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National Security Law Report

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Ambassador Max Kampelman Honored

Democracy and Rule of Law Conference Held

On 2-3 December the Standing Committee co-sponsored a conference with the University of Virginia Center for National Security Law on "Democracy and the Rule of Law in Foreign Policy" at the Capital Hilton Hotel, in Washington, D.C.

The conference was dedicated to Ambassador Max Kampelman—former head of the U.S. delegation in Geneva negotiating nuclear and space arms control, Counselor to the Department of State, chairman of the U.S. Delegation to the Conference on Security and Cooperation in Europe, vice chairman of the Board of Directors of the U.S. Institute of Peace, and a counselor to the Standing Committee—whose distinguished contributions to the expansion of democracy and the rule of law were acknowledged by speaker after speaker. Former National Security Adviser Zbigniew Brzezinski was one of several distinguished speakers to announce that he had made room for this important conference on his busy schedule in no small part because of his great respect for Ambassador Kampelman.

Democracy building has long been an area of special emphasis for the Standing Committee, but this was the first of several conferences related to the issue systematically to examine the relationship between achieving the principal goals of U.S. foreign policy and the growth of democratic systems. Speakers argued that important relationships exist between democracy and war avoidance, the protection of human rights and human dignity, economic growth,

Inside

- 3 Brzezinski on North Korea, Bosnia
- 4 Nonproliferation Task Force Report
- 4 Calendar of Events
- 5 Book Review—Reducing Nuclear Danger
- 8 National Security Agenda



Ambassador Max Kampelman (center) shakes hands with Representative Steny Hoyer (D. Md.), who introduced and paid tribute to him following Thursday's dinner at the December "Democracy" conference, which was dedicated to the Ambassador. Standing Committee chairman John H. Shenefield (right) joins in a standing ovation.

Intelligence Committee Chair

Dan Glickman to Address January 27 Breakfast

Representative Dan Glickman, Chairman of the House Permanent Select Committee on Intelligence (HPSCI), has agreed to address the Standing Committee's first breakfast of the new year on Thursday, 27 January 1994. A ninth term Democrat from Wichita, Kansas, Representative Glickman earned his B.A. in History at the University of Michigan and his law degree from George Washington University School of Law.

A former trial attorney for the Securities and Exchange Commission, prior to his election to Congress in 1976 he served on the Wichita School Board and as a partner in a law firm. In addition to his chairmanship of the intelligence committee, Representative Glickman serves as Assistant Majority Whip, as Co-Chair of the Congressional Aviation Forum, and as a member of the Democratic Steering and Policy Committee, the Democratic Leadership Council, and the Democratic Study Group.



Conference . . .

continued from page 1

and environmental protection.

Among the more interesting conclusions reached by conference participants were:

- there has not been a war between democracies since 1816;
- during the twentieth century totalitarian regimes may have slaughtered between two- and four-times as many people as have been killed by war;
- in economic terms, governments that observe the rule of law and respect economic freedom perform three- to four-times better than those that do not; and
- the tragic environmental legacy of seventy years of Leninism in Russia provides a powerful case study of environmental failure under totalitarianism.

This growing body of data about the risks of totalitarianism suggest that a policy of "rule of law engagement," "democracy building," or—to use a term embraced by senior officials in the current administration—"democracy enlargement" should be a major element in U.S. foreign policy.

This understanding has been growing in recent years and has become a centerpiece in the thinking of some key policy makers in important places, including the National Security Council, the Department of State, the Department of Defense, the U.S. Information Agency (USIA), and the Agency for International Development (AID). Perhaps the clearest expression of this "new thinking" by senior policy officials was in a speech at Johns Hopkins University by National Security Adviser Anthony Lake, who argued that "containment" should be followed by "democracy enlargement."

The second session on Thursday morning set the tone for the conference with a detailed slide presentation by Professor John Norton Moore—a former five-term chairman of the Standing Committee, two-term chairman of the Board of Directors of the U.S. Institute of Peace, and Director of the Center for National Security Lawsince 1981—who discussed competing theories of the causes of war and argued the existence of a remarkable correlation between democracy and international peace. Drawing in part upon a forthcoming book, Death By Government: Genocide and Mass Murder in the Twentieth Century, by Professor Rudy Rummel of the University of Ha-

waii—who served as a commentator on Professor Moore's presentation—Professor Moore addressed the perceived and real causes of several twentieth century wars as case studies.

Several speakers, including Librarian of Congress James H. Billington and Yale Political Science Department Chairman Bruce Russett, emphasized the importance of providing assistance for the democratic transition in the former Soviet Union. The next few years may well be crucial in determining whether Russia and other States of the former Soviet Union will move forward to stable democratic institutions or backward toward autocratic control. Both of these speakers made the point that this is an historical challenge of our age, with staggering consequences, for which our generation will be judged by its children.

In addition to the speakers already identified, major presentations were made at the conference by Representative Steny Hoyer, National Security Council Counselor Richard Schifter, USIA Deputy Director Penn Kemble, University of Virginia Law School Professor A. E. Dick Howard, University of Texas Professor Gerald W. Scully, and Georgetown University Professor Murray Feshbach.

On Thursday evening, Ambassador Kampelman was honored at a dinner featuring substantive remarks by Representative Hoyer and Ambassador Kampelman (see photo, page 1).

Audio tapes of all conference programs are now available, and the Standing Committee plans to include a more substantive summary of the conference as a special supplement to the *Report* during the first part of 1994. For further information, contact Standing Committee Staff Director Holly Stewart McMahon at the address on the bottom of page 5.

John H. Shenefield

Chairman, Standing Committee on Law and National Security

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Zbigniew Brzezinski on North Korea and Bosnia

During his luncheon address on Thursday, 3 December, former National Security Adviser Zbigniew Brzezinski fielded several important questions from the audience. Reprinted below are his responses to two of them.

North Korean Nukes

Q. JOHN SHENEFIELD: Could you say a word about what you would advise the President with respect to North Korea and the development of weapons of mass destruction?

A. Dr. Brzezinski: I think this is a very serious problem, but I think the problem to some extent is misdiag-

nosed. We tend to view it as a problem of proliferation. I don't think it is a problem of proliferation. Whether North Korea does or does not acquire the nuclear bomb is not going to accelerate or decelerate the proliferation of nuclear weaponry or weapons of mass destruction, because that process is out of the barn.

The number of countries that are in the process of seeking nuclear weapons is not going to be increased or decreased by what North

Korea does. They're going to do it anyway, because we have had a very inconsistent policy on this subject. We have been a tiger when some countries acquire nuclear bombs; we have been a lamb when some other countries acquire nuclear bombs; and we have been an ostrich regarding some as well, particularly North Korea until now.

The real problem with the North Korean bomb is its impact on South Korea and Japan. That is the serious problem, because it may destabilize northeast Asia and push Japan into policies which we would like it not to pursue with consequences for others. So it is a very, very serious problem. Beyond that, the North Koreans might do things once they have the bomb that we would like them not to do. It is, after all, a government that was willing to attempt the assassination of an entire government of its neighbor.

It is a government with a propensity towards irrationality and violence. So that's why it's an important issue. To deal with it, you cannot engage in simple and increasingly less and less credible threats, especially when you're on record of threatening others and then not delivering on your threats, which is fairly visible to

Continued on page 4

Deterring Violence in Bosnia

Q. Susan Purcell: You mentioned our policy toward Bosnia, but from the point of view of the American people, if they sit there and see that the Europeans don't seem to be particularly motivated into strong action, why isn't it legitimate for Americans to conclude that obviously there's no perceived threat? If it's just an issue of people killing people, you've got

Rwanda and Burundi, and why argue Bosnia over Rwanda and Burundi?

A. Dr. Brzeznski: Well, first of all, there is this problem that if you can't solve everything, should you therefore solve nothing? It's an old argument. And if there is violence, let's say right in the middle of the White House, shootouts, don't you think we would respond a little more than when there is violence in other parts of the city

where we have tragically become accustomed to it? There are differences, and I think we would probably say the American government is no longer operative if there were shootouts in Lafayette Square every day, and three or four people were lethally terminated.

So I think there is an analogy there, namely this is in Europe where we are present, where the Europeans are present. And if we can't handle that, then the chances are other problems can't be handled.

The Europeans are not willing to act. You're absolutely right. When were they ever willing to act? When we responded to the Persian Gulf challenge, was it the Europeans who took the lead? I have the impression that our Secretary of State went to Europe and said to the Europeans, "There's an action here that we don't like; we're going to do something about it. This is what we're going to do. We expect you as allies to be with us. Please tell us what you're going to do because we're doing the following."

And the Europeans followed. I think there's a difference between this process of consultation and a process of consultation in which you go to the Europeans and say, "We're thinking perhaps of doing some-

Continued on page 4



With C-Span sending his message to a wide television audience, Dr. Brzezinski responds to a question at the December conference.



Brzezinski on North Korea . . .

Continued from page 3

all. And that's been the problem. The North Koreans have no reason so far to take any threat from us seriously. If we in that context are going to approach them only with offers of carrots, their predisposition to have their cake and eat it, too, is going to be fortified.

I think we have to not only make some threats, but we have to take some actions to make these threats credible. I think we ought to proceed with urgent steps to reinforce our military capability in the area in a very serious fashion, to make it clear that, if there is any initiation of hostilities by the North Koreans, the United States will respond immediately and with overwhelming force; and, secondly, we ought to make some initial steps towards implementation of sanctions as to make them credible. And that raises immediately the question to which I referred to in my talk, namely the question of China—will the Chinese go along?

But, even if they did not, we have the capacity to inflict considerable consequences for the North Korean economy by, if necessary, unilateral action provided the South Koreans and the Japanese are with us. I think we ought to put that on the line and be prepared to move if they are, and in recent times the South Koreans have become increasingly alarmed about what is happening.

I fear the consequences on Japan if the North Koreans acquire the weapons and also possess the delivery systems, as they increasingly appear to do. I think that would be devastating for the durability of the American-Japanese connection, the security connection, and for Japan's dependence on us for protection.

Brzezinski on Bosnia ...

Continued from page 3

thing regarding Bosnia, maybe, but we would like to know what did you think of our idea, and could you let us know what your reaction to it is?" When the Europeans say "it's a lousy idea," the reaction is, "Well, I'll report back home and we'll act in the light of your reaction."

I think there is an important difference of style of leadership between these two methods of consultation. I think if the United States had been serious about this problem and had been willing to exert some leverage, particularly a year or two ago, we would have had a totally different reaction and also from the Serbs; because, don't forget, the Serbs took our military power very, very seriously after the Per-

sian Gulf—very seriously. And they had good reason to take it very seriously.

But if you keep making threats and then you don't deliver on them, and you change your position on the subject repeatedly—and I could cite you chapter and verse of different definitions of the problem from the same people within the space of six weeks—then, obviously, the Europeans, particularly those of them who are totally inclined not to do anything, are going to be passive. I think that is the problem.

Task Force on Nonproliferation of Weapons of Mass Destruction

by Robert Rudney

The fragmentation of the former Soviet empire and the emergence of new and dangerous regional powers have underscored the international security menace represented by the proliferation of weapons of mass destruction. As Director of Central Intelligence R. James Woolsey observed on 28 July 1993, in testimony before the Subcommittee on International Security, International Organizations, and Human Rights of the House Foreign Affairs Committee: "Few issues have more serious and far-reaching implications for global and regional security and stability than the spread of these weapons."

To address these issues, the Standing Committee established a Task Force on Nonproliferation of Weapons of Mass Destruction in January 1993, with the objective of educating the legal community on nonproliferation issues and examining legal options for reinforcing the nonproliferation regime.

The task force was initially chaired by Ambassador Richard Schifter, but, when Ambassador Schifter accepted a position as Counselor to the National Security Council, Standing Committee Chairman John H. Shenefield agreed to serve as co-chairman with former SALT I delegation legal adviser John B. Rhinelander—a former member of the Standing Committee now in private law practice in Washington. Task force members include other private practitioners, legal scholars, and employees of such government agen-

Continued on page 7

Calendar of Events

January 27—Breakfast (International Club)
Speaker: Rep. Dan Glickman



BOOK REVIEW

REDUCING NUCLEAR DANGER:
The Road Away From the Brink
by McGeorge Bundy, William J. Crowe, Jr.,
& Sidney D. Drell
New York: Council Foreign Relations Press (1993).
Pages: 107. Price: \$14.95.

Reviewed by Robert F. Turner

In 1990 the Carnegie Corporation of New York invited three prominent Americans to co-chair a Carnegie Commission on Reducing the Nuclear Danger. This book is a by-product of that initiative. The three distinguished authors have served the United States, respectively, as National Security Adviser to Presidents Kennedy and Johnson, Chairman of the Joint Chiefs of Staff, and scientific adviser and consultant to various agencies of the government.

Any book by such a distinguished and experienced group of writers deserves careful attention. That is all the more the case when one reads the list in the acknowledgments of other experts who contributed to the commission, including John P. Rhinelander—who currently co-chairs the Standing Committee's Task Force on Nonproliferation of Weapons of Mass Destruction (see article on page 4).

The book begins from the premise that nuclear warheads are "the most massive single threat to humanity," and suggests that both the United States and the cause of world peace would be served by the elimination of all such weapons. The end of the Cold War has created new opportunities:

From the beginning of the Cold War in 1946 to its end in 1990, the U.S. government would have rejected any offer from the gods to take all nuclear weapons off the table of international affairs. Today such an offer

would deserve instant acceptance; it would remove all kinds of risks of catastrophic destruction, and it would leave us and our friends quite safe from Russian expansion. We should be free to enjoy two extraordinary strategic advantages: first, as the least threatened of major States and second, as the one State with modern conventional forces of unmatched quality.

The book is divided into but three chapters, dealing, respectively, with the problems of the successor States to the Soviet Union, limiting the spread of nuclear weapons around the world, and setting forth ten principles that ought to guide U.S. policy in this area in the future.

While acknowledging that "liln the early stages, intelligence on American research may well have saved some time for the Soviets" in their efforts to acquire nuclear weapons, the authors conclude on balance that "secrecy" has been a major problem. "A misplaced belief in secrecy continued to feed a misplaced fear of espionage, and the war-born cult of concealment was destructively reinforced. It was not

Continued on page 8

Glickman to Speak ...

continued from page 1

The biographical information provided by his office notes his strong interest in "fighting unfair trade policies," and states in connection with his HPSCI chairmanship that, "As chairman of this distinguished committee, Dan will be able to pursue his commitment to the de-mystification of intelligence by holding open hearings, pushing the intelligence community to publicly explain their functions in the post-Cold War era, and exploring the use of 'economic intelligence.'"

A member of the Advisory Council to the Kansas Institute for Peace and Conflict Resolution, Representative Glickman was also one of the earliest supporters of the United States Institute of Peace.

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Book Review—Nuclear Danger...

Continued from page 5

a healthy environment for the rational consideration of nuclear-weapons policy."

The authors commend the progress that was accomplished through the START process, but conclude that much more now can be done. Priority consideration should be given to the "fast-flyer" longrange ballistic missiles "that can cross the world in half an hour." Time and again, they expressed the view that the United States should help the States of the former Soviet Union complete the agreed-upon transfer of the nuclear weapons on their territory to Russia: "The United States should deepen its commitment to help meet the incremental costs of doing this job quickly, and it should also make sure the decision-makers in these states understand that rapid action will promote, while delay will retard or even prevent, other kinds of American support."

Concluding that the world had a "narrow escape" from Saddam Hussein's nuclear weapons development program in Iraq, and that "if Saddam's effort had not been interrupted by the war he provoked, he would probably have had nuclear weapons sometime in the 1990s—quite possibly in the first half of the decade," chapter two emphasizes the need for a "new international priority to the prevention of success in such nuclear programs as his." The authors write:

As it stood before the lesson of Iraq in 1991, the world's antiproliferation regime was rhetorically formidable, but practically porous and permissive....

Certain practical changes are plainly indicated by experience in Iraq. Clearly, for example, the power and capability of the IAEA should be enlarged. In particular the agency should be encouraged by its supporters to exercise—as it did not before Iraq—its power to inspect sites that are not reported by member nations as nuclear installations. Inspections conducted only where they are invited will not protect against a secret program like Saddam's.... The power to inspect wherever evidence recommends it does exist, but its use will require a new level of political support from member states, and if necessary from the UN Security Council.

.... To do a more thorough job the agency will need more staff, with a wider range of skills; it will need support from the large information-collecting services maintained by a number of member states, most notably but not uniquely the United States.

If a new regime is going to work, "the supplier nations will have to put their interest in this protective effort above their interest in commercial exports." This includes limiting "dual-use items." In addition, "pragmatic standards must be applied in reinforcing such complex and imperfect institutions as the UN Security Council, the NPT, the IAEA, and the Nuclear

Suppliers Group," and "the United States should generally encourage the strengthening of all these multilateral institutions "

The manuscript for this book went to the printer in June, 1993, and thus the authors were aware only of the start of the current crisis with North Korea—a problem the book identifies as perhaps "the most troubling case today...." The emphasis upon strengthening the IAEA, encouraging "challenge" inspections, etc., and making available to the world intelligence community information is consistent with what has been taking place in addressing that problem.

The final chapter sets forth ten "propositions" relevant to future U.S. policy toward nuclear weapons. Some of these, such as working closely with "the other nuclear-weapons states" and "as many other governments as possible" in seeking "wider and deeper understanding on the nuclear danger," seem likely to meet with almost universal agreement. Few, one suspects, would quarrel with the idea that "American first use of nuclear weapons should be governed by a stringent doctrine of defensive last resort."

Arguing that "there is no *a priori* reason to prefer arms to arms control," the authors propose that "American budget priorities . . . should be shifted away from our nuclear deployments to support cooperative reduction with Russia . . . and reinforced international action to prevent further proliferation around the world."

Perhaps more controversially, they propose a "comprehensive test ban treaty" and applaud the Clinton Administration's 3 July announcement that the United States will not be the first to test nuclear weapons "at least through September of next year." To the extent that foregoing testing either undermines reliability or safety (as contended by some experts), or signals potential aggressors—not to mention friends who have foregone the nuclear option in the belief that Washington would protect them—that the American nuclear umbrella is being folded up and put away, such a decision could have significant negative consequences.

This is not a technical volume, but the authors do not hesitate to talk in general terms about numbers. They argue that the 3,000-3,500 warheads permitted to each side under the START agreements "should not be seen as the end of the road," and that "in the long run Americans should work for still further reductions and improvements." Specifically, they propose a force level of from 1,000-1,500 warheads "by the year 2000—and perhaps sooner"

Finally, returning to their earlier criticism of the "misplaced belief in secrecy," they recommend that "American political leaders should set a new stan-

Continued on page 7



Task Force . . .

continued from page 4

cies as the State, Commerce, and Defense Departments, the Central Intelligence Agency, the Arms Control and Disarmament Agency, plus representatives of the legislative branch.

In October, the Task Force received an eight-month grant award from the U.S. Institute of Peace to begin work on a four-point program:

- educating the American bar and lawyers' associations in other industrial democracies concerning proliferation threats and enlisting their support for effective policy responses;
- encouraging rationalization of the structure and implementation of U.S. dual-use export controls;
- assisting former Soviet republics in their efforts to control proliferation; and
- encouraging development of an effective international nonproliferation regime providing credible policy incentives for cooperation and disincentives for noncompliance.

At its December meeting, the Task Force decided to focus in an initial stage on the last issue, especially given the pending dissolution of the Coordinating Committee for Multilateral Export Controls (CoCom) and its anticipated replacement by a larger, generalized export control regime, including countries of the former Soviet Union and Eastern Europe. The Task Force will examine implementation and enforcement structures in leading industrial countries (Britain, Czech Republic, France, Germany, Italy, Japan) to perspective on areas of cooperation and divergence under the new regime.

It is expected that the post-CoCom regime will be directed at proliferator-states and will mandate its members transforming their own statutory sets of controls to deal with this new orientation. These changes will pose a significant challenge to the implementation and enforcement authorities of every participating country. As a consequence, the Task Force decided that its most useful contributions could be made through determining the core requirements of a coherent and enforceable U.S. domestic regime and examining what measures other leading industrial countries are planning in order to meet these changes.

Further information on the Task Force may be obtained from Ms. Holly Stewart McMahon, Staff Di-

rector of the Standing Committee, at the address on page 5.

Dr. Rudney, a nonproliferation policy specialist at the National Institute for Public Policy, serves as a consultant to the Task Force.

Book Review—Nuclear Danger...

Continued from page 6

dard of openness in discussing these problems with other nations and with the American people." In a strategic sense, this is probably sound advice—the 1979 Progressive case¹ emphasized that, in a technological sense, the genie is pretty much "out of the bottle." However, the world still presents serious threats to U.S. security interests, and there would seem to be a continued need for secrecy designed to safeguard the security of individual weapons and to maintain their potential effectiveness by concealing both their ultimate capabilities and information pertaining to targeting doctrine. A necessary consequence of such a short (and easily readable) book is that such details are not addressed.

On balance, this is a useful contribution to an important debate. There are, of course, alternative visions of how best to promote world peace—including the powerful thinking of scholars like John Norton Moore, Rudy Rummel, Bruce Russett, and others reflected in the Standing Committee's December conference. They would presumably argue that the "most massive single threat to humanity" is not the physical existence of powerful hardware—who, after all, fails to sleep at night because the French and British have nuclear warheads?—but rather the existence of radical political regimes in an international political environment in which the actions of peace-loving States fail to deter aggression.

Reducing Nuclear Danger at least hints at this problem, arguing that the meaningful division on the issue of nuclear proliferation is not between the "have" and "have not" States, but between "the vast majority of all states, on the one hand, and the very small number that are now actively but covertly attempting to get the bomb for themselves. Any careful list of the states in this latter category would include Iraq, Iran, North Korea, and Libya."

Professor Moore and his colleagues might counter that the real problem is the very existence of such "radical regime" States, and even if they are denied nuclear weapons and are left to pursue their policy objectives with poison gas, or other weapons of mass destruction they are also working hard to acquire, the world needs to understand that they are a far greater

Continue on page 8



The National Security Agenda

Nuclear Materials Smuggling Rings Broken in Ukraine, Moldova—On 23 December the Ukraine Interior Ministry announced that six people had been arrested trying to smuggle 10 ounces of nuclear materials out of the Ukrainian port of Odessa, and the investigation also led to the seizure of 3.3 pounds of radioactive materials in Kishinev, Moldova. (*Philadelphia Inquirer*, 24 Dec.).

North Korea—The Hong Kong Sunday Morning Post (21 Dec.) quoted two senior Beijingbased European diplomats who had just returned from Pyongyang as saying that North Korea now possesses "several" small nuclear weapons and the means to deliver and trigger them. (Wash. Times, 20 Dec.). South Korean President Kim Young Sam said in Seoul a few days later that, while North Korea is "eager" to develop nuclear weapons, it does not appear to have one yet. (Wash. Post. 29 Dec.) Japan remains the only capitalist nation to permit significant trade relations with North Korea (with a 1991 value of \$481 million). Former Deputy Defense Secretary Paul Wolfowitz estimated in recent congressional testimony that another \$600 million flows covertly when approximately 6000 Koreans living in Japan visit North Korea. An even higher estimate was provided by Katsumi Sato, a former Communist and North Korean supporter who directs the Modern Korea Institute in Tokyo. He asserted at a news conference that "sympathetic Koreans living in Japan" are funneling up to \$1.8 billion annually to Pyongyang "plus components ranging from semiconductors to computers." Further, North Korean atomic scientists have been trained at Japanese universities. (L.A. Times, 16 Dec.) Perhaps proving the old adage that the answer you get depends in large part upon how you phrase the question, A Los Angeles Times poll (10 Dec.) reported that, by a margin of 51-38%, a majority of Americans said they would favor "using American military force to eliminate . . . suspected North Korean nuclear weapons installations" if diplomacy fails; while a Wall Street Journal/NBC poll reported that Americans strongly oppose "a military strike against the North." (W.S.J., 17 Dec.). The Journal/NBC poll reported that nearly a third of Americans identify the Korean situation as "the most important foreign-policy issue," while only 8% of respondents in the Times poll ranked it as number one (behind trade (24%) and Bosnia (11%)).

Iranian Defense Minister Visits North Korea—North Korea's KCNA news agency reported that Iranian Defense Minister Mohammad Forouzandeh arrived in North Korea on 6 December to take part in a meeting on economic, scientific and technological cooperation. General Mohsen Rezaei, commander of Iran's Revolutionary Quards, had visited in June to promote bilateral cooperation. The two radical regimes have had close military ties since the Iran-Iraq war, and there has been some speculation that Iran may be seeking to purchase Scud missiles—or even the recently tested Rodong-1 missile (see Report, July 1993, p. 6).

Book Review—Nuclear Danger...

Continued from page 7

threat to international peace and U.S. security than any existing nuclear-armed democracy.

There is one point that all sides should agree upon. Before anyone can make an intelligent choice from among the various policy options being proposed, it is imperative that the arguments for competing approaches be clearly articulated. Like the December

conference, this short but thoughtful volume contributes in an important way to that end. It is recommended

Note

¹United States v. The Progressive, 467 F. Supp. 990 (W.D. Wis. 1979). This case and its aftermath are discussed in John Calvin Jeffries, Jr., "Freedom of Expression," in John Norton Moore et al., National Security Law 971, 979-82 (1990).