



# National Security Law Report

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SPECIAL CONFERENCE ISSUE

## Nonproliferation of Weapons of Mass Destruction Conference Focuses on North Korea

Edited by Dr. Robert Rudney

The challenge posed by North Korea's nuclear weapons program underscored the significance of the Standing Committee's June 10-11 conference on "Nonproliferation of Weapons of Mass Destruction." While the conference panels covered the full range of proliferation issues, the North Korean test case offered a graphic example of a rogue proliferator state's flaunting of treaty obligations and disregard for international law.

Issues of compliance and verification also pervaded much of the discussion of the chemical and biological weapons regimes, while questions of safety and security (both at the storage and dismantlement stages) formed the crux of the panel debate on the disposition of weapons of mass destruction (WMD) in the former Soviet Union. The evolution from a strict East-West system of weapons and technology constraints against the former Soviet bloc to a follow-on regime targeting proliferation destinations provided the principal theme of the panel on export controls. "Each of the different strands of national security and international law has to be placed in the broadest context," stated Professor John Norton Moore, Director of the University of Virginia School of Law's Center for National Security Law and conference host.



*Dr. Robert Rudney, who helped plan the conference, addresses Saturday's panel on export controls after being introduced by moderator (and Standing Committee member) Lucinda A. Low.*

The conference took place at a time when the United States and its allies were consulting on possible sanctions against Pyongyang and only a few days before the North Koreans announced their withdrawal from the International Atomic Energy Agency (IAEA). The crisis came as preparations are being made for the 1995 Extension Conference of the Nuclear Nonproliferation Treaty (NPT), "in many ways the single most important event on the arms control calendar," according to conference keynote John B. Rhinelander.

*Continued on page 5*

<i>Inside</i>	
2	Overview
3	Nonproliferation Treaty Extension
5	Ambassador Rolf Ekeus (Lunch)
6	Case Study: North Korea
7	Chemical Weapons Convention
8	ACDA Director John Holum (Dinner)
12	Biological Weapons Convention
14	Export Controls
15	Barry Carter (Lunch)
16	Problems in Former Soviet Union

**"The NPT regime was never designed to manage, and may not be able to survive, a disintegrating, nuclear-armed superpower."**

**—John B. Rhinelander**

Panel I**Overview of Proliferation Issues**

The first panel dealt with an overview of proliferation issues and initiatives to control it. Dr. Ashton B. Carter, Assistant Secretary of Defense for International Security Policy, presented Clinton Administration policy on four vital questions: the menace of proliferation in the former Soviet Union; the dispute with North Korea; the objectives of the Defense Department's counterproliferation initiative; and changes in U.S. nuclear posture to adapt to the evolving international environment.

Dr. Carter warned that "the breakup of the former Soviet Union has the potential to be the most significant event in proliferation history." U.S. policy objectives in this respect are two-fold: "to ensure that the number of nuclear states does not increase," and "to promote the safe and secure custody and

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**"[T]he breakup of the former Soviet Union has the potential to be the most significant event in proliferation history."**

**—Dr. Ashton B. Carter**

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control of the weapons of mass destruction legacy of the former Soviet Union on Russian territory and to promote their rapidest possible elimination."

Along with other Administration spokesmen at the conference, Dr. Carter pointed to the January 1994 signing of the Trilateral Accord between the U.S., Russia, and Ukraine as a major achievement in securing the non-nuclear status of Ukraine. The agreement "got right to the heart of the matter" by focusing on warheads rather than launchers and successfully addressed three key Ukrainian concerns: fair compensation for the uranium removed; U.S. assistance in dismantling launchers and other equipment; and security assurances from the United States, Russia, and the United Kingdom.

Dr. Carter stressed the importance of Nunn-Lugar assistance in the safe and secure custody and disposition process and expressed the hope "that in coming weeks Congress will support our request to continue the Nunn-Lugar program." DoD has set up a dedicated program office to streamline contracting and implementation of these projects. Dr. Carter listed three Nunn-Lugar priorities: 1) assuring the chain of custody of nuclear weapons and materials in Russia; 2) eliminating biological weapons in Russia; and 3) converting industries producing

**Terms and Abbreviations**

ACDA—U.S. Arms Control and Disarmament Agency  
 BW—Biological Weapons  
 BWC—Biological Weapons Convention  
 CFE—Conventional Forces in Europe  
 COCOM—Coordinating Committee on Multilateral Export Controls  
 CTBT—Comprehensive Test Ban Treaty  
 CW—Chemical Weapons  
 CWC—Chemical Weapons Convention  
 DoD—Department of Defense  
 ERINT—Extended Range Interceptor  
 IAEA—International Atomic Energy Agency  
 INF—Intermediate-range Nuclear Forces  
 JCIC—Joint Compliance and Inspection Commission  
 MTCR—Missile Technology Control Regime  
 NPT—Nuclear Nonproliferation Treaty  
 OPCW—Organization for the Prohibition of Chemical Weapons  
 UNSCOM—United Nations Special Commission  
 WMD—Weapons of Mass Destruction

weapons of mass destruction to civilian purposes.

The nuclear controversy with North Korea, according to Dr. Carter, "is embedded in a larger security problem" of the North's military threat against the South. U.S. concerns include: the possible use of nuclear weapons by the North; the prospect of North Korean sales of these weapons; the destabilizing effects that a North Korean bomb would have on Northeast Asian security; and the potential for undermining the global nonproliferation regime. "In the long term," he observed, "stopping the program requires the North Koreans to stop operating these graphite-moderated, gas-

*Continued on page 4*

**John H. Stonefield**  
 Chairman, Standing Committee on Law and National Security

**Holly Stewart McMahon**  
 Staff Director

**Robert F. Turner**  
 Editor

**Jackson R. Sharman III**  
 Associate Editor

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## Panel II

### Issues of NPT Extension

The second panel discussion centered on the responsibilities of the major powers, with particular attention paid to the NPT Extension Conference, to be held in New York in April-May 1995. The principal speaker, Acting Deputy Director of the U.S. Arms Control and Disarmament Agency (ACDA) Thomas Graham, Jr., is scheduled to lead the U.S. delegation to the negotiations. The United States, he affirmed, "is committed to make every effort to secure the Treaty's indefinite extension in 1995."

Mr. Graham continued that "[t]he decision taken by a majority of the parties in 1995 is immediately legally binding on all parties no matter how they voted and without reference to national parliaments. This is possible because the decision mechanism is built into the Treaty." Article X.2 (see Box below) permits consideration of only three options: "whether the NPT shall continue in force indefinitely or shall

be extended for an additional fixed period or periods." In Mr. Graham's view, as "a fundamental rule of legal construction," this provision "must be narrowly construed." Adoption of any other option would require Treaty amendment and necessitate time-consuming approval by national parliaments.

Moreover, Mr. Graham stated, "I firmly believe that the NPT must be considered on its own merits and not be held hostage to some other arms control measure." As "the cornerstone of the international nuclear nonproliferation regime," the NPT "transformed the acquisition of nuclear weapons from an act of national pride to one contrary to international law." Among other advantages noted by Mr. Graham, the NPT creates a framework for addressing regional proliferation problems and developing peaceful uses for atomic energy under IAEA safeguards.

"The progress ongoing in the arms control arena," Mr. Graham stated, "is unprecedented and is due, in no small part, to the stable international environment which has been facilitated by the NPT."

Not only are the United States and Russia "pursuing arms reduction as rapidly as is technically possible," but negotiations are progressing on a Comprehensive Nuclear Test Ban Treaty (CTBT) that "will be an important part of our efforts to prevent the further spread of nuclear weapons . . ." Another future arms control development could be a treaty to ban production of fissile material. "In addition to ensuring that the NPT's contributions to global and regional security continue," Mr. Graham added, "a strong and permanent NPT would be an important source of leverage over those states outside the nonproliferation regime to join the NPT or adopt

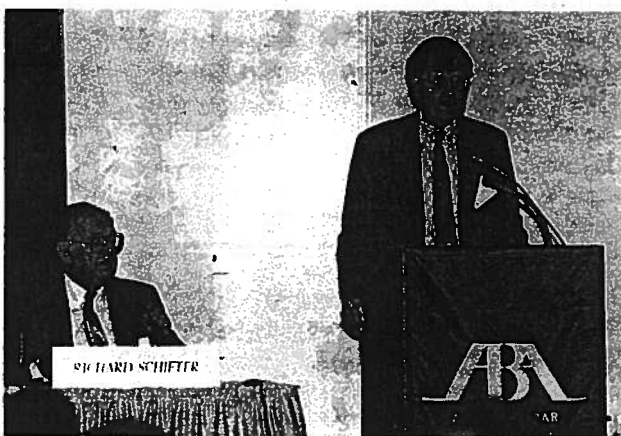
other measures to conform with established nonproliferation norms."

Former ACDA Director Ronald F. Lehman II, now at Lawrence Livermore National Laboratories, endorsed the indefinite extension of the NPT, but added that "we need to recognize that we are in a state of flux" after a period of euphoria about nonproliferation prospects following Desert Storm and the end of the Cold War. Today, he said, this optimism "has been replaced by a tremendous pessimism and concern

about the future of the whole nonproliferation regime and, in particular, about developments in areas of concern such as Korea and South Asia."

In Dr. Lehman's view, the initial euphoria resulted in "a certain amount of hostage-taking with respect to the Nonproliferation Treaty," by which countries sought to gain leverage by expressing reservations on indefinite extension. Lehman emphasized two U.S. policy priorities in this respect:

*Continued on page 4*



*Deputy ACDA Director (and former General Counsel) Thomas Graham addresses NPT extension issues as NSC Counselor (and former Standing Committee member) Richard Schifter looks on.*

#### Nuclear Non-Proliferation Treaty

##### Article X.2

"Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty."

## Overview . . .

*Continued from page 2*

cooled reactors which produce the plutonium, not to refuel the existing reactor, not to reprocess, to dismantle these facilities, and to expatriate the plutonium-containing fuel recently unloaded."

Dr. Carter noted that the DoD counterproliferation initiative evolved from the Administration's "bottom-up review," designed to reorient the U.S. defense establishment from its previous central task of deterring a global conflict with the USSR to dealing with regional conflicts where there exists "a very high probability" of WMD involvement. Drawing on the experiences of Desert Storm, the counterproliferation initiative seeks to reduce the possible leverage over U.S. military action represented by the threat of WMD use, while, at the same time, reinforcing efforts to prevent proliferation.

As co-chair of the DoD nuclear posture review, Dr. Carter emphasized that "nuclear weapons are now playing a smaller role in U.S. military security than at any other time in the nuclear age." The United States has the capability to deter and prevail with conventional forces and "will retain only the smallest nuclear arsenal consistent with our security needs." In conclusion, Dr. Carter pointed to recent "staggering changes" in U.S. nuclear posture including deep reductions in inventory, operations, and budget.

Commenting on Dr. Carter's presentation, Dr. Patrick Glynn, Resident Scholar at the American Enterprise Institute for Public Policy Research, agreed that the Ukrainian accord was a "substantial foreign policy achievement" and one instance of a "remarkable trend of pacification and reconciliation." However, he added that most remaining proliferation problems, including North Korea, "are truly intractable." Dr. Glynn warned against pushing "the war option" in Korea and admitted that the United States may have to live with "a large measure of uncertainty" and "some kind of North Korean nuclear capability." The United States can delay the process, "hoping that the internal instability in the regime will eventually cause some kind of political change."

Mitchell B. Reiss, Guest Scholar at the Woodrow Wilson International Center for Scholars, chided Nunn-Lugar program implementation, noting that "very little of this funding has actually found its way

to the states of the former Soviet Union." He raised the specter of a "brain drain" of scientists departing the former Soviet Union to destinations of proliferation concern. A third discussant, Rick E. Yannuzzi of the CIA Nonproliferation Center, noted that the strategic planning process established by the intelligence community "is designed to enhance intelligence support to nonproliferation while impacting a broad array of consumers. Future intelligence activities will need to be proactive, effective, comprehensive, integrated, affordable, accountable, and flexible."

## NPT Extension . . .

*Continued from page 3*

first, "we must sustain our ability to live up to our commitments" in the security area in order to discourage the proliferation temptation. Second, "the United States is going to have to work on a multina-

tional basis, but, because of the evolutionary state of organizations and relationships, in some cases it's going to be formal, but in other cases it's going to be rather *ad hoc*, like the coalition in Iraq." The key test is North Korea, where what is generally regarded as "the centerpiece of

international security for the future" is being "threatened by a flagrant violation of a party."

The second discussant, former Under Secretary of Defense Stanley R. Resor (presently in private practice), pointed to the threat to the NPT regime from the Administration's proposed reinterpretation of the Anti-Ballistic Missile (ABM) Treaty. According to Mr. Resor, "If the Administration's effort to deploy such an expensive missile defense suggests the United States has concluded that the NPT and the expanded Missile Technology Control Regime (MTCR) will prove ineffective in stemming nuclear proliferation." He continued: "This creates an environment inconsistent with persuading non-nuclear weapons states to agree to indefinitely renounce nuclear weapons." Mr. Resor's proposed solution was to seek a definition permitting deployment of limited systems like Patriot Advanced Capability-3 (PAC-3) and the Extended Range Interceptor (ERINT), along with a tightening of MTCR controls and possible restrictions on medium-range missile deployments.

In his comments, Ambassador Nugroho Wisnumurti, Permanent Representative of Indonesia to

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**The NPT "transformed the acquisition of nuclear weapons from an act of national pride to one contrary to international law."**

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**—Thomas Graham**

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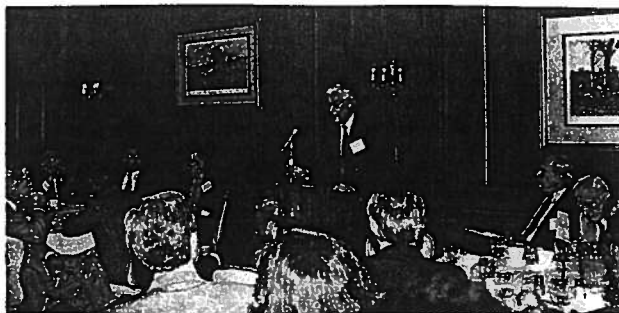
## UNSCOM Chairman Addresses Lunch

### Ambassador Rolf Ekéus Outlines UN Inspections and Monitoring in Iraq

In Friday's luncheon address, Ambassador Rolf Ekéus, Executive Chairman of the United Nations Special Commission (UNSCOM) on Iraq, provided a background history of the inspections to date and described plans for future monitoring of Iraqi WMD activities. The objective of UNSCOM monitoring is "to put in place a control system to prevent Iraq from acquiring these weapons again," he stated. Ambassador Ekéus pointed to the establishment of the Baghdad monitoring center, "a completely new innovation in arms control" that will benefit from advanced communications (including real-time industrial monitoring by camera) and its own photo interpretation capability. In addition, many permitted weapons systems (like FROG, SA-2, and cruise missiles) and their components have undergone extensive tagging. Furthermore, Ambassador Ekéus added, UNSCOM is implementing a strict import/export system, whereby all UN members will be required to notify UNSCOM of any export of dual-use items to Iraq. The result is that, in Ambassador Ekéus' words, "Saddam Hussein has been denuked, he has no influence, he is completely isolated in the Arab world."

Ambassador Ekéus paid tribute to the Coalition decision not to march on Baghdad, but to invest the UN with responsibility for eliminating Iraq's WMD which "constituted a lot of the political clout and power of Saddam Hussein's regime in Baghdad." In its unique position as an "executive arm of the Security Council," he said, UNSCOM was largely protected from the UN bureaucracy and could take advantage of extensive coordination and data sharing with national intelligence agencies (including U-2 aerial surveillance). In the process, he noted, UNSCOM developed its own imagery interpretation capability and data handling system.

Nevertheless, Ambassador Ekéus observed that NPT safeguards "are not verification," but are "at best confidence-building." "One must take a much more comprehensive approach on nuclear verification," he stated, going beyond safeguards to focus on the design and production of warheads, delivery systems, trigger packages, as well as nuclear materials.



*Ambassador Rolf Ekéus addresses U.N. efforts to control weapons of mass destruction in Iraq.*

### Rhineland Overview . . .

*Continued from page 1*

Mr. Rhineland, a former SALT I delegation legal adviser, now in private practice, emphasized that possible leakage of nuclear weapons and fissile material from the former Soviet Union, accompanied by a scientific "brain drain," constituted "the worst proliferation threat of all. The NPT regime was never designed to manage, and may not be able to survive, a disintegrating, nuclear-armed superpower." Mr. Rhineland also offered persuasive reasons why the nonproliferation "glass is half full," particularly since "nonproliferation is now recognized as an international norm; the question is one of will to enforce it." The January 31, 1992 UN Summit statement, condemning the proliferation of WMD as "a threat to international peace and security," is "a benchmark . . . [that] if followed, would authorize collective actions against a state, such as North Korea, even if it were to renew its withdrawal from the NPT," Mr. Rhineland added.

### NPT Extension . . .

*Continued from page 4*

the United Nations, enumerated the demands of the non-nuclear states under the NPT, incorporating "an end to the increase of strategic arsenals," "assurances of non-use of nuclear weapons," and "a time-table for nuclear arms control measures." According to Ambassador Wisnumurti, "the Tenth Summit Meeting of Non-Aligned Countries, held in Jakarta during September 1992, called for a fresh appraisal of the commitments undertaken by the depositary states in determining the treaty's extension beyond 1995." These concerns include agreements on a CTBT and fissile material cutoff, transfer of fissile material to IAEA safeguards, and formal security assurances. "Unless the areas of contention and discord are reconciled," he stated, "the treaty may well collapse under the weight of its own contradictions. This should not and must not happen."

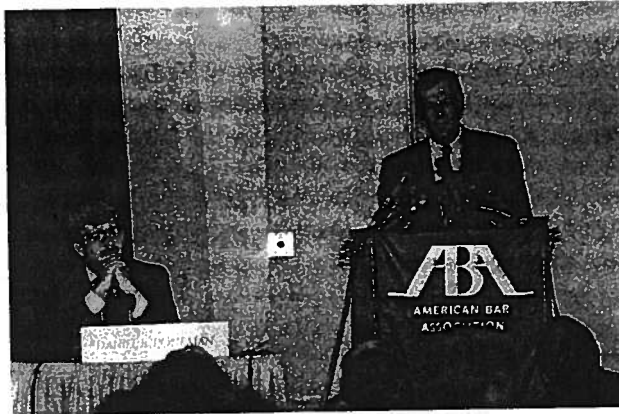
### Panel 3

## North Korea as an Enforcement Test Case

Chronicling the North Korean nuclear controversy, Dr. Richard H. Solomon, President of the United States Institute of Peace and former Assistant Secretary of State for East Asia and the Pacific, characterized the situation as "a problem left over from the Cold War world [that] threatens to drag us back into a very nasty confrontation."

According to Dr. Solomon, "it was in the mid-80s that American government sources became aware of a quickening effort to advance their nuclear program." While North Korea joined the NPT regime in 1985, he said, it has strung out the IAEA safeguards inspection process for almost a decade. One encouraging sign, in Dr. Solomon's view, was the December 1991 signing of agreements between the two Koreas on a non-nuclear peninsula (with proposed bilateral inspections) and on political reconciliation, though neither agreement has been implemented. "Shortly afterwards, the United States held its first political-level encounter with North Korean officials," stated Dr. Solomon, a participant in these talks.

However, subsequent IAEA inspections "confirmed our worse fears that the North Koreans were involved in a nuclear weapons program." In early 1993, he added, "the North Korean leadership . . . decided they could no longer expose themselves to this international inspection because, ultimately, they felt that opening up their society . . . would only bring upon them the fate of the other communist governments," particularly that of the clannish Romanian regime. Dr. Solomon noted that "their 'on-again, off-again' negotiating behavior has just about reached the point of destroying any credibility for this Administration to negotiate with the North Koreans." The international coalition put together by the United States "is one of our most potent assets for coping with this nuclear challenge," he added.



*Assistant Secretary of State Robert L. Gallucci discusses the North Korean problem as moderator Daniel B. Poneman, Senior Director for Nonproliferation at the National Security Council, looks on.*

Ambassador Robert L. Gallucci, Assistant Secretary of State for Political-Military Affairs, stated that "this Administration's policy has been to try to negotiate a settlement of the nuclear issue with the North Koreans." The United States, he added, was handed this problem in June 1993 by the IAEA and the UN Security Council. In bilateral talks, the North Koreans had indicated that they were prepared to move toward light-water reactors and to discuss continuity of safeguards with the IAEA.

Ambassador Gallucci stated that, according to IAEA inspectors in May 1994, "the continuity of safeguards was assured." However, the ensuing North Korean discharging of the reactor fuel was judged to be "irrevocable" by the IAEA. "It did not end for all time the possibility of finding out what the North Koreans had, in fact, done in 1989, but it sure made it much, much more difficult," Ambassador Gallucci admitted.

The United States has turned the issue back to the Security Council and

is "on the road to considering the next steps—which will certainly include sanctions," he stated. While the Administration is hopeful that the issue can be resolved peacefully, he stated, "the stakes here . . . are quite high, so are the risks associated, and so we are proceeding in a prudent manner. If necessary, we will, of course, go to sanctions." President Clinton has indicated that North Korean possession of nuclear weapons would be "unacceptable" and that North Korean use of a nuclear weapon would be "the end of the North Korean state as they know it," according to Ambassador Gallucci.

He further stated: "Their very active ballistic missile development program—in the Nodong and the follow-on missiles—gives them ranges when developed, when they become operational, in the thousands and several thousands of kilometers. This obviously is not a capability they need to defend North Korea from South Korea or from anybody else. This is a capability they are seeking presumably, in the first instance, to be able to project force throughout Asia and, secondly, because of the kinds of financial deals they have made, to be able to sell missiles of extended range to other coun-

*Continued on page 18*

## Panel 4

# Implementing the Chemical Weapons Convention

The fourth panel focused its attention on implementation and verification issues associated with the Chemical Weapons Convention (CWC). Bernard L. Seward, Jr., of the ACDA Office of General Counsel, provided the context by which to assess the treaty and its implementing legislation. He affirmed that the CWC "prohibits not only the use of such weapons, but also virtually every other chemical-weapon related activity," including development, production, acquisition, stockpiling, retention, and direct or indirect transfer by individuals and legal entities. The verification sections of the treaty "include provisions on international inspections, declarations by industry, and the establishment of a national authority" and necessitate U.S. implementing legislation (reflected in the proposed "Chemical Weapons Convention Implementation Act of 1994"). In drafting this bill, Mr. Seward stated, "we tried to use as much existing legislative precedent as possible," specifically the Biological Weapons Anti-Terrorism Act (for the criminal provisions), the Toxic Substances Control Act (for the declarations and inspections provisions), and the Export Administration Act (for disclosure provisions).

Mr. Seward outlined the six miscellaneous sections and four titles of the proposed legislation, including provisions for the collection of information from industry. According to Mr. Seward, Title III "prohibits the public disclosure of information or materials (e.g. samples) obtained under the CWC except in four instances: to the Organization for the Prohibition of Chemical Weapons (OPCW) and CWC parties, to appropriate committees and subcommittees of Congress, for law enforcement purposes, and when disclosure is determined to be in the national interest."

Title IV sets forth procedures for the initiation and conduct of the international inspections. Mr. Seward stated that "we have looked very closely at the constitutional aspects, particularly the Fourth Amendment aspects of this, both in drafting the treaty and in drafting the implementing legislation." To this end, "we will try to conduct all

inspections using administrative warrants," although "there may be some opportunities" for doing warrantless searches. The CWC challenge inspection provisions, he said, explicitly reflect U.S. views "taking into account any constitutional considerations . . . regarding searches and seizures. Title IV "also prohibits injunctions on inspections." Mr. Seward concluded that "the proposed legislation represents the Administration's best considered opinion on the necessary elements for implementing the CWC, taking into account all of the at times conflicting interests at stake."

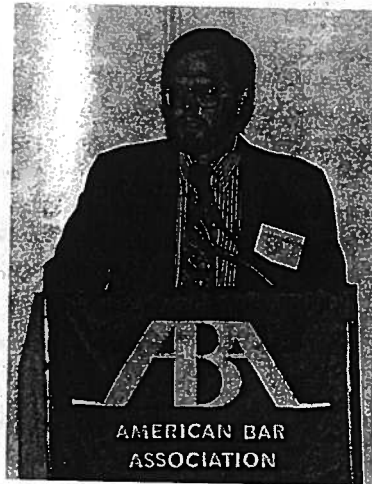
The first discussant, Lisa Bronson, Director of Negotiations and Implementations at the Defense Department, emphasized that the CWC "is but one prong of an overall nonproliferation or counterproliferation . . . strategy." While the CWC would prohibit the United States from retaliating in kind to a chemical attack, she noted, U.S. armed forces

do retain "an effective range of retaliatory capabilities," as well as "a very, very robust chemical defense program." Addressing the compliance issue, Gary B. Crocker, Theater Military Forces Division Chief in the State Department Bureau of Intelligence and Research, observed that "inspections open up a system," so that "it gets much harder to hide a covert chemical or biological weapons capability."

Opposing the treaty, Douglas J. Feith, formerly Deputy Assistant Secretary of Defense, now in private law practice, stressed that the 1925 Geneva Convention outlawing the use of chemical weapons has been "violated repeatedly, and the international community has proven itself completely ineffective in dealing

with these violations." According to Mr. Feith, the international community has engaged in "an escapist exercise" of prohibiting CW possession. In his view, "the issue is whether we have any confidence that we would know about a purposeful concealed violation" and "whether the international community will punish violations."

Professor David A. Koplow of the Georgetown University Law Center focused his remarks on some novel aspects of the CWC, including its complexity and intrusiveness into the private sector (especially the risk of jeopardizing confidential business information and constitutional rights). He emphasized "the intersection with environmental law," related



*ACDA Attorney Advisor Bernard L. Seward discusses the Chemical Weapons Convention.*

*Continued on page 18*

Dinner Address**ACDA Director Highlights Treaty Implementation**

*Friday's dinner featured remarks by the Honorable John D. Holum, Director of the US Arms Control and Disarmament Agency.*

I'm not going to talk to you tonight about the crucial and well-publicized arms-control negotiations underway around the world, although several are in progress. Instead, I want to discuss something less glamorous—but in today's security context, even more important. That is the steady work of bringing arms control to fruition, of translating the gains agreed to on paper into real results on the ground.

This is a particularly apt topic for the Director of ACDA. We are deeply involved in negotiations underway—the comprehensive test ban, extension of the Nuclear Non-Proliferation Treaty (NPT), and the fissile material cutoff, among others. But we also have a sharply expanding mission in the implementation of arms control agreements and regimes, which includes verification but goes well beyond it. And it's especially important that I talk about this now because I see a danger looming to this vital mission.

What exactly do I mean by implementation? Over the Cold War years many of us developed the habit of thinking of arms control as a goal that conflicted with national defense. Politically speaking that often may have been true. But as a practical matter, arms control and defense share a common purpose: to make us safer. Both address threats to our national security. Defense deters or defeats these threats. Arms control quietly takes them away.

In these terms, arms control negotiations can best be likened to our standing military forces. They represent the promise that an adversary's arsenals will be destroyed. But that promise isn't kept until those arsenals are actually taken down. Functionally, implementation—not negotiation—is where most of the action takes place in arms control.

North Korea comes to mind. What we face is not the negotiating goal of North Korea agreeing to forswear nuclear weapons. That was attained in 1985. At issue now is whether North Korea will live up to its commitments under the NPT. This compliance problem may involve further negotiations—or other additional steps—but at bottom, it is an implementation matter.

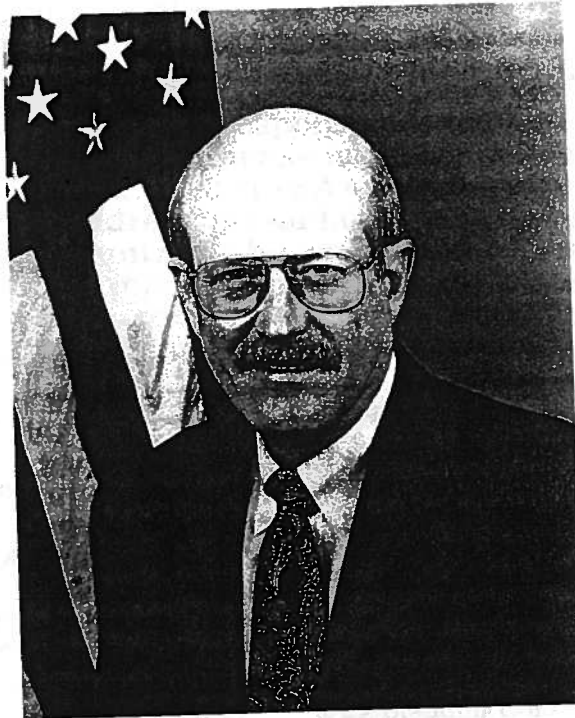
I also want to underscore here that, because the NPT is the world community's handle on nuclear programs like North Korea's, indefinite and unconditional extension of the Treaty is ACDA's highest priority for the coming year. I touch on this briefly tonight only because I know Tom Graham addressed it in detail earlier today.

A number of recent agreements—such as Conventional Forces in Europe, Open Skies, INF, START and START II, and the Chemical Weapons Convention—are joining older agreements such as the ABM Treaty and the NPT to create a prodigious architecture of international arms control law. More agreements are on the way.

Realizing the full potential of arms control agreements is becoming a momen-

tous mission for the United States and for the Arms Control and Disarmament Agency. We are entering what might be called the arms control implementation era.

In some cases that means breaking new ground on verification—for example, international inspectors with a right to look inside sensitive government installations or into your clients' businesses. In



**“What we face is not the negotiating goal of North Korea agreeing to forswear nuclear weapons. That was attained in 1985. At issue now is whether North Korea will live up to its commitments under the NPT.”**

**—John D. Holum  
Director, ACDA**



others it means updating long-standing agreements to accommodate unforeseen conditions—like the emergence of theater missiles, much more capable than Scuds, in the hands of rogue states.

Let me mention just some of the issues this burgeoning national security mission entails.

## Chemical Weapons Convention

The Chemical Weapons Convention, or CWC, presents an immense implementation challenge. It is also a tremendous achievement that will obligate the rest of the world to do what we have already largely decided to do: put an abominable genie back in the bottle and incinerate the bottle.

Today more than twenty-five countries are suspected of having chemical weapons or the ability to produce them. Significantly, no less than three-quarters of these countries have signed the CWC. Obviously we want them to ratify it as well, and to bring it into force as soon as possible.

The CWC may represent our greatest implementation effort yet—whether viewed from the standpoint of history, of intrusiveness, of industry involvement, or of magnitude of coverage. To give you a rough idea, the IAEA oversees about nine hundred nuclear facilities in some sixty countries; by comparison, the CWC's implementing body, the Organization for the Prohibition of Chemical Weapons, will have access to over twenty-five thousand facilities in at least one hundred and twenty countries.

The Convention is now before the United States Congress. I remain hopeful that the Senate will give its advice and consent to ratification soon, to spur ratification by scores of other countries that are taking their cue from us. This would place us among the original parties to the Convention—and thus on the ground floor of establishing, among other things, the practical mechanics of routine and challenge inspections.

The CWC embraces for us the central and fundamental truths about chemical agents designed to kill and maim in the cause of war: To make them is a waste; to keep them an affliction; to use them an abomination. To champion their destruction makes us at once more exemplary, more civilized and more secure.

We should get on with the task.

## ABM Demarcation

The talks in Geneva to clarify the ABM Treaty show that, at times, implementation is negotiation—with high stakes.

When the Treaty was negotiated, we and the Soviet Union did not resolve the demarcation between prohibited strategic defenses and permitted theater defenses. In 1972, there was no compelling need to do that.

But there is today—not because we have changed our minds, but because the world has changed.

Recall the memory of SCUD missiles launched by Iraq. Now consider the specter of far more advanced theater missiles, possibly armed with nuclear, chemical or biological weapons, in the hands of a Libya, North Korea, or Iraq. That explains why this Administration wants

to prepare capable theater defenses for our own forces and our allies and friends.

But we want to do so *within* the ABM Treaty, because the Treaty is important to the offensive force reductions now underway, and indispensable to the potential for further cuts.

Since last December our Acting Commissioner to the Standing Consultative Commission, Stan Riveles, has led the U.S. delegation through three rounds of demarcation negotiations in Geneva. The original U.S. proposal focused on the velocity of the target missile, to define the threat our systems would be designed to defend against.

Since then, in the course of our negotiations, this proposal has been incorporated into a broader set of limits on such defensive systems that includes but goes beyond target missile velocity. The participants are discussing additional elements such as confidence-building measures to provide assurance that our respective TMD systems are not used for nationwide strategic defense.

These negotiations have generated some concern, particularly among the staunchest defenders of the ABM Treaty, which went through some perilous times in the 1980s. But the best way to preserve the Treaty is not to fossilize it, but to treat it as a living text that can still advance our security in a dramatically changed world—and to do so, I remind

*Continued on page 10*

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**“The Chemical Weapons Convention . . . presents an immense implementation challenge. . . . The IAEA oversees about nine hundred nuclear facilities in some sixty countries; by comparison, the CWC’s implementing body . . . will have access to over twenty-five thousand facilities in at least one hundred and twenty countries.”**

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## Holum Dinner Remarks . . .

*Continued from page 9*

you, not through unilateral fiat, but through negotiation with our Treaty partners.

The Clinton Administration's policy aims to protect us first and foremost through arms control—by working hard to prevent new threats—and second, by legally pursuing the development of theater defenses for those cases where arms control is not yet successful. Instead of pitting arms control and defense against one another, it marries the two.

### The START Treaties

The START Treaties underscore another vital implementation task—addressing the bulk of all the world's weapons of mass destruction that can be delivered with devastating force on our own country.

START was signed in 1991, and START II in January 1993. Some think that means we have taken care of the problem of Soviet heavy missiles and counterforce capabilities, and deeply cut back strategic nuclear forces. Well, not quite.

We and the Russians are retiring missiles and bombers controlled under START, and eliminating some associated launchers as well. Under related agreements, some warheads are being moved out of Ukraine, Belarus and Kazakhstan, where they were left when the Soviet Union collapsed.

Nuclear force reductions in the former Soviet Union are being advanced in part through a \$1 billion program of assistance for the safe and secure dismantlement of former Soviet nuclear weapons—which is a national security bargain.

But it is essential to keep in mind that no country is yet legally required to destroy a single missile, bomber or submarine under the START Treaties. They have not yet entered into force. START awaits Ukraine's accession to the NPT as a non-nuclear weapons state, which Russia made a condition of its own ratification. START II, in turn, depends on START and its entry into force. So what is being done now is in anticipation of but *outside* these formal arms control obligations.

I'm not such a purist as to suggest that is objectionable. Voluntary and compensated reductions are very much in our national interest.

But these valuable *de facto* efforts cannot substitute for *de jure* arms control. Why? Because our relationship with Russia could deteriorate, and things done voluntarily can be reversed. If Russia were to become more adversarial, weapons we have paid to remove could be replaced. So we are

far better served by having reductions and eliminations agreed, ratified, and legally binding—regardless of how the future unfolds.

And of course, whether or not the relationship becomes more difficult, it will be of great value to put into force the detailed verification provisions—including the web of twelve different kinds of on-site inspections—that the Treaties provide.

That means two things. First, we must make sure that nothing we are doing prior to entry into force of the START Treaties will interfere with their formal legal implementation or compromise the compliance process.

Second, we must aggressively pursue efforts in the START Treaty's Joint Compliance and Inspection Commission (or "JCIC") to resolve issues that must be worked out prior to, or shortly after, START's entry into force.

The U.S. delegation to the JCIC, led by Ambassador Steve Steiner of ACDA, has been making great progress on those issues. The five parties in the JCIC have already completed some 35 agreements and joint statements. The issues that remain include some of the most difficult and intractable issues kicked down the road—or not even considered—in the original negotiations. Even as to these tough nuts, we are moving toward solutions.

### The INF Treaty

With START, a good deal of our work has been directed to making a treaty that was negotiated as a bilateral agreement into a multilateral agreement. Implementation of the INF Treaty presents the same issue of multilateralization writ even larger. We have sought to bring all twelve successor states on board as parties to the INF Treaty.

In private practice, as you might expect, I had little exposure to the law of succession to treaties. Now I am becoming quite familiar with it. Indeed, it may well have seen greater application in the last five years than in the previous fifty. Virtually all of our originally bilateral arms control treaties until recently either had states that wanted to join as successors or that we wanted to see as successors, or both.

The broad question presented by such concerns was how to apply a bilateral agreement to a four or twelve nation context. The basic answer is, "You work it out." In practice this means challenging implementation, often including negotiation.

This has required new procedures and substantial diplomatic activity with all twelve successor states as well as the key implementing four—again,

...us. Kazakhstan, Russia and Ukraine.

...these parties do not necessarily like or trust one another. Sovereignty understandably has been an ongoing concern of the new states. Anything that even appears unequal, either in treaty implementation or in the conduct of the parties, can be disruptive—and we invariably hear about it.

There are certain practical difficulties. Small delegations have no interpreters. Who should sit next to whom? Budgets are tight. Feelings can run high.

That means many seemingly uncontroversial implementation issues have become politicized. For example, none of the new independent states want us to enter its territory for inspections through the territory of another party—frankly, through Russia. So for the INF Treaty as well as START, the four implementing states now have their own points of entry for inspections.

An unexpected but significant side benefit has resulted from all these efforts relating to START as well as INF. They have given us a framework in which we have already been able to influence in productive ways the defense planning and national security decisions of our four partner states. By lending them our good offices to help work out complex issues between us—and between them—we have deepened our engagement with four critical countries during an important and formative period.

## Conclusion

As I indicated at the outset, after about six months on the job I am sensing a danger to the arms control implementation and verification mission. It lies in several intersecting trends and conditions.

The first is the advent of the implementation era. With CFE, CWC, INF, START, the NPT, Open Skies, a possible global test ban, the fissile material cutoff, and other initiatives, we are piling up arms control implementation and verification requirements. So among national security missions, this (happily) is a growth industry.

But keep in mind that while arms control is considerably less expensive than additional defenses, it is not free—especially when it comes to verification.

A second condition is that the agency with the principal policy role in implementation and verification—which happens to be ACDA—has abundant responsibilities, but controls none of the relevant assets. We are required, for example, to assess for the Congress whether arms control agreements can be verified, and to report back if there is any change. But verification depends on radars, sensors, satellites, on-site inspectors, and other assets owned and operated entirely by other agencies, not by ACDA.

And a third trend, with which you're all familiar, is that most agencies of the government are cutting their budgets, to attack more than a decade of deficits and thereby rescue the economy. The policy is sound and it's working. But deep cuts are expected in Defense, Energy, and Intelligence, whose missions have changed in the aftermath of the Cold War.

All of those agencies quite reasonably will apply their own standards of cost-effectiveness to their budgets—balancing defense or intelligence requirements against arms control verification.

You can see the tension. Already it has occupied a considerable amount of my time as Director of ACDA. In the months ahead it could well become a preoccupation. I invite you to worry about it too, if you are so inclined.

However we resolve this tension, my central message remains—that on a daily basis, in our interagency implementing efforts, in the related work of the On Site Inspection Agency, more broadly in the Departments of Defense and Energy, in the intelligence community, in the diligent and creative nonproliferation efforts of the Department of State—real arms control is being steadily achieved.

We must implement our agreements with vigor and without delay. We must finish the jobs we have started. Parents as well as playwrights will tell you that the realization is no less important than the conception.

Because this is what arms control *means* to Americans. Most people are more interested in what we have *done* than in what we have *agreed* to do. They realize something that we inside the Beltway often forget: After the Rose Garden ceremonies have ended, and the strains of "Hail to the Chief" have died away, the heavy lifting has just begun.

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**"The Clinton Administration's policy aims to protect us first and foremost through arms control—by working hard to prevent new threats—and second, by legally pursuing the development of theater defenses for those cases where arms control is not yet successful. Instead of pitting arms control and defense against one another, it marries the two."**

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**Panel 5**

**Verification of the Biological Weapons Convention**

The principal issue examined by the Biological Weapons Convention (BWC) panel was how to establish a verification regime for the 1972 agreement. The BWC states parties will meet this September to discuss the Ad Hoc Group of Governmental Experts' findings on enhanced verification, transparency, and confidence-building measures. Mr. Bradley H. Roberts, Research Fellow at the Center for Strategic and International Studies, stressed "the changing nature of the problem itself" in his paper. He cited four reasons why the BW problem is growing worse: 1) "an established record of noncompliance," in which "states have crossed that line between defensive and offensive research, moving in the direction of the creation of a warfighting capability through the offensive use of BW," most graphically in Iraq; 2) Soviet/Russian noncompliance, confirmed by a Russian declaration, and the proliferation of BW programs to up to 15 countries; 3) the biotechnology revolution and its effect "on the technical aspects of BW production and use that heretofore have served to narrowly circumscribe the utility of BW" (e.g. storage, weaponization, and use on the battlefield); and 4) the end of the Cold War, increasing the interest of regional actors in seeking compensatory military assets.

Mr. Roberts noted the emphasis on confidence-building measures under the BWC, "but these have not been well-adhered to." In 1991, the review conference sponsored a scientific and technical study of confidence-building, transparency, and

verification proposals. "Verifying compliance with the BWC is not easy," he cautioned. "Smaller quantities of BW agent than CW can make a crucial difference to military outcomes, to national will to prosecute wars, and the differences here are salient for the way we go about creating a regime."

"A strategy of nonproliferation that focuses on denial alone is doomed to failure," Mr. Roberts stated. "The technology base has proliferated, is proliferating." Since treaty regimes are about "an agreed political bargain," he concluded: "We cannot secure the compliance of states with our personal sense, our national sense of what their appropriate behavior ought to be unless they have participated with us in the establishment of some agreed rules."

The first discussant, Professor Robert M. Atlas of the University of Louisville, Chair of the Committee on Environmental Microbiology of the American Society for Microbiology, expressed concern regarding protection of proprietary information and research under a BWC verification regime. In essence, he stated, "the problem here is that virtually any equipment one could think off for involvement in the development of biological weapons would be the same equipment one would expect to see in pharmaceutical and vaccine development and would also expect to see in most hospital laboratories." Professor Atlas added that "we are dealing with organisms, when we talk about biological weapons, that occur naturally," thereby obscur-

ing verification efforts. What we need, he stressed, is "an epidemiological data base," describing "what pathogens naturally occur where." Even then, new diseases appear and "could easily be confused with biological weapons research." With respect to biotechnological advances, he said, "we can create more deadly pathogens," yet, on the other hand, the ability to detect organisms has also greatly improved. The problem, in his opinion, was in developing comparative points of reference and interpretation.

Dr. Edward J. Lacey, Vice President of Pacific-Sierra Corporation and formerly Ambassador to the International Conference on Verification of the BWC (VEREX), observed that, with developments in



*Washington Quarterly editor Bradley H. Roberts stressed the difficulties of controlling biological weapons.*

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**"A strategy of nonproliferation that focuses on denial alone is doomed to failure."**

**—Bradley H. Roberts**

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biotechnology, "suddenly, biological weapons appear viable as a weapon of mass destruction, and much less expensive than nuclear and chemical weapons." For some time, he noted, the United States had expressed reservations about the adequacy of any BWC verification regime. He proposed "adopting a modest verification regime that will assist in monitoring compliance through the creation of additional sources of information and a mechanism to investigate suspicious events and activities." He added that "we should do so in a fashion that does not purport to do more than it really does, that does not unnecessarily endanger national security or commercial proprietary interests, and that does not create a cumbersome and costly international bureaucracy. And we should not do so at the expense of maintaining legitimate biological defense capabilities."

"Our problem—a problem of security—is a problem of trying to verify biological weapons activity in the world," declared Donald A. Mahley, Acting Assistant Director of the ACDA Bureau of Multilateral Affairs. Mr. Mahley expressed misgivings about the military utility of BW, though it offers unique advantages against civilian populations and in terrorist activities. BW use, he commented, "becomes a cheap way of creating instability in other regions of the world, even if it is not directly against United States soldiers." In his view, arms control agreements create norms that enhance the position of the international community *vis-à-vis* a noncompliant state. Regarding BWC verification, Mr. Mahley said, "trying to make sure that you balance the expectations of the regime against reality is a very important element of what you're going to be able to do." He warned of potential bureaucratic difficulties in administering the regime, finding qualified inspectors, and conducting inspections.

LTC Constance T. Rybka (U.S. Army), assigned to the Office of the Assistant Secretary of Defense for



CIA General Counsel (and Standing Committee member) Elizabeth R. Rindskopf (right) moderated the Biological Weapons Convention panel.

International Security Policy, examined "the operational impact of what the government does in the way of arms control processes on the fighting forces." While she noted that "it's easy to dismiss a bio threat," she nonetheless emphasized "the impact of disease on fighting forces." According to Col. Rybka, "any BWC regime needs to take into account the extraordinary difficulties of determining the intent of the bio program in question. Is it defensive, or is it offensive?" She added that transparency is possible, but "a verification regime is not attainable."

From the perspective of a private attorney specializing in intellectual property law, Maxim H. Waldbaum did not perceive "any major impediments" in implementing the BWC verification regime. He stated that "there should also be a burden of proof that should be put on the people who want to inspect and want to verify," as well as "a higher 'need to know' with respect to valuable commercial processes." As part of the "checks and balances" on the verification system, he said, harsh penalties should apply to unauthorized revelation of confidential business information.

### Standing Committee on Law and National Security

**Chairman:** John H. Shenefield. **Members:** Russell J. Bruemmer, Richard E. Friedman, Philip B. Heymann, Edward Hidalgo, Lucinda A. Low, J. Michael McWilliams, Elizabeth R. Rindskopf, L. Britt Snider, Paul Schott Stevens, Richard K. Willard, **Advisory Committee Chair:** Kathleen Buck

**Staff Director:** Holly Stewart McMahon  
 1800 M Street, N.W. • Suite 200  
 Washington, D.C. 20036  
 (202) 466-8463  
 fax (202) 331-2220

## Panel 6 Strengthening Export Controls

The principal speaker on the export control panel, William L. Clements, Director for Nonproliferation and Export Controls at the National Security Council, emphasized the need for effective export controls in addressing nonproliferation objectives. With the end of the Cold War and termination of the Coordinating Committee on Multilateral Export Controls (COCOM), he said, "we now have to change the whole focus of export controls," shifting from "a technological embargo against the Warsaw Pact" to a nonproliferation instrumentality. This transformation raises new questions as to export destinations and controls on smaller transfers of lower levels of technology. "We wind up worrying about end users, end uses, not geographic locations," he observed, "and we have to worry about small shipments" (for example, to BW programs).

In contrast to COCOM's "one-country-veto" system, Mr. Clements noted, "all of the nonproliferation regimes operate on the basis of consensus when it comes to the point of what it is we are controlling, but they are national discretion regimes when it comes to the point of what it is that a country actually does in order to fulfill its multilateral obligation." In addressing this issue, the United States is trying to develop "normative criteria" for decisionmaking by licensing officers and in the sharing of information on end users.

In the negotiations on a COCOM successor regime, Mr. Clements stated, "there is a need to complement and supplement nonproliferation regimes" by increasing transparency for conventional weapons transfers to sensitive regions and establishing multilateral controls on dual-use technologies for development of conventional weapons.

Domestically, he added, the Administration proposal to reauthorize the Export Administration Act "attempts to provide the President with as much flexibility as possible in administering export con-

trols." The objective is to provide "the loosest possible framework" for this management. Under the proposed legislation, he added, "any agency... that has an interest in a particular transaction, in a particular export license, may review that license." On the other hand, agency reviews would have to be submitted to the Commerce Department "on a timely basis," and failure to respond would be "deemed to be consent."

The first discussant, Thomas E. Crocker, Jr., a private attorney specializing in international banking and trade issues, observed that "at least some of the current confusion over export controls stems not from how to devise and implement controls but from the objectives they are intended to serve."

More particularly, he contended, "there is an unrecconciled tension between the Clinton Administration's counterproliferation and competitiveness goals." This was most evident in Administration policy on the demise of COCOM and its single-member veto. "If multilateral controls are to be pursued," he concluded, the Administration needs to "exercise U.S. leadership in establishing the objectives and devising the export controls."

Dr. Robert Rudney, Senior Researcher at the National Institute for Public Policy, conveyed findings from a comparative study of national export systems' implementation and enforcement provisions by the ABA Task Force on Nonproliferation of Weapons of Mass Destruction. "In our case studies,"

he noted, "we have found significant variation among major industrial nations as to how they legislate, administer, and police export controls." He added that "most of these countries have closer government-industry partnerships, and policymaking in this area is not normally plagued by the adversarial relationship one finds in the United States."

Russell Seitz of the Center for International Affairs at Harvard University, pointed to the thousands of foreign scientists trained in U.S. universities and expressed skepticism about "any legal struc-



*William L. Clements, Director for Nonproliferation and Export Controls at the National Security Council, discussed Administration export control goals.*

Saturday Luncheon

## Commerce Official Addresses Export Controls

In Saturday's luncheon address, Deputy Under Secretary of Commerce Barry E. Carter examined domestic and multilateral implications of export controls both in terms of nonproliferation and trade promotion. "With the end of the Cold War, export controls are still with us, but their uses have changed," he said. Controls are no longer required to deal specifically with the Sino-Soviet bloc, but "they are crucial for combatting proliferation, combatting terrorism, maintaining regional stability, and curbing human rights abuses," he added.

However, Mr. Carter pointed out that there are economic costs to export controls in lost sales and lost jobs. The Clinton Administration is attempting to integrate "the genuine foreign policy/national security interests there with the economic interests." Mr. Carter noted that the 19-agency Trade Promotion Coordinating Committee made "a thoroughgoing study of our controls" and decided to "get rid of the obsolete and inefficient controls." Computer licensing limits have been raised from 12.5 to 1000 million theoretical operations per second (MTOPS), with continuing restrictions for proliferation destinations. Similarly, telecommunications controls have been extensively liberalized. Still, Mr. Carter insisted that rigorous controls remain on critical items like super computers and stealth technology.

Mr. Carter also emphasized streamlining the licensing process. "Most licenses will now be cleared within two or three weeks," he said. The streamlining proposal is linked to the Administration's reauthorization bill for the Export Administration Act.



*Deputy Under Secretary of Commerce Barry E. Carter discussed domestic and multilateral implications of export controls at Saturday's lunch.*

Multilateral solutions must be sought, Mr. Carter said, as "export controls are rarely effective if only we, the United States, use them." He stressed that "the goal of this Administration is, wherever possible, to seek multilateral controls . . . the idea being that the chain is only as good as its weakest link." COCOM has been terminated, and negotiations continue on an expanded successor regime. "It's critical to get other countries to be members than just the old NATO members plus Japan," he stated. The new targets are rogue proliferator states and areas of security concern like the Middle East. "The goal is to include on the list what's important like conventional arms . . . and dual use items that are of concern to us such as super computers and stealth technology." Furthermore, in a system based on national discretion, "we have to work with countries to make sure their systems work, too." He asked: "What good is it for us to have a perfect system and others to be as porous as can be?"

Finally, Mr. Carter stressed the importance of defense conversion in the former Soviet Union, since such conversion addresses both proliferation and internal stability concerns. "What we are trying to do . . . is to realize that, in these countries, the defense industries were major, high-tech parts of their economies, and they took savage, severe hits in their budgets," he said. Mr. Carter outlined Nunn-Lugar initiatives to finance joint ventures for conversion from weapons of mass destruction to commercial goods.



*Standing Committee member Lucinda A. Low (right) moderates the export controls panel.*

## Panel 7

# WMD Issues in the Former Soviet Union

The final conference panel discussed mutual cooperation for safety, security, and dismantlement of Weapons of Mass Destruction in the former Soviet Union, "one of the most important of all the topics that we have addressed," noted Professor Moore. The panel moderator, Professor Eugene V. Rostow of the National Defense University, a former Yale Law School Dean whose distinguished career in government service included posts as Under Secretary of State for Political Affairs and Director of the Arms Control and Disarmament Agency, commented that these issues constituted "perhaps . . . the critical part of the programs we shall have to develop and carry out in an effort to preserve something like the regime of nonproliferation we have enjoyed, relatively speaking, since 1967-68."

The main presenter, Ambassador James E. Goodby, Chief U.S. Negotiator for the Safe and Secure Dismantlement of Nuclear Weapons, emphasized preserving "the nuclear restraint regime that worked very well throughout the Cold War." This regime, he cautioned, is now threatened by the emergence of Soviet successor states and sub-state units (including criminal elements). The Bush and Clinton Administrations "began to put in place . . . a preventive diplomacy assault on those who would try to undermine the nuclear restraint regime." This preventive diplomacy effort, he added, was reinforced by Congress, specifically the passage of Nunn-Lugar legislation in 1991.

Ambassador Goodby stated that U.S. diplomatic initiatives have been capped by the Trilateral Agreement of January 1994 between the U.S., Russia, and Ukraine, requiring Ukraine to ratify START I in return for three concessions: compensation for

transferred nuclear material; security assurances based largely on the Helsinki Final Act and the NPT; and U.S. dismantlement assistance. The latter measure, in Ambassador Goodby's view, relied "exclusively on Nunn-Lugar assistance, without which, I think, that Trilateral Agreement would not have been possible."

Total U.S. commitments in equipment and technical expertise under the Nunn-Lugar program amount to approximately \$1 billion, according to Ambassador Goodby. Most of these funds are "going into weapons dismantlement and into the safety, security, transportation, and storage of nuclear weapons." Other areas of U.S. concern include material control and accountability (including export controls) and defense industry conversion. In particular, he underlined the importance of adequate safeguards at two new storage facilities for dismantled warheads, whose construction is being funded by the United States.

Ambassador Goodby stated that the U.S. program will be required until the year 2000. He stated: "I do believe it's going to be needed in terms of accelerating the reductions required under START I and clearly under START II." In addition, the issues of chemical and biological weapons demilitarization need to be addressed. Congressional support, Ambassador Goodby added, will be necessary to fulfill all these programs, as well as new initiatives to dismantle warheads. U.S.-Russian working groups are now examining related questions of long-term disposition of plutonium and measures to assure safeguards, transparency, and irreversibility.

Dr. Thomas B. Cochran, Senior Scientist at the Natural Resources Defense Council, took issue with Ambassador Goodby's assessment. He stated that "implementation of Nunn-Lugar by this and the previous Administration has largely failed to accomplish its central purposes, and it is unlikely to do so unless there are fundamental reforms in the Administration's policies and implementation ef-



*Ambassador James E. Goodby discusses the problems of dismantling weapons of mass destruction in the former Soviet Union during Saturday's final panel.*



More to the point, Dr. Cochran observed, there is no effort to achieve a universal, global safeguards regime that covers all nuclear weapons and weapons-usable fissile material." Charging that the Pentagon has resisted reciprocal agreements, Dr. Cochran stressed that "improving physical security over nuclear warheads and weapons-usable fissile material, and improving fissile material control and accounting in Russia, should be among the very highest U.S. national security priorities."

Ambassador Jonathan Dean, Senior Arms Control Adviser at the Union of Concerned Scientists, echoed Dr. Cochran's concerns about the Administration's lack of "an overall plan for controlling and reducing the dangers from the Russian nuclear arsenal." Ambassador Dean warned of the risk of "the emergence of a nationalistic, authoritarian regime adopting a militant posture and perhaps threatening neighbors with nuclear weapons." He added that "this is clearly the largest danger from nuclear weapons, exceeding by far the risks of proliferation from developing countries." Ambassador Dean's preferred course of action is "to get as many of these weapons and as much of the fissile material as possible out of Russia or, at least, out of exclusive Russian control as the necessary cost of reciprocal action by the United States."

Defending Administration policies, Dr. Gloria Duffy, Deputy Assistant Secretary of Defense for Cooperative Threat Reduction, enumerated the successes of the program, in particular, "reducing the threat to us, the actual nuclear weapons targeted against us, of which there were about 3,000 in the republics outside Russia." The basic program concept, she said, was "matching the financial needs of the former Soviet republics in their dismantling and demilitarization with the security needs of the United States," thereby establishing "a web of relationships between the U.S. and the governments in the republics." Dr. Duffy perceived four principal challenges: 1) assuring that the process of dismantling continues in Ukraine, Kazakhstan, and Belarus; 2) improving the safety and security of nuclear weapons and materials in Russia; 3) assisting Russia to diminish its CW and BW capabilities; and 4) garnering U.S. domestic (principally congressional) support for continuing the Nunn-Lugar program.

The next discussant, Rose E. Gottemoeller, Director of Russian, Ukrainian, and Eurasian Affairs at the National Security Council, pointed to U.S. success in implementing the Lisbon Protocols and

## Acknowledgments

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The Lawyers Alliance for World Security has assisted in the distribution of this issue of the Report.

noted the importance of Ukraine acceding to the NPT as a prerequisite for START entry into force. Responding to criticism of the Administration, she stated: "I see only evidence of involvement at the very highest level in the White House and interest in our denuclearization agenda overall." Observing that the U.S. and Russia are engaged in "a profoundly sensitive process," she expressed concern "that, if we lay out a highly conditioned, broad-ranging agenda, we may end up in a situation where we are gridlocked once again."

Army Col. William R. Faircloth, of the Joint Staff's Nuclear Arms Control Division, offered a military perspective on these issues in the former Soviet republics. "Our challenge now . . ." he said, "is to continue to keep the pressure both internally, to keep the momentum going, and . . . in the capitals, to make sure that they stay on the course that they signed up for and to ensure that we provide them the right types of assistance just as fast as we possibly can." He cautioned that this U.S. technical assistance had been "a difficult concept" for the military in the republics (and especially the Strategic Rocket Forces) to accept.

## Calendar of Events

**September 22**—Breakfast Meeting, Army-Navy Club (Speaker: Admiral William A. Owens, Vice Chairman, Joint Chiefs of Staff)

**October 20-21**—Fourth Annual Morris I. Leibman Review of the Field Conference (International Club)

**November 9**—Breakfast Meeting, International Club (Speaker: Dr. Edward Teller)

**December 1-2**—Conference (to be announced)

## Strengthening Export Controls . . .

*Continued from page 14*

ture" controlling technology information flow. Mr. Seitz postulated "a paradigm shift," in which "high technology is ramified to a point where the appropriate technologies for the proliferation of WMD have become increasingly ubiquitous," and "the technological underpinnings of proliferation have become transnational."

Henry Sokolski, a former Defense Department official and now Director of the Nonproliferation Policy Education Center, advocated maintaining export controls and emphasized the necessity of "trying to hold onto the authority to do something, when you need to do it, against bad behavior." He also pointed to the uses of computer systems for tracking exports, specifically the Australian system where exporters file their shipper export declarations electronically and seek export clearance from customs authorities in advance of any shipment.

## North Korea . . .

*Continued from page 6*

tries—and other countries include such countries as Iran—so the implications are not only destabilizing to Asia, but also to the Middle East and elsewhere."

Dr. David A. Kay, formerly Chief IAEA inspector in Iraq and now Assistant Vice President of Science Applications International Corporation, emphasized how much the North Korean nuclear program has been consistently underestimated. Moreover, he said, "unilateral actions—talking with the North Koreans—never seem to lead to real follow-through actions" by Pyongyang. Dr. Kay also pointed to the "asymmetry of interests" between the U.S. position and that of our allies (i.e., South Korea and Japan), which "makes it very hard to marshal a coalition" comparable to the one put together in response to the 1990-91 Gulf crisis.

In response, Daniel B. Poneman, Special Assistant to the President at the National Security Council, affirmed the consistent line of U.S. policy toward the North Koreans: "You can either come into compliance with international obligations and certain consequences will follow, or you may flout those obligations and other consequences follow. . . . It is essentially their choice and not ours." In Mr. Poneman's view, the United States has systematically pursued two priorities: a non-nuclear Korean peninsula and a strong nuclear nonproliferation regime. In addition, he stated that "our security commitments to our treaty allies in Asia—Japan and South Korea—are unshakable."

The last discussant, Robert D. Walpole, Deputy Director of the CIA Nonproliferation Center, observed that "we do . . . have strong evidence the North Koreans are hiding evidence of nuclear weapons-related activities from the international community." He warned that, "if unchecked, by the late 1990s Pyongyang will have the capability to produce up to 65 kilograms of plutonium per year." Mr. Walpole added that "North Korea is the world's largest proliferator of ballistic missiles and earns considerable foreign exchange from the sales of missiles and the know-how to produce them." North Korea is also developing longer-range ballistic missiles. He cautioned: "Once deployed, these missiles could put at risk a much larger area, including all of Northeast Asia, plus parts of Southeast Asia and the Pacific. Were they to be exported to the Middle East, they could threaten Europe as well."

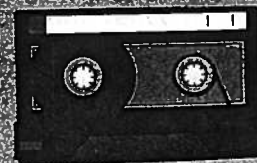
## Chemical Weapons Convention . . .

*Continued from page 7*

to dismantling and destruction of the weapons.

Reflecting industry views in support of the CWC, Michael F. Walls of the Chemical Manufacturers Association underscored industry participation in the negotiations and noted three positive impacts of this participation: "strong protection for proprietary information, a minimum . . . regulatory burden on commercial chemical companies, and . . . a minimum of intrusion on their commercial activities." However, he cautioned that the draft implementing legislation provides for what he termed unfair criminal penalties for minor reporting violations and a \$50,000 per day penalty for failure to permit an inspection. Mr. Walls also warned that Congress may be tempted to expand the scope of the legislation to impose additional health, safety, and environmental regulations.

## Audio Tapes Available



Audio cassette tapes of the overview remarks, each luncheon and dinner speaker, and each panel of this conference are available from the Standing Committee at a cost of \$10.00 per tape. For further information, contact Staff Director Holly Stewart McMahon at the address given at the bottom of page 13.