

STATEMENT OF LAWYERS' COMMITTEE ON NUCLEAR POLICY ON DRAFT WORLD SUMMIT OUTCOME TEXT

September 14, 2005

The section on nuclear non-proliferation and disarmament is missing from the declaration scheduled to be adopted by world leaders at the Millennium + 5 Summit, September 14-16 at the United Nations. Deep divisions could not be overcome in the negotiations leading up to the General Assembly's agreement on the text on September 13.

This setback comes in the wake of the failure of the May 2005 Review Conference for the Nuclear Non-Proliferation Treaty to yield an agreement on next steps for non-proliferation and disarmament.

The Summit was an opportunity to remedy that failure and to prevent the slow-motion disintegration of the non-proliferation regime. That is what heads of state can do, agree on action when less-empowered elements of their government have been unable to do so. The United States, for example, was represented by a mid-level State Department official at the NPT Review Conference, and the State Department generally had done little to prepare for the Conference. Here President Bush had the opportunity to seize the reins.

Secretary-General Kofi Annan and the High-Level Panel on Threats, Challenges and Change had originally envisioned that the Summit would come to grips with basic challenges of peace and security, not least those posed by the existence and spread of nuclear arms. Negotiations that began last spring sought, at least in a modest way, to fulfill this expectation. The early August draft outcome document generally affirmed the need for compliance with the NPT nuclear disarmament obligation while also stressing the need for strengthening of non-proliferation measures. More specifically, it called for negotiation of a treaty banning the production of fissile materials for nuclear weapons and for maintenance of the moratorium on nuclear test explosions pending the entry into force of the Comprehensive Test Ban Treaty.

In an August 17, 2005 joint letter to UN missions (access at www.lcnp.org), Reaching Critical Will-WILPF, the Lawyers' Committee on Nuclear Policy, Greenpeace International, and the Arms Control Association urged governments to hold firm to those commitments and to agree to additional steps on both the non-proliferation and disarmament sides of the nuclear equation. We quoted from a May 30, 2005 op-ed of Secretary-General Kofi Annan in which he said, "Bold commitments at the September meeting would breathe new life into all forums dealing with disarmament and non-proliferation."

On September 1, 2005 U.S. Ambassador John Bolton released U.S. proposed changes to the non-proliferation and disarmament section, as part of the larger U.S. campaign to revise the document. The tenor is indicated by the proposal to strip the word "disarmament" from the section and substitute "arms control". Negotiations following the U.S. intervention, instead of improving the August draft, drastically weakened it, ending in the removal altogether of the section.

Here the United States bears the lion's share of responsibility. First, the U.S. line by line revision of the disarmament and non-proliferation section invited other governments to take a similar approach,

which some of them in fact did. Second, the U.S. approach was very provocative. This is best illustrated by the deletion of reference to the NPT's "three pillars: disarmament, non-proliferation, and the peaceful use of nuclear energy" and the substitution of a reference to the NPT's "role in preventing the further spread of nuclear weapons." This proposal went in the face of a broad and deep international consensus that a viable non-proliferation regime requires progress on arms control/disarmament and a recognition of the right to non-weapons uses of nuclear power.

Amb. Bolton's insistence in the letter accompanying U.S. changes that "the true threat to international security stems from proliferation" reflects a stunning hypocrisy as the Pentagon prepares to finalize a new document, the Doctrine for Joint Nuclear Operations. Carrying forward with the 2001 Nuclear Posture Review, the doctrine envisages preemptive U.S. use of nuclear weapons against countries "intending to use" weapons of mass destruction.

Spurred on by the U.S. intervention, other countries dug in their heels on their favored positions. Among them were Pakistan, India, and some members of the Non-Aligned Movement. Other countries opposing the early August draft included Israel and France. The vast majority of countries that are generally supportive of the early August text and of the similar proposals of the Seven Nation Initiative (Australia, Chile, Indonesia, Norway, Romania, South Africa, Britain) were ignored.

The absence of a disarmament/non-proliferation section obviously means that the Summit will not making any specific commitments to new measures. Also a casualty is the reaffirmation of existing commitments. Commitments identified in early drafts included ones to a fissile materials treaty, a moratorium on nuclear test explosions pending entry into force of the Comprehensive Test Ban Treaty, the additional protocol to safeguards agreements, strengthening of the Biological Weapons Convention, negative security assurances, implementation of Security Council resolution 1540 on non-state actors and WMD, negotiations on prevention of an arms race in outer space, and the program of action on small arms.

Yet now is definitely not the time for inaction. The process of verified reduction of nuclear arsenals has come to a halt while national security doctrines in the United States and elsewhere give an expanded role to the option of nuclear use. There have been no multilateral nuclear negotiations since the text of the CTBT was agreed in 1996. North Korea is the first country to announce its withdrawal from the NPT, and great care must be taken in the Middle East that no country eventually decides to join Israel as a nuclear-armed country. The risk of terrorist use of a nuclear explosive cannot be overlooked

Heads of states at the Summit should emphasize the need for action in this field, and pursue vigorously the creation of forums for progress, including revitalization of the First Committee of the General Assembly.

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