Nuclear Policy’s paper circulated this week.<sup>1</sup>

Since the last Review Conference seven years ago, multiple states have exchanged dangerous threats to apply nuclear force. In addition to being outrageously provocative and unwise, nuclear threats are contrary to international law, defy the NPT commitment made to reduce the role of nuclear weapons, and undermine implementation of the long-standing disarmament obligation.

Nuclear threats are illegal because any threat to use nuclear weapons is a threat to commit an illegal action. That is so whether the threat is issued by an aggressor or defender state. As the International Court of Justice explained in its 1996 Advisory Opinion, if use of a weapon would not meet the requirements of international humanitarian law, the threat of such use would be contrary to that law.<sup>2</sup> Most centrally, nuclear weapons cannot meet the requirements of discrimination between military targets and civilian persons and infrastructure and avoidance of severe damage to the environment.<sup>3</sup>

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<sup>1</sup> [“Nuclear Threats and Nuclear Sharing Versus the Non-Proliferation Regime,”](#) Lawyers Committee on Nuclear Policy, 2 August 2022.

<sup>2</sup> *Legality of the Threat or Use of Nuclear Weapons*, Advisory Opinion, 1996 I.C.J. 226, ¶ 78 (July 8). For a more extensive analysis of the legal status of threats to use nuclear weapons, see [“Threats to Use Nuclear Weapons: Unacceptable and Illegal,”](#) International Association of Lawyers Against Nuclear Arms, TPNW/MSP/2022/NGO/16, 9 June 2022.

<sup>3</sup> For a recent discussion of authorities and law bearing on the illegality of use of nuclear weapons, see [“End the War, Stop the War Crimes,”](#) Lawyers Committee on Nuclear Policy, 21 April 2022, pp. 5-6.

Threats to use nuclear weapons furthermore counteract and weaken existing commitments made by NPT states parties in 2000<sup>4</sup> to reduce the "role for nuclear weapons in security policies to minimize the risk that these weapons will ever be used," and to engage with all nuclear weapon states in processes leading to the "total elimination" of their arsenals. These commitments were affirmed in the 2010 Review Conference Action Plan, as nuclear weapon states pledged to "accelerate concrete progress" on nuclear disarmament.<sup>5</sup> Credible threats, particularly in the context of an active war, instead *increase* the role of nuclear weapons in state policy and decision-making. Threats to use nuclear weapons jeopardize productive processes among nuclear weapon states to fully disarm.

Relatedly, the invasion of Ukraine, backed by nuclear threats, has demonstrated the urgent need to strengthen negative security assurances issued in 1995 by the five NPT nuclear-armed states and acknowledged by UN Security Council resolution 984.<sup>6</sup> We call on each nuclear weapon state to promise non-nuclear weapon states not to use or threaten to use nuclear weapons against them and to make this promise unconditionally.

Another major obstacle to maintain non-proliferation today is the prospect of expanded nuclear sharing agreements. Russia and Belarus earlier this summer signaled that the two countries are planning a nuclear sharing arrangement similar to that which the United States has with several NATO countries.<sup>7</sup> This is an alarming potential development that should be vigorously criticized by NPT states parties. Failure to collectively condemn Russia-Belarus nuclear sharing as incompatible with the NPT could help set the stage for eventual nuclear sharing arrangements elsewhere in the world.

The incompatibility of nuclear sharing with the NPT is based on a straightforward application of NPT Articles I and II. Those articles should be read in light of NPT Review Conference commitments made subsequent to the 1995 decision to indefinitely extend the NPT. Action 1 of the 2010 Action Plan commits all states parties "to pursue policies that are fully compatible with the Treaty and the objective of achieving a world without nuclear weapons."<sup>8</sup> The 2000 Final Document "reaffirms that the strict observance" of the treaty "remains central to ... preventing,

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<sup>4</sup> [Final Document](#), 2000 NPT Review Conference, NPT/CONF.2000/28 (Vol. I), p. 15 (emphasis supplied).

<sup>5</sup> [Final Document](#), 2010 NPT Review Conference, NPT/CONF.2010/50 (Vol. I) p. 21.

<sup>6</sup> S/RES/984, 11 April 1995.

<sup>7</sup> See Nikolai Sokov, "Russian-Belarus nuclear sharing would mirror NATO's – and worsen Europe's security," Bulletin of the Atomic Scientists, 1 July 2022. The day after the meeting between Putin and Lukashenko spoke, a Kremlin spokesperson said only a technical capability to deliver nuclear arms was discussed; however, he may only have been referring to the Iskander missiles whose deployment was also announced at the meeting. See "[Putin did not tell Lukashenko about the transfer of nuclear missiles to Minsk](#)," Ria Novosti, 28 June 2022 (unofficial translation of title).

<sup>8</sup> [Final Document](#), 2010 NPT Review Conference, NPT/CONF.2010/50 (Vol. I), p. 20 (emphasis supplied).

*under any circumstances*, the further proliferation of nuclear weapons."<sup>9</sup> Such unequivocal language precludes any viability of the dangerous argument made by some that the NPT would not apply in times of war.<sup>10</sup>

NATO nuclear sharing does not justify the establishment of new nuclear sharing arrangements, but NPT states parties must energetically assert the incompatibility of new arrangements with the NPT.

States parties should thus strongly express opposition to a Russia-Belarus nuclear sharing arrangement on both policy and legal grounds. They should also call for the termination of NATO nuclear sharing.

The landscape today of heightened distrust, a growing nuclear arms race, and the ongoing Russia-Ukraine war, including credible nuclear threats, underscores the fundamental necessity of nuclear abolition. We again urge the international community to seriously commence multilateral negotiations on the global elimination of nuclear arms in accordance with the nuclear disarmament obligation under the NPT and general international law. The goal will never be achieved if a process to achieve it never really starts.

Thank you.

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<sup>9</sup> Final Document, 2000 NPT Review Conference, NPT/CONF.2000/28 (Parts I and II), Part I, Review of the operation of the Treaty, Articles I and II and first to third preambular paragraphs 1, p. 2, ¶ 5.

<sup>10</sup> See "Questions on the Draft Non-Proliferation Treaty Asked by U.S. Allies Together with Answers Given by the United States," 28 April 1967, Tab A to 232. [Letter From the Under Secretary of State \(Katzenbach\) to Secretary of Defense Clifford](#), 10 April 1968, Office of the Historian, Foreign Relations of the United States, Historical Documents 1964-1968.