

End Explosive Testing of Nuclear Weapons Now
A Presentation to the International Conference
“Building a Nuclear-Weapon-Free World”
August 29, 2016

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To advance the prohibition against nuclear weapons testing we urge moving a resolution in the Security Council which will declare that any nuclear weapon test anywhere, anytime, by anyone, is a threat to international peace and security, thereby making a nuclear weapon test a violation of international law.

The present conference is dedicated to the 25th anniversary of the closure of the Semipalatinsk Nuclear Test Site and commemoration of the UN International Day Against Nuclear Tests. This exemplifies the laudable commitment and leadership of Kazakhstan to ending nuclear testing. For this we are deeply grateful.

WHY

A United Nations Security Council (UNSC) resolution banning nuclear weapon tests is sorely needed. Although the Obama administration, remains deeply supportive of the Comprehensive Nuclear-Test-Ban Treaty (CTBT), it is unlikely that it will be able, in its remaining months in office, to obtain its ratification. Without US ratification, the CTBT's entry-into-force remains in jeopardy, and with it, the continued strength of the global nonproliferation regime at large. A legal, verifiable, universal ban on nuclear testing has always been a crucial piece of the Non-proliferation Treaty (NPT) bargain.

The nuclear testing moratorium undertaken by the Permanent Five nuclear-armed states is neither legally binding nor permanent, and indeed is insufficient in light of renewed modernization by all P5 states and the regrettable proliferation by non-NPT states like North Korea, India, and Pakistan. Accordingly, the likelihood of nuclear testing will increase unless a constraint, such as a UNSC resolution,

is put in place. Even if the United States ratified the CTBT it will be some time before all necessary states ratify and bring the treaty into force.

Progress in barring testing should not wait.

A prohibition against nuclear testing, established by the UN Security Council, would give the existing moratorium legal force, thereby assuring its longer-term survival and could become a peremptory norm under international law, binding on all states.

Advancing international security through law is vastly preferred than the ad hoc status of a moratorium. In fact, security through the rule of law is a core value. Absent a Security Council bar it is likely that several nations, such as, Russia, China, Pakistan, or India, and even the US, after spending funds on “modernization”, will have pressure to test and thus to more effectively develop new weapons.

Additionally, the 2015 NPT Review Conference failed to obtain a consensus, and now good faith compliance by the nuclear weapons states in their disarmament obligations is vigorously being put into question. The Security Council approach would be particularly powerful if it were framed as an initiative whereby non-nuclear-armed states were constraining the P5, and not as a P5 endeavor to push yet another nonproliferation constraint on the non-nuclear states.

Moreover, we believe that this effort will enhance bringing the CTBT into force. It stops testing and makes the case that the institutionalization of the monitoring system is a public good of the highest value.

It seems unlikely that any serious leader could argue that a resumption of nuclear weapons explosive testing would not be a threat to international peace and security if the issue were placed squarely before them.

WHO

A team of distinguished experts and legal talent has helped create this initiative in addition to Dr. Perry and Mr. Granoff. It includes Ambassador Thomas Graham, Jr., who led the US diplomatic efforts to create the Comprehensive Test Ban Treaty, Professor David Koplow, whose legal service in the US Department of Defense was at the highest level, and Ambassador Jayantha Dhanapala, who was the Under Secretary General for Disarmament Affairs at the United Nations.

Biographies of the advocacy team are summarized in Appendix II.

Background material:

Ambassador Thomas Graham, Jr., “**A New Pathway to Prohibiting Nuclear Testing**,” 3 June, 2014, WMD Junction.”

http://wmdjunction.com/140603_prohibiting_nuclear_testing.htm>

Report on event at <http://gsinstitute.org/nuclear-weapons-threats-and-solutions-a-luncheon-at-the-united-nations> and speech at Remarks by Ambassador Graham, GSI Luncheon, Delegates’ Dining Lounge, United Nations, October 28, 2013.

http://gsinstitute.s3.amazonaws.com/uploads/attachment/40/Ambassador_Thomas_Graham_Jr_UnitedNations-1.docx?1383144642

David A. Koplow, “Nuclear Arms Control by a Pen and a Phone: Effectuating the Comprehensive Test Ban Treaty Without Ratification,” *Georgetown Journal of International Law* 46 (2015) pp. 475-518 (2015)

https://www.dropbox.com/s/r5s18n6s3q1bqmd/Koplow_CTBT.pdf?dl=0.

Appendix I: Draft resolution (October 5, 2015)

The Security Council,

“Recalling its previous relevant resolutions, including resolution 1540 (2004), resolution 1718 (2006), resolution 1874(2009), and resolution 2094 (2013), and 2270 (2016)

Reaffirming especially resolution 1887 (2009) which calls upon all States to refrain from conducting a nuclear test explosion and sign and ratify the Comprehensive Nuclear Test Ban Treaty (CTBT), thereby bringing the treaty into force at an early date,

Resolving to seek a safer world for all and to create the conditions for a world without nuclear weapons, in accordance with the goals of the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), in a way that promotes international stability, and based on the principle of undiminished security for all,

Reaffirming the Statements of its President adopted at the Council’s meeting at the level of Heads of State and Government on 31 January 1992 (S/23500), and the Statement by its President adopted at the Council’s meeting held on 19 November 2008 (S/PRST/2008/43), including the need for all Member States to fulfill their obligations in relation to arms control and disarmament and to prevent proliferation in all its aspects of all weapons of mass destruction,

Bearing in mind the responsibilities of other organs of the United Nations and relevant international organizations in the field of disarmament, arms control and non-proliferation, as well as the Conference on Disarmament, and supporting them to continue to play their due role,

Calling for further progress on all aspects of disarmament to enhance global security,

Affirming its resolve to take appropriate and effective actions against any threat to international peace and security caused by the proliferation of nuclear, chemical and biological weapons and their means of delivery, in conformity with its primary responsibilities, as

provided for in the United Nations Charter,

Affirming that proliferation of nuclear, chemical and biological weapons as well as their means of delivery, constitutes a threat to international peace and security, and that any further testing of nuclear weapons is inconsistent with obligations under the Treaty on the Non-Proliferation of Nuclear Weapons of both nuclear weapons states and non nuclear weapons states and is a threat to the maintenance of international peace and security,

Noting that the possibility of the proliferation of nuclear weapons remains a serious and direct danger to international peace and security,

Reaffirming its support for outcomes of past NPT Review Conferences, including the 1995, 2000 and 2010 Final Statements and the commitments to nuclear nonproliferation and disarmament contained therein,

Concerned that any nuclear test explosion could stimulate proliferation, undermine commitments under the NPT, harm international peace and security and even increase the threat of nuclear war with resultant incalculable damage to the world community,

Concerned that, while over 160 nations have ratified the Comprehensive Test Ban Treaty, the necessary conditions, as set forth in the Treaty, for the entry into force of the Treaty have not been obtained, that the present de facto moratorium, which has constrained nearly all states from nuclear weapons testing, is an insufficient constraint on nuclear testing,

Aware that this informal arrangement may not last forever and a nation or nations may conduct a test of a nuclear explosive device unless the Security Council acts to prevent this possibility,

Aware that any nuclear weapons explosive test will make entry into force of the Comprehensive Test Ban Treaty more difficult to obtain,

Realizing the pressing need to stop nuclear weapons proliferation in all its aspects,

Acting under Chapter VII of the Charter of the United Nations,
Decides and determines that all States shall refrain from any test of a nuclear explosive device involving any release of nuclear energy as such a test would represent a threat to international peace and security,

Determines that no state may carry out any nuclear weapon test explosion or any other nuclear explosion.

Decides to remain seized of the matter.

Appendix II:

Team Backgrounds

Dr. William Perry (born October 11, 1927) is an [American](#) mathematician, engineer, and businessman who was the [United States Secretary of Defense](#) from February 3, 1994, to January 23, 1997, under President [Bill Clinton](#). He also served as [Deputy Secretary of Defense](#) (1993–1994) and [Under Secretary of Defense for Research and Engineering](#) (1977–1981). He is currently the Michael and Barbara Berberian Professor (emeritus) at [Stanford University](#), with a joint appointment at the Freeman Spogli Institute for International Studies and the School of Engineering. He is also a senior fellow at [Stanford University's Hoover Institution](#). He serves as director of the Preventive Defense Project. He is an expert in U.S. foreign policy, national security and arms control. In 2013 he founded the William J Perry Project (<http://www.wjperryproject.org/>), a non-profit effort to educate the public on the current dangers of nuclear weapons.

Ambassador Thomas Graham, Jr. is one of the world's leading experts in nuclear non-proliferation. He is a senior U.S. diplomat involved in the negotiation of every single international arms control and non-proliferation agreement from 1970 to 1997. This includes the Strategic Arms Limitation Talks (SALT Treaties), the Strategic Arms Reduction Treaties (START Treaties), the Anti-ballistic missile (ABM) Treaty, Intermediate-Range Nuclear Forces Treaty (INF) Treaty, Treaty on the Non-Proliferation of Nuclear Weapons Treaty (NPT), Treaty on Conventional Armed Forces in Europe (CFE) Treaty and Comprehensive Nuclear-Test-Ban Treaty (CTBT). In 1993, Ambassador Graham served as Acting Director of the Arms Control and Disarmament Agency (ACDA) from January to November, 1993 and Acting Deputy Director from November, 1993 to July, 1994. From 1994 through 1997, he was president Bill Clinton's special representative for Arms Control, Non-Proliferation, and Disarmament.

Graham successfully led the U.S. government efforts to achieve the permanent extension of the NPT in 1995. Graham also served for 15 years as the general counsel of ACDA. Throughout his career, Thomas Graham has worked with six U.S. Presidents including Presidents Richard Nixon, Gerald Ford, Jimmy Carter, Ronald Reagan, George H. W. Bush, and Bill Clinton. [Book 1] Ambassador Graham worked on the negotiation of the Chemical Weapons Convention and the Biological Weapons Convention and managed the Senate approval of the ratification of the Geneva Protocol banning the use of chemical and biological weapons in war, as well as the Biological Weapons Convention. [Web 1][Book 2]

In addition, Ambassador Graham is also the board chairman of "CanAlaska Uranium Ltd". Thomas Graham is also a member of the New York, the District of Columbia and Kentucky Bars as well as the Council on Foreign Relations. From 1986-1994 he chaired the committee on Arms Control and Disarmament of the American Bar Association. Graham is also the executive chairman of the Lightbridge Corporation.

Jonathan Granoff is an attorney, author and international advocate emphasizing the legal, ethical and spiritual dimensions of human development and security, with a specific focus on advancing the rule of law to address the threats posed by nuclear weapons. He is president of the Global Security Institute and Chair of the ABA Task Force on Nuclear Non-proliferation. He is Senior Advisor and UN Representative of the Permanent Secretariat of the World Summits of Nobel Peace Laureates and has served as Vice President and UN Representative of the Lawyer's Alliance for World Security. He serves on numerous governing and advisory boards including: the ABA International Law Section, Lawyers Committee on Nuclear Policy, Fortune Forum, Jane Goodall Institute, the NGO Committee on Disarmament, Peace and Security and Middle Powers Initiative. He is a Fellow in the World Academy of Art and Science and was nominated for a Nobel Peace Prize in 2014.

Mr. Granoff is the award-winning screenwriter of *The Constitution: The Document that Created a Nation*, and has articles in more than 50 publications and books including: *The Sovereignty Revolution*,

Toward a Nuclear Weapons Free World, Imagining Tomorrow, Analyzing Moral Issues, Perspectives on 911, Toward a World In Balance, Reverence for Life Revisited, and Hold Hope, Wage Peace. He has been a featured guest and expert commentator on hundreds of radio and television programs, testified in Congress and at the United Nations numerous times.

David A. Koplou is a professor at Georgetown University School of Law. He specializes in the areas of public international law and national security law. He joined the Georgetown Law faculty in 1981. His principal courses have been International Law I (the introductory survey of public international law topics), a seminar in the area of arms control, non-proliferation and terrorism, and the pro-seminar for LLM students in national security law. In addition, he has directed a clinic, the Center for Applied Legal Studies, in which students provide pro bono representation to refugees who seek asylum in the United States because of persecution in their homelands. His government service has included stints as Special Counsel for Arms Control to the General Counsel of the Department of Defense (2009-2011); as Deputy General Counsel for International Affairs at the Department of Defense (1997-1999); and as Attorney-Advisor and Special Assistant to the Director of the U.S. Arms Control and Disarmament Agency (1978-1981). He is a graduate of Harvard College and Yale Law School and is a Rhodes Scholar. Most of his scholarly writing concentrates on the intersection between international law and U.S. constitutional law, especially in the areas of arms control and national security and treaty negotiation and implementation.

Ambassador Jayantha Dhanapala

Jayantha Dhanapala's long and distinguished career in the service of international peace and security includes having served as Secretary General of the Secretariat for Coordinating the Peace Process in Sri Lanka from 2004-05; a member of the International Weapons of Mass Destruction Commission (a.k.a. "the Blix Commission"); the Governing Board of the Stockholm International Peace Research

Institute (SIPRI); the International Advisory Group of the International Committee of the Red Cross (ICRC) 2003-2007; the United Nations University Council till 2010 (Chairman for the year 2007-8); the Geneva Centre for the Democratic Control of Armed Forces; the Advisory Council of the Stanford Institute for International Studies; the International Board of the Bonn International Center for Conversion; the International Advisory Board of the James Martin Center for Nonproliferation Studies, Monterey Institute of International Studies; and as Honorary President of the International Peace Bureau (2003-2007). In November 2007 Dhanapala was unanimously elected President of the Pugwash Conferences on Science and World Affairs. He is the eleventh person to hold this position following in the footsteps of founder Bertrand Russell, Dorothy Hodgkin, Sir Joseph Rotblat and Dr.M.S.Swaminathan. From January to April 2008 Dhanapala became the first Simons Visiting Professor in International Law and Human Security in the School of International Studies of the Simon Fraser University.

Dhanapala has had a distinguished career spanning the private sector, government, the United Nations and academia from 1962–2004 interacting with different levels of society including Heads of State and Government and a wide diversity of nationalities. He entered the Sri Lankan Foreign Service in 1965 and served thereafter in diplomatic postings in London, Beijing, Washington D.C., New Delhi and Geneva, culminating in Ambassadorial appointments in Geneva (1984–87) accredited to the UN and in Washington D.C. (1995–97). Dhanapala was widely acclaimed for his Presidency of the 1995 Nuclear Non-Proliferation Treaty Review and Extension Conference, a landmark event in disarmament history, because of his crafting of a package of decisions balancing the twin objectives of nuclear non-proliferation and nuclear disarmament and the concerns of the nuclear weapon states and the non-nuclear weapon states which was adopted without a vote. He was later invited by the Australian government to serve as a member of the Canberra Commission together with a Group of 17 eminent international personalities publishing an influential report on nuclear disarmament and nuclear non-proliferation in 1996.

Schooled and experienced in corporate management, Dhanapala has integrated these skills and experiences into successful governmental,

diplomatic mission and international organizational administration. He has an in-depth knowledge of the United Nations, gained from ten years of exposure in working in a senior management capacity in the United Nations. As an efficient and effective senior manager he gained valuable experience in human resource and budgetary management working smoothly with staff representatives and delegations of member states. First, he served as Director (D2) of the United Nations Institute for Disarmament Research (UNIDIR) in Geneva (1987–92) directing policy oriented research in an autonomous think-tank broadening the financial base through fund-raising with a wider group of countries and foundations. He acted to expand the area of research to include non-military threats to security, handbooks to assist delegations to the Conference on Disarmament, providing opportunities for training of researchers from developing countries, networking of research institutes in regions and increasing the volume and impact of UNIDIR publications.

Later, Dhanapala was hand picked by Kofi Annan to take on the challenging job of Under Secretary General to re-establish the Department of Disarmament after the UN reforms of 1997 (1998–2003). During his tenure he piloted the UN role in arresting the proliferation of small arms and light weapons, anti-personnel landmines, conventional weapons, and weapons of mass destruction while reinforcing existing norms and norm-building in other areas such as missiles. He also broke new ground both in-house in taking managerial initiatives in gender mainstreaming and in work-life issues, as well as in the disarmament field by innovating the exchange of weapons for a development program in Albania and other areas, and also in the cross-sectoral linking of disarmament with development, the environment and peace education programs.