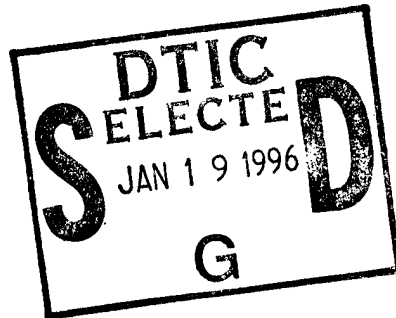


NAVAL POSTGRADUATE SCHOOL
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THESIS

**IS COUNTERPROLIFERATION COMPATIBLE
WITH NONPROLIFERATION?
RETHINKING THE DEFENSE
COUNTERPROLIFERATION INITIATIVE**

by

Angus A. McColl

June, 1995

Thesis Co-Advisors:

Peter R. Lavoy
John Arquilla

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Lieutenant Commander, United States Navy
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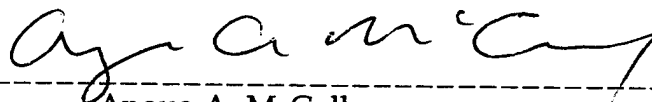
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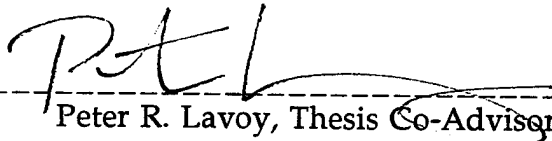
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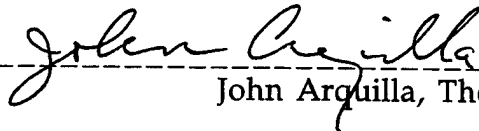


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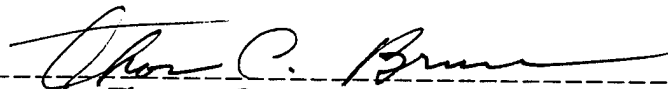
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ABSTRACT

This thesis examines the compatibility of the Defense Counterproliferation Initiative (CPI) with the nuclear nonproliferation regime. The idea of using military means to combat the acquisition and use of weapons of mass destruction by regional adversaries has created controversy from its inception. Skeptics worried that counterproliferation would undermine nonproliferation, rather than enhance it as the Defense Department claimed. This research examines how counterproliferation affects the various treaties and policies that make up the nonproliferation regime. Then, it examines each element of the CPI, considering its purpose, progress made to date, and the operational limitations which are already coming to light. Finally, and most importantly, it examines the tensions which counterproliferation has created, not only with nonproliferation, but for U.S. foreign policy as a whole. It concludes that counterproliferation is compatible with nonproliferation, and provides recommendations to help provide the United States with the military means to combat proliferation, while ensuring a strong and enduring nonproliferation regime.

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EXECUTIVE SUMMARY

It is probable that the 1991 Gulf War might have had a much different outcome if Saddam Hussein had possessed a small nuclear arsenal, or if he had decided to use his chemical weapons. The Defense Department's Bottom-up Review conducted in 1993 identified the threat of weapons of mass destruction (WMD) in the hands of regional adversaries, such as Iraq, as the nation's number one security threat. President Clinton echoes this theme in many public speeches, and in his September 1993 address to the UN General Assembly he vowed to give WMD proliferation a higher profile. Under his leadership a two-pronged approach to this problem has developed.

On the one side, the Clinton administration vigorously advocates traditional nonproliferation measures. U.S. leadership was instrumental in securing the extension of the Nuclear Weapons Nonproliferation Treaty in May 1995. The United States is moving forward with negotiations for the Comprehensive Test Ban Treaty and the Fissile Material Cut-off. The administration is also promoting the Chemical Weapons Convention and Biological Weapons Convention. Under U.S. leadership, classical diplomatic approaches to WMD nonproliferation are enjoying broader international support than ever before.

On the other side, the Department of Defense launched its Defense Counterproliferation Initiative (CPI) in December 1993, under the leadership of former Secretary of Defense Aspin. Counterproliferation provides military options to counter the acquisition and use of WMD by regional adversaries. Its supporters claim that these additional response options will strengthen and enhance the nonproliferation options. Key Defense officials have been careful to stress that counterproliferation will in no way replace nonproliferation, but that its purpose is to provide usable options when nonproliferation fails.

Pursuit of both paths appears to some analysts to pose a conflict of

interests. Many proponents of traditional diplomatic nonproliferation efforts fear that the coercive element of counterproliferation, especially the threat to use military force, will undermine the international cooperation and consensus upon which nonproliferation depends for its success. They also criticize counterproliferation as a short-term solution to the WMD proliferation problem because it does not directly confront the long-term need to deal with the security concerns that may lead regional adversaries to acquire WMD in the first place. Finally, they fear that counterproliferation will undermine the traditional U.S. leadership which has been so vital to negotiating, implementing, and improving the various nonproliferation treaties and agreements.

This research is the first comprehensive comparison of the nuclear nonproliferation regime with the Defense Counterproliferation Initiative. It consists of three important and interlocking parts. The first is a detailed analysis of the component treaties and agreements which make up the regime, with particular focus on how counterproliferation could either undermine or enhance them. In the second part, the five elements of the CPI are studied in detail, considering the prospects for each, the progress made to date on implementing them, and the limitations which are already becoming apparent. The most important of the three parts is the third one, which examines the broad spectrum of tensions which counterproliferation evokes.

This thesis sorts and analyzes these tensions by using three theoretical models. The models are helpful for grouping the tensions into three categories: bureaucratic, intergovernmental, and state-societal. The models are also useful to characterize each tension and to determine the impact each is likely to have on U.S. policy. A "bureaucratic politics" model explains state policy as the output of the competition between bureaucratic organizations within a government. It shows that many of the tensions created by counterproliferation are the result of such competition. A "rational actor"

model shows that policy may be shaped by executive decisions based on rational cost-risk-benefit calculus of security needs. This model points out that many of the tensions counterproliferation has created between the U.S. and its allies are the result of legitimate differences in the enduring security concerns of each state. A "state-societal" model shows that policy may also be shaped by public and expert opinion. It illustrates how both government bureaucracies and executives must sort through the vast array of opinion, and how both must occasionally respond to it by reshaping policy.

Bureaucratic tensions between government departments and agencies, such as between Defense and State, and between Defense and the Arms Control and Disarmament Agency became evident from the start. These agencies have often distrusted each other's motives in the past, so this tension is not unexpected. Counterproliferation also created tensions between various branches of the Defense Department, such as between commanders and the intelligence community over the adequacy of intelligence support for specific counterproliferation missions.

Tensions between the United States and its allies also are apparent. Only the United Kingdom and France seem to be fully supportive. Both have already begun to adapt their strategic thought to address the counterproliferation issue. Although NATO has embraced the concept by conducting its own threat assessment, and launching its own comprehensive study, it appears to be interested only in the defensive aspects of counterproliferation. Japan and South Korea have been conspicuously quiet about counterproliferation, although it seems clear that they will not support policies likely to antagonize North Korea. There is talk of developing theater ballistic missile defenses with Japan, but little progress is yet apparent. The Russian General Staff was briefed by U.S. Defense Department officials and agreed only to present their views in future discussions.

The most constant and vociferous tensions are seen in the steady

stream of criticism from the nongovernment organizations (NGO) community. Much of this criticism is "noise," with few implications for U.S. policy. Examples include concerns raised by individual analysts from developing countries, as well as organizations such as Greenpeace International, who imply that counterproliferation discriminates against developing countries, and that it is a thinly disguised attempt to retarget U.S. nuclear weapons against the Third World. Others complain that counterproliferation violates principles of international law and order, and will undermine the United Nations. While these concerns are interesting and have strong moral appeal, many of these analysts look at counterproliferation in isolation from the rest of U.S. policy. They infer from its declaratory counterproliferation policy that the United States will somehow abandon its longstanding commitment to reinvigorate the United Nations, uphold the rule of law, and strengthen nonproliferation efforts.

NGO criticisms must be carefully considered in the context of the U.S. national interest to see if there is any substance that may ultimately affect security policy. Occasionally NGOs succeed in raising issues which the U.S. government is reluctant to address, such as the tension counterproliferation creates over the possibility that U.S. nuclear weapons will be used. This tension as it turns out may be a healthy one, which if kept deliberately ambiguous by the government, and if kept in the public light by the NGOs, could serve counterproliferation and nonproliferation as well. Such ambiguity may cause regional adversaries trying to acquire WMD to reassess the costs and risks inherent in seeking to acquire such weapons, versus the perceived benefits of having them. It may also cause states interested in stopping WMD proliferation to work harder for consensus, for fear that the United States may resort to unilateral military means if progress is not achieved.

The following anchor points for counterproliferation policy emerged from a comparison of six pairs of arguments and counterarguments over key counterproliferation issues:

* **The CPI is a proper response to the number one U.S. security threat.** The developing allied consensus over the nature of the threat, particularly in NATO, helps to legitimize the CPI as an appropriate response.

* **Nonproliferation needs a forceful back-up.** The military options provided by counterproliferation add back-up capabilities of prevention, preemption, deterrence, and defense, which will make the diplomatic approaches of the nonproliferation regime more effective than before, and which will raise the stakes for regional adversaries who might strive to cheat on their obligations.

* **U.S. leadership in counterproliferation is consistent with its past leadership in nonproliferation.** Fears that counterproliferation would undermine future nonproliferation consensus were absent from the recently concluded Nuclear Weapons Nonproliferation Treaty Review and Extension Conference. This is a useful indicator that counterproliferation, if judiciously managed, may have a minimal impact on the nonproliferation regime.

* **The CPI updates U.S. nuclear deterrence to the current threat.** Although key Defense Department officials responsible for counterproliferation policy currently claim that it does not portend the first use of U.S. nuclear weapons, the possibility that they may be used in a preemptive manner can not be ruled out. The threat of first use is implicit in the longstanding U.S. nuclear weapons strategy of maintaining that option, which formed the linchpin of NATO's "flexible response" strategy for many years.

* **The CPI's preventive and preemptive options can provide additional protection for U.S. citizens, forces, and territory.** They are clearly the initiative's strong suit, and will likely provide an impetus for regional

adversaries intent on acquiring or threatening to use WMD to reassess the benefits of doing so.

* **The CPI targets the handful of regional adversaries likely to attempt to acquire or threaten use of WMD, not the broader international consensus of the nonproliferation regime.** States that are not pursuing the acquisition of WMD, or who already have WMD, but do not demonstrate adversarial behavior, have nothing to fear from U.S. counterproliferation policy.

The following research findings should be considered in developing counterproliferation policy:

* **The nonproliferation regime is healthy.** The United States has earned a mandate to lead out in the new direction of counterproliferation by virtue of its proven record as an honest manager of the nonproliferation regime.

* **The CPI is not a "fix-all" solution.** It has two inherent risks that will ultimately delineate the limitations of counterproliferation policy: overconfidence in high-tech solutions, and the possible inadequacy of intelligence support.

* **Intragovernmental (bureaucratic) tensions are fading.** The National Security Council has clear authority over all WMD proliferation issues. This minimizes bureaucratic infighting.

* **Alliance tensions are manageable, and other intergovernmental tensions are inconsequential.** The CPI is consistent with NATO's defensive mission especially since its focus is on U.S. and Western/G7 security interests. Criticism of counterproliferation from countries outside the sphere of U.S. friends and allies is of little import to U.S. security policy.

* **The tensions raised by NGOs must be filtered.** NGOs occasionally identify tensions which must be considered in the development of U.S. security policy. They are not, however, responsible for U.S. security policy, and much of what they say has little bearing on policy making.

The following policy recommendations should guide the ongoing development of U.S. counterproliferation policy:

* **Counterproliferation policy must stress operational aims.** A strong and credible policy should allow the regional Commanders-in-Chief (CINCs) to fight with little fear that a potential foe could successfully resort to WMD.

* **Keep options for prevention and first use of U.S. nuclear weapons ambiguous.** This ambiguity will serve U.S. policy well, as previously mentioned.

* **Give nonproliferation center stage whenever possible.** The linkage between nonproliferation and counterproliferation must model the "carrot and stick" approach. The advantages and benefits of nonproliferation should be showcased as the desirable outcome.

* **The abundant historical record of previous counterproliferation planning and action must be rediscovered.** It is not too late to rediscover the history behind U.S. counterproliferation, which goes back to the Second World War, and to use it to illustrate that the CPI is not a radical departure from the U.S. record.

* **Counterproliferation should be developed into a three-fold policy involving strategies of prevention, deterrence, and defense.** A preventive strategy with deliberate ambiguity with regard to first use of U.S. nuclear weapons and unilateral U.S. action must be the core strategy of counterproliferation policy. It must also have a credible approach to deterring the use of WMD, as well as to deter their acquisition in the first place. Finally, it must have an effective defensive strategy to provide real protection to U.S., allied, or coalition forces, as well as populations and territory, from the effects of WMD.

* **A "watch list" of suspect states should be publicly established and kept as short as possible.** Such a list would be a clear indicator of U.S. resolve and leadership in counterproliferation and would serve as a warning notice.

*** The President and Cabinet must use counterproliferation terminology and reclaim ownership of the policy in future speeches and documents.** The policy at present appears to be the domain of Defense Department officials below cabinet rank. This is inappropriate for national policy.

I. AN INITIATIVE WITH INHERENT CONTRADICTIONS

In December 1993, Secretary of Defense Les Aspin announced the Defense Counterproliferation Initiative (CPI) which promised new military capabilities to effectively deal with adversaries armed with weapons of mass destruction (WMD). The five point plan called for the creation of the new mission by the president, procurement of new technologies, development of new war fighting doctrines, improvement of intelligence capabilities, and greater cooperation with allies.¹ Aspin said that the initiative would complement existing nonproliferation efforts which depend upon treaties, diplomacy, and other cooperative efforts to keep states from acquiring WMD. He also stressed that counterproliferation would have a secondary role to nonproliferation, and would be used only in the few cases where nonproliferation efforts failed.

Aspin's announcement raised several key questions. First is the question of whether counterproliferation is compatible with nonproliferation. Some nonproliferation experts questioned whether a counterproliferation policy based on military capabilities would undermine rather than enhance traditional nonproliferation measures based upon cooperation, consensus, and denial.² A related question is whether the two can be pursued

¹ Les Aspin, "The Defense Counterproliferation Initiative Created," prepared remarks to the National Academy of Sciences Committee on International Security and Arms Control, Washington, 7 December 1993, Defense Issues, vol. 8, no. 68 (undated), 2.

² See Harald Müller, "Counterproliferation and the Nonproliferation Regime: A View From Germany," in Mitchell Reiss and Harald Müller, eds., International Perspectives on Counterproliferation, Working Paper No. 99 (Washington, D.C.: The Woodrow Wilson International Center for Scholars, 1995), 25-27. Müller states that counterproliferation is inevitably linked to WMD nonproliferation regimes but also charges that "counterproliferation came into life without any tangible notion of what it would mean for the nonproliferation

simultaneously. Pursuing both the CPI and the nonproliferation regime may cause inevitable tensions. The more vigorously the CPI is pursued, the harder it may be to cultivate support for international treaties and policy arrangements that help to curb WMD proliferation. While its supporters claim that counterproliferation complements and reinforces traditional nonproliferation measures and treaties, its detractors argue that the use of military means to enact counterproliferation may undermine future support for an enhanced nonproliferation regime.³ This thesis assesses the compatibility of counterproliferation with the nuclear nonproliferation regime.

Few would argue with the need for better defenses against nuclear, chemical, and biological effects. Many would advocate the improvement of intelligence capabilities, especially if information about proliferation could be

regimes." He is also critical of the tendency of U.S. policy to dismiss international law and organizations for the sake of U.S. security interests. See also David Fischer, "Forcible Counterproliferation: Necessary? Feasible?" p. 17, in the same volume. Fischer states that counterproliferation is at best only a short-term or mid-term solution, and that in the long-term the security concerns and political issues which motivate states to proliferate must be addressed through cooperative means.

³ For an assessment of how counterproliferation might support an enhanced nonproliferation regime, see Nuclear Proliferation: Confronting the New Challenges, the Report of an Independent Task Force on Nuclear Proliferation (New York: Council on Foreign Relations, 1995), 9. This report calls for a stricter nuclear nonproliferation regime, along with the development and deployment of the means to deter use and protect against the risks of WMD. It lists counterproliferation as one of seven elements of a revitalized effort against proliferation which also includes regional strategies, improved security assurances, a stronger IAEA, strong export controls, sensible use of fissile materials, and further nuclear arms reduction. For an opposing view see Benjamin Sanders, "Counterproliferation: How Does It Play on the International Stage?" in Reiss and Müller, International Perspectives on Counterproliferation, 6-9. Sanders concludes that counterproliferation is impractical, and that it would not remove the incentive of states to acquire or use WMD. He also states that because it is based on U.S. security interests, it is likely to be an ineffective tool of international relations, and will likely harm the entire nonproliferation system.

shared with the International Atomic Energy Agency (IAEA) (to trigger challenge inspections) and with the United Nations Security Council (for sanctions). But counterproliferation efforts designed to neutralize, disable, or destroy weapons of mass destruction, or the facilities which produce them, have caused strong tensions between U.S. Government agencies and departments, on the one hand, and between the United States and foreign governments, non-government organizations, and non-official policy analysts, on the other. It remains to be seen just how the balance will be struck if the CPI is to develop into a coherent national policy.

The CPI is one plausible response to a serious national security problem. It may be in competition with solutions previously advocated. Viewed through the "lens" of bureaucratic politics, it might be viewed as an attempt by the Department of Defense to wrestle away other agencies' responsibilities for curbing proliferation.⁴ Even if one embraces the Defense Department's position that the CPI does not supplant or replace the traditional nonproliferation regime, there remains the implication that the nonproliferation efforts of other departments have failed, and that Defense is devising policy to make up for the failure. This perception could generate interagency conflict, particularly if the president and key members of his administration do not convey a cohesive vision of how the CPI can enhance the regime. Aside from the potential for bureaucratic infighting, such conflict could develop on either of two regime axes. First, because the CPI is often viewed as a unilateral, or sometimes a coalitional response, it may compete with other U.S. and potential coalitional policy responses. Second, it may

⁴ Such an attempt would be explained by Graham Allison's Model III, which explains the role of bureaucratic politics in government decision-making. See Graham Allison, Essence of Decision (Boston: Little Brown, 1971), 4-7 in which he describes three models to explain how governments make decisions (Model I - rational actor, Model II - organizational context, and Model III - bureaucratic politics).

contradict multinational cooperative measures.

This research examines the CPI's compatibility with the nuclear nonproliferation regime by characterizing the components of the nonproliferation regime, identifying the tensions the initiative has created in the governmental and academic realms, and suggesting how these tensions might be mitigated. This introductory chapter lays out the arguments and counterarguments which frame this question, as well as the sources, methodology, and organization of the remaining chapters. Finally, this study provides a list of specific research findings and draws several implications for improving the coherence and effectiveness of U.S. counterproliferation policy.

A. THE DEFENSE DEPARTMENT STAKES ITS TURF

Aspin's 1993 announcement evidently caused confusion at the Arms Control and Disarmament Agency (ACDA) and the State Department. This confusion ranged from a misunderstanding as to which department or agency actually controlled key portions of nonproliferation policy, down to a struggle over the differences in the meaning of the terms "counterproliferation" and "nonproliferation." Although the CPI is clearly linked to WMD proliferation -- the top threat identified in the Defense Bottom-up Review⁵ -- it appeared to some observers to be a Defense Department attempt to grab the proliferation issue from ACDA's stewardship.⁶ The Clinton White House gave little

⁵ Office of the Secretary of Defense, Bottom-up Review, unclassified briefing slides (1 September 1993), p. 2.

⁶ See Zachary S. Davis, with Mitchell Reiss, consultant, U.S. Counterproliferation Doctrine: Issue for Congress, CRS Report for Congress 94-734 ENR (Washington, D.C.: Library of Congress, 21 September 1994), 6. He describes an intergovernmental debate over whether counterproliferation would be expansive and eventually absorb nonproliferation, or whether it would be limited to improving the uniquely military aspects of nonproliferation policy.

visible support to Aspin's initiative. Daniel Poneman of the National Security Council finally dispatched a memo in February 1994 clarifying the terms, and more importantly attempting to clarify nonproliferation and counterproliferation responsibilities. This memo defines counterproliferation as:

the activities of the Department of Defense across the full range of U.S. efforts to combat proliferation, including diplomacy, arms control, export controls, and intelligence collection and analysis, with particular responsibility for assuring that U.S. forces and interests can be protected should they confront an adversary armed with weapons of mass destruction or missiles."⁷

In the same memo, nonproliferation was defined as:

the use of the full range of political, economic and military tools to prevent proliferation, reverse it diplomatically or protect our interests against an opponent armed with weapons of mass destruction or missiles, should that be necessary. Nonproliferation tools include: intelligence, global nonproliferation norms and agreements, diplomacy, export controls, security assurances, defenses and the application of military force.⁸

This memorandum clearly indicates that counterproliferation is a Department of Defense responsibility. The memo does not, however, clarify departmental ownership of nonproliferation activities, traditionally the purview of State and ACDA, nor does it suggest a conduit by which the Defense Department can develop policy or engage in counterproliferation activities without disrupting or undermining other aspects of

⁷ Daniel Poneman, National Security Council Memorandum dated 18 February 1994 for Robert Galluci, Assistant Secretary for Political-Military Affairs, Department of State, and Ashton Carter, Assistant Secretary for Nuclear Security and Counterproliferation.

⁸ Ibid.

nonproliferation.⁹

The lack of presidential involvement in this issue to date is of no little consequence, It affects the debate both within and outside the administration. President Clinton has yet to refer publicly to the CPI or even use the term "counterproliferation" in a major speech. There appears to be no clear vision from the White House of what the Department of Defense's mandate or mission under the CPI ought to be. This seems odd when one considers that the CPI is touted to be the nation's leading military response to its number one military threat. In fact, the February 1995 National Security Strategy uses the term only in a title for a subsection under the broader topic of "Combating the Spread and Use of Weapons of Mass Destruction and Missiles." The subsection is devoted almost entirely to explanations of how the United States supports the *nonproliferation* regime. It is devoid of counterproliferation terminology, strategy, policy, or interagency cooperation, except in the broadest of platitudes, such as the notion that "the United States will retain the capacity to retaliate against those who might contemplate the use of weapons of mass destruction, so that the costs of such use will be seen as outweighing the gains."¹⁰ The emphasis is on the intelligence and defensive aspects of counterproliferation.

The only reference to offensive tactical capabilities is the statement that

⁹ The mechanism for coordinating all U.S. government nonproliferation activities including counterproliferation was developed by the interagency study mandated by Congress in the Fiscal Year 1994 Defense Authorization Act which was chaired by then Deputy Secretary of Defense John Deutch. The responsibilities and missions of each agency and the coordinating committees and working groups under the authority of the National Security Council are laid out clearly in Deutch's Report on Nonproliferation and Counterproliferation Activities and Programs (Washington D.C.: Department of Defense, May 1994), 7-19. This report is called the Deutch Report.

¹⁰ The White House, A National Security Strategy of Engagement and Enlargement (Washington DC: Government Printing Office, February 1995), 14.

"we are placing a high priority on improving our ability to locate, identify and disable arsenals of weapons of mass destruction, production and storage facilities for such weapons, and their delivery systems."¹¹ There is no mention as to whether the policy will entail the use of conventional or nuclear weapons to achieve this end. This lack of a coherent vision only serves to further the confusion, although recent statements by Dr. Ashton Carter, the Assistant Secretary of Defense for International Security Policy, indicate an effort to provide more clarity. It seems as though officials above Dr. Carter's level are satisfied with the "let's study it" approach, and are therefore comfortable with remaining publicly non-committal on counterproliferation for the present.

B. FRAMING THE DEBATE: COUNTERPROLIFERATION ARGUMENTS AND COUNTERARGUMENTS

The following arguments and counterarguments characterize the tensions which the CPI potentially creates. These issues must be considered and addressed if the CPI is to be transformed into a coherent policy. Where one comes down on these issues admittedly depends upon one's own perspective on the issues surrounding future nuclear proliferation. Those responsible for U.S. or NATO security policy, such as the Secretary of Defense's staff, are likely to view them differently from those which are ardently committed to nuclear disarmament, environmentalism, or diplomacy, such as the Frankfurt Peace Research Institute, Greenpeace International, or even the U.S. State Department. Although there has been little public interest in counterproliferation, public perception surrounding these arguments could play a key role in shaping future policy. This research will address (and where possible, reconcile) the arguments in order to make recommendations for the formulation of counterproliferation policy.

¹¹ Ibid, 15.

The six issue pairs which follow comprise the core issues which define the counterproliferation debate. They are best understood by analyzing the claims or promises of each side. Framing these issues in this way helps describe the scope and intensity of the debate, and highlights both the potential and the limitations of a counterproliferation policy. These issues will be anchor points for future counterproliferation policy.

1. The Justification for the CPI:

Argument: With the end of the Cold War, there is an increased threat of proliferation of weapons of mass destruction. The bipolar world system has dissolved. Instability and the rise of organized crime in the former Soviet republics and Eastern Europe have raised the possibility that nuclear weapons or fissile material could be hijacked or diverted. Balance of power theory suggests that some countries may perceive a need to acquire WMD to balance against the United States or against a regional adversary. The diffusion of technology may also have shifted the cost/benefit calculus for some states such that WMD, and particularly nuclear weapons, are now a more cost-effective means of defense.¹² The handful of countries likely to develop nuclear weapons, while admittedly a much smaller list than at any time since the Nuclear Nonproliferation Treaty (NPT) was negotiated, are decidedly hostile toward the interests of the United States and its allies.¹³ The new

¹² Peter R. Lavoy assesses possible proliferation motivations in "Nuclear Myths and the Causes of Nuclear Proliferation," in Zachary S. Davis and Benjamin Frankel, eds., The Proliferation Puzzle: Why Nuclear Weapons Spread and What Results (Portland, Oregon: Frank Cass, 1993), 192-205.

¹³ Although the list of such countries is short, it is nearly always in a state of flux as states continually recalculate their interest in nuclear weapons. It should include those regional adversaries that have a sufficient scientific and industrial capability as well as those that are highly motivated to acquire these weapons by any means. It should exclude the large number of states which have the capability to produce nuclear weapons but have refrained from doing so. Decisions for inclusion on this list are admittedly subjective. I recommend keeping the list as short as

threat was driven home by post-Gulf War revelations about the Iraqi program as well as lingering questions about the former Soviet arsenal.¹⁴ Another wake-up call is framed in the statement attributed to the Indian Army chief of staff that the key lesson from the Gulf War is to "never fight the United States without nuclear weapons."¹⁵ There is a strong fear within the Defense Department that another hostile threshold state will succeed where Iraq failed.

Counterargument: The Department of Defense is finding new missions in a world devoid of a major adversary in order to protect its share of the federal budget. There has long been a nuclear weapons proliferation problem. In March 1963, President Kennedy predicted that as many as twenty five states would have nuclear weapons by the 1970s.¹⁶ Fears of the "nth country scenario" and an endlessly spiraling nuclear arms race captured the minds of planners. But these gloomy predictions did not pan out. The end of the Cold War appears to have ended the threat of nuclear annihilation, reversed vertical proliferation, ended nuclear proliferation in the southern

possible, but making it public. Put the world on notice that the suspect states are being watched. If in doubt, do not add a state to the list until more evidence justifies a reevaluation. The list should include Iraq, and North Korea. I would not add a country, unless I was willing to publicly justify this selection.

¹⁴ Joseph Pilat, "A Counterproliferation Primer" (Los Alamos, New Mexico: Los Alamos National Laboratory, 1994), 3.

¹⁵ Cited by Lewis A. Dunn, "New Nuclear Threats to U.S. Security," (as quoted from Rep. Les Aspin, Chairman of the House Armed Services Committee, "National Security in the 1990s: Defining a New Basis for U.S. Military Forces," speech before the Atlantic Council of the United States, 6 January 1992) in Robert D. Blackwill and Albert Carnesale, New Nuclear Nations (New York: Council on Foreign Relations, 1993), 41.

¹⁶ Peter R. Lavoy, "Learning and the Evolution of Cooperation in U.S. and Soviet Nuclear Nonproliferation Activities," in George W. Breslauer and Philip E. Tetlock, eds., Learning in U.S. and Soviet Foreign Policy (Boulder, Colorado: Westview Press, 1991), 754, as quoted in The New York Times (23 March 1963).

hemisphere, removed three countries from the list of threshold nuclear states, and enabled the UN and IAEA to dismantle Iraq's nuclear weapons program.¹⁷ The accession of Ukraine, Belarus, and Kazakhstan to the NPT has laid to rest the fears that new nuclear states might arise from the former Soviet Union.¹⁸ United States nuclear deterrence and military might is unquestioned. The Department of Defense therefore should not look for controversial new missions which might undermine the existing regime and further complicate diplomatic nonproliferation processes. A new program like the CPI also competes with the expectation of a "peace dividend" from defense cutbacks which should be used to improve social welfare, increase foreign aid, or reduce the budget deficit.

2. Enforcing the Nonproliferation Regime:

Argument: The nonproliferation regime needs teeth to reinforce nonproliferation. Although Israel, India, Pakistan, and South Africa probably developed nuclear weapons after the NPT entered into force, none of them were ever a military threat to the United States or its key allies.¹⁹ The next generation of potential proliferators has a long history of hostile rhetoric, if not hostile intent toward the United States and the West. Unlike the first generation of post NPT proliferators, the next may be inclined to acquire nuclear weapons behind the veil of the NPT, just as North Korea and Iraq have tried to do. The combination of potentially hostile intent and the

¹⁷ David Fischer, "Forcible Counterproliferation: Necessary? Feasible?" in Reiss and Müller, International Perspectives On Counterproliferation, 15.

¹⁸ Ibid, 15. I use this point to illustrate the optimistic view that the NPT is approaching universality. Although Ukraine has signed the NPT, the jury is still out on implementing the terms of the treaty and dismantling the remainder of the Ukrainian nuclear stockpile.

¹⁹ Except that India and Pakistan continue to threaten each other during the period in the mid and late 1980s when Pakistan was considered a close U.S. ally.

illegality of their actions sets this next generation apart from the last. The new cases of proliferation are worse than the old ones from the U.S. perspective, and the United States must continue to be able to deter the use and threatened use of nuclear weapons.²⁰ The CPI offers the United States and its allies additional options for dealing with this threat.

Counterargument: The counterproliferation initiative represents a fundamental departure from the spirit of trust, cooperation, and mutual respect between sovereign states that has been essential to the success of the nonproliferation regime. The CPI is a unilateral approach with the potential to upstage and replace diplomacy.²¹ It risks solving problems by other than peaceful means. Instead of presuming innocence as under the existing nonproliferation regime, counterproliferation implies guilt, or at least suspicion, as "determined by intentions, assessments of technical capabilities, and other intelligence indicators."²² The United States must take the lead by showing the greatest restraint because of the significant risks inherent in

²⁰ Strategic Planning International, Inc., "Counterproliferation: Detering Emerging Nuclear Actors," Compendium of Proceedings of the Strategic Options Assessments Conference held at U.S. Strategic Command, Offutt AFB, NE, 7-8 July 1993, 24.

²¹ See Leonard Spector, "Neo-Nonproliferation," Survival, vol. 37, no. 1 (Spring 1995), 66-85. Spector warns that parts of the U.S. strategic community have turned away from the traditional concept of nonproliferation at a time when its efforts are increasingly successful. He calls this shift "neo-nonproliferation," and describes three sub-groups: the hardline "inevitablist" camp who believe that proliferation is inevitable for some states, the proponents of counterproliferation, and the "refocused arms controllers," a group which have refocused their efforts *vis-a-vis* Israel, India, and Pakistan from pressuring these states into renouncing nuclear weapons to reducing the risks that might lead to nuclear war or accidents.

²² Avner Cohen, "The Lessons of Osirak and the American Counterproliferation Debate," in Reiss and Müller, International Perspectives On Counterproliferation, 77. Counterproliferation is considered when it is apparent, or suspected, that nonproliferation efforts are failing.

attacking nuclear weapons and facilities. Such risks include retaliatory use of nuclear weapons or the accidental detonation of a primitively designed weapon, either of which could lead to escalation. A somewhat less serious concern is the risk of radioactive contamination in the event that a weapon is damaged or detonates with a low order nuclear yield (incomplete detonation of the fissile material). The United States has tolerated proliferation in the past by Israel, India, Pakistan, and South Africa without so much as *even threatening* the use of military force. The only consequences of proliferation for these states was the imposition of sanctions in the form of export controls on nuclear technology, and in the case of Pakistan, a cut-off of military and economic aid. The rhetoric of the allegedly hostile future nuclear states which the CPI targets may be intended only to bolster their own prestige or to improve their bargaining positions. As in the past, the mere acquisition of nuclear weapons is not a *casus belli*.

3. United States Leadership in Nonproliferation:

Argument: United States leadership in counterproliferation is proper and consistent in view of past U.S. leadership in nonproliferation efforts.

The United States has been the undisputed leader in both multilateral and unilateral nonproliferation efforts. U.S. multilateral initiatives included the ill-fated Baruch Plan, President Eisenhower's "Atoms for Peace" plan, the IAEA Statute, the Nuclear Suppliers Group (NSG), cosponsorship of the Limited Test Ban Treaty, and the NPT. U.S. unilateral efforts have also been significant. The United States is also a strong proponent of the ongoing Comprehensive Test Ban Treaty negotiations and the Fissile Material Cut-off. The 1991 Nunn-Lugar amendment to the Conventional Forces in Europe Treaty Support Act is a primary example. This program has provided more than \$1.2 billion to establish verifiable safeguards over the former Soviet arsenal, to employ former Soviet nuclear scientists in peaceful endeavors, and

to assist in defense conversion.²³ Another example is the Framework Agreement concluded with North Korea in October 1994, whereby North Korea froze its nuclear program, and agreed to negotiate the dismantling of its plutonium producing reactors and reprocessing facility in exchange for light water reactors. Both of these initiatives were begun without the consensus of the world community, though they have since received broad support and are viewed as strengthening the regime. The CPI is another unilateral attempt to develop further options in the interest of strengthening non-proliferation.

Counterargument: United States leadership would be better utilized to strengthen the efficacy of the existing nonproliferation regime than to pursue new initiatives of questionable and unproven value. Not all U.S.-sponsored unilateral initiatives support the regime. The announcement of the CPI just before the first of the four preparatory conferences which led up to the NPT Review and Extension Conference was ill-timed. It could have been manipulated by developing states, particularly those hostile to U.S. interests, to influence other developing states away from indefinite extension.

4. The CPI and U.S. Nuclear Deterrence:

Argument: Counterproliferation is a set of logical, non-provocative options which are consistent with the longstanding U.S. doctrine of deterring the use of nuclear weapons. The CPI gives U.S. deterrence new credibility and flexibility in view of the evolving military threat. U.S. allies support the CPI and are actively engaged in studying coherent policies, and in developing improved military capabilities. In 1994, The United States was actively discussing elements of the CPI with NATO, Russia, and Japan, and is

²³ Thomas B. Cochran, "U.S. Assistance to Improve Physical Security and Accounting of Fissile Materials in Russia," prepared remarks at the Carnegie Endowment for International Peace (31 January 1995), 5. For a detailed explanation of Nunn-Lugar activities see U.S. Congress, Office of Technology Assessment, Proliferation and the Former Soviet Union, OTA-ISS-605 (Washington: Government Printing Office, 1994), 23-24.

optimistic about future multilateral cooperation.²⁴ The CPI is a declaratory framework which provides coherent logic and focus to existing and developing military activities.

Counterargument: Counterproliferation is a departure from Cold War nuclear deterrence and coercive diplomacy, and is unworkable because proliferating states or other groups will have different motivations for acquiring nuclear weapons. Principles of Cold War nuclear deterrence, such as the idea of mutually assured destruction, may have little bearing on these states. Future nuclear weapons states may not aim their weapons at the United States. Notions of deterrence serve not only to justify the retention of a United States nuclear arsenal, but the development of exotic conventional weapons as well. Non-state groups, such as terrorist organizations, may be the most likely to use or threaten the use a nuclear weapon, and may be undeterrable.

5. The Lessons of the Gulf War:

Argument: The CPI is preventive in nature. It applies the lessons of the Gulf War in order to prevent the possibility that U.S. and allied forces will face a nuclear threat on the battlefield. It provides additional options when the nonproliferation regime fails, and must not be viewed or presented as a green light for preventive or preemptive military strikes.²⁵ Ashton Carter, its leading advocate, claims that the CPI does not focus on such action, but “on the danger that weapons of mass destruction will be used against U.S. citizens,

²⁴ Mitchell Wallerstein, Deputy Assistant Secretary of Defense, Counterproliferation Policy, “Counterproliferation: An Update on Progress in Washington and Prospects at NATO,” unclassified briefing presented at the NATO Defense Planning Symposium, Oberammergau, Germany (18 January 1995), 18-19.

²⁵ I use the term “preemption” to indicate military action taken to keep an enemy from attacking with WMD which he may already possess. By contrast, “prevention” is that action taken to stop an enemy from acquiring WMD. Osiraq was therefore a preventive strike, not a preemptive attack.

forces, or allies in the course of a regional conflict.”²⁶ The long United States history of military conflict affirms his position, in that the United States does not normally engage in “bolt from the blue” military operations such as preemptive military strikes. Even the 1986 retaliatory air strike on Libya was conducted only after repeated U.S. warnings to Colonel Gaddafi that his ongoing sponsorship of terrorism would be punished. In Carter’s view, preemptive action would be taken only at the outbreak of hostilities as a means of ensuring that WMD would not be used against U.S. or allied populations, territories, or forces. The CPI is preventive, not preemptive, with the focus on preventing and deterring battlefield WMD scenarios.

Counterargument: The CPI has the potential for “mission creep” which can be used to justify preemptive military action against countries of the United States’ choosing, which will not change motivations for acquiring nuclear weapons. It sets the stage for preemptive use of force. Based upon its close call with Iraq’s nuclear weapons program, the United States will use Israel’s 1981 strike on the Iraqi Osiraq reactor as a justification for its own future preventive strikes. Although such action can set back a fledgling nuclear program, and in the case of Israel’s strike bought valuable time which probably enabled the U.S.-led coalition to fight without the threat of nuclear weapons, it can not prevent a determined state from trying again. As with Iraq, it may drive a state to try even harder on its next attempt. The fact that Iraq’s program after Osiraq became more sophisticated, pursued duplicate paths, was dispersed to redundant facilities, and became much more secretive is clear evidence of an even greater Iraqi determination to acquire nuclear weapons.

²⁶ Carter, Ashton B., Record Statement before the Committee on Armed Services, United States Senate (28 April 1994), 4.

6. A Handful of Rogues:

Argument: Credible military solutions to nuclear proliferation will help persuade states inclined to shirk their NPT obligations to honor them in both letter and spirit. It puts potential NPT violators on notice that the United States and its allies can counter their nuclear weapons capabilities. Effective counterproliferation solutions also reduce the military utility of these weapons.²⁷ According to Lewis Dunn, such threats will "help shape new nuclear powers' perceptions of the usability of nuclear weapons, and to accept the decades-old taboo."²⁸ The United States has long relied upon credible demonstrations of military capability to make its deterrent strategies believable to potential enemies. The CPI is consistent with this tradition, and will be a strong persuasive tool when needed.

Counterargument: The CPI is a discriminatory initiative designed to bully uncompliant Third World countries. It is designed to safeguard United States capabilities to assert hegemonic influence in areas distant from its own borders and shores. In an era in which the United States depends increasingly on Third World cooperation for a broad range of treaties and agreements such as the UN Convention on the Law of the Sea, the General Agreement on Trade and Tariffs, and the 1995 NPT Extension Conference, the CPI is inappropriate and poorly timed. It will undermine Third World willingness to cooperate with the United States in more essential global endeavors.

²⁷ Aspin, 3. In the 7 December 1993 speech, Aspin identified this as one of three important ways that the CPI complements nonproliferation. The other two were the promotion of consensus on the gravity of the threat, and reducing the vulnerability of "the neighbors of those holding these weapons, further reducing the motive to acquire them in self-defense."

²⁸ Dunn, "New Threats to U.S. Security," in Blackwill and Carnesale, New Nuclear Nations, 44. This argument is also consistently made by Defense Department officials, including Ashton Carter and Mitchell Wallerstein.

C. SOURCES AND METHODOLOGY

This research draws primarily from current sources including U.S. Government documents and scholarly analyses. All sources are unclassified. For the purpose of this research I have neither sought nor been allowed access to classified sources. I also conducted interviews with some twenty U.S. Government officials on a non-attribution basis. These interviews were useful for shaping my understanding of the tensions and cooperation that are emerging as a result of the CPI.

The theoretical prism through which I view the CPI is similar to Graham Allison's decision-making models presented in his classic work, Essence of Decision.²⁹ I have considered the CPI through the lenses of two of Allison's models. Allison's Model III, or bureaucratic politics model, asserts that states form policy as an output of bureaucratic competition within a state's government. In this process, executive decision's and cost/benefit analysis matter little. I also used Allison's Model I, or rational actor model, which says that states form policy by executive decision based on analysis of costs and risks versus benefits. This model downplays the influence of bureaucratic processes. I also considered the CPI from an angle which Allison did not address, a state-society model, in which policies are formed as a result of public and expert opinion. I have used these three lenses to sort the various tensions as products of one of these three government processes. By sorting tensions as the products of one of these processes, I can characterize the tensions which the CPI has created between departments and agencies of the U.S. government, between the U.S. Government and other states, and between the U.S. Government and non-government organizations (NGOs), and predict the relative impact each tension will have on the actual shaping of a counterproliferation policy.

²⁹ Allison, 4-7.

D. STRUCTURE OF THIS THESIS

Chapter Two answers the question “what is the nonproliferation regime?” This is an important question since it consists of a number of component treaties and agreements each of which was negotiated for a different aspect of preventing nuclear proliferation, and each of which is affected somewhat differently by the CPI. Additionally, the efficacy of some components has eroded over time, or is of questionable or limited future value. Each component is characterized by (1) its role and function within the regime, (2) the nature of the agreement or treaty, (3) the degree to which it is legally binding or has created norms of expected behavior, (4) its effectiveness and stability, and (5) its future viability and vulnerability. The ways in which the CPI can strengthen and undermine each component are also considered.

The third chapter examines the counterproliferation initiative. It focuses primarily on the policy statements and speeches of key Defense Department officials, and upon the critical analyses of various academics, non-government organizations, and other government officials. The intellectual and policy history of the CPI is also presented as useful background to understanding the initiative. Each element of the CPI is then characterized in terms of its policy implications and the tensions it creates. The potential of each element to enhance or undermine the nonproliferation regime is also analyzed.

The fourth chapter answers the question, “what are the tensions created by the CPI?” Three categories of tensions are examined: (1) interagency, (2) intergovernmental, and (3) state-societal (U.S. government to nongovernment organizations).

1. Interagency tensions. These are primarily tensions between the Department of Defense and the Arms Control and Disarmament Agency, State Department, and National Security Council. Allison’s Model III which conceptualizes the workings of governments as competing bureaucratic

organizations is used to help characterize these tensions and to suggest ways in which they might be mitigated.

2. Intergovernmental tensions. These are the tensions created between the U.S. government and the following entities: NATO, Japan, other friendly governments, and the rest of the world. Allison's Model I which conceptualizes the workings of governments as unitary rational actors is used to characterize these tensions and to suggest ways in which they might be alleviated, or in some cases dismissed altogether.

3. State-societal tensions. This will include tensions and objections raised by the international community of policy analysts. The angle Allison did not address, the linkage of how public opinion shapes the national interest and policy, is used to characterize these tensions, and to suggest solutions. I selected this process over Allison's Model III (bureaucratic politics model) because Model III explains the effects of bureaucracy within a single organization, not between diverse organizations, such as between the U.S. government and the various NGOs.

The final chapter reexamines the promises and claims of both sides of the six argument pairs introduced earlier in this chapter. Research findings are used to refine each of the six issues into "anchor points" for counterproliferation policy. A summary of the ways in which the CPI might strengthen or undermine the nonproliferation regime is also included. The chapter also summarizes the strengths and weaknesses of the CPI, and suggests ways to refine it to avoid ambiguity, strengthen multilateral support, and ease the various tensions which it currently causes. Finally, it will provide recommendations for the evolving counterproliferation policy which still must be developed.

II. CHARACTERIZING THE NON-PROLIFERATION REGIME

A. OVERVIEW OF THE NON-PROLIFERATION REGIME

The regime includes the following five components: (1) the Statute of the IAEA, (2) the NPT, (3) the Nuclear Weapons Free Zones defined by the Treaty of Tlatelolco (Latin America) and the Treaty of Rarotonga (South Pacific), (4) export controls specified by the Zangger Committee and the Nuclear Suppliers Group (NSG), and (5) the promises of the nuclear weapons states collectively known as positive and negative security assurances.³⁰ These components collectively obligate states to follow treaties, contracts, and gentlemen's agreements in both the letter and spirit. Ashton Carter claims that the CPI "builds on and reinforces non-proliferation norms and agreements that are the foundation of U.S. and international efforts to combat proliferation."³¹ A thorough study of the regime as a whole and of each component will reveal whether or not this is true.

The regime is one of the most successful multi-national diplomatic ventures ever achieved. It has some significant problems, but the fact that only four states (each with special security problems) appear to have crossed the nuclear threshold since the treaty entered into force is a strong testimony

³⁰ For a scholarly consensus of the regime components see Kathleen C. Bailey, Strengthening Nuclear Nonproliferation (Boulder, Colorado: Westview, 1993), 1-2; Zachary S. Davis, "The Realist Nuclear Regime," in eds., Zachary S. Davis and Benjamin Frankel, The Proliferation Puzzle (Portland, Oregon: Frank Cass, 1993), 88-91, and Leonard S. Spector with Jacqueline R. Smith, Nuclear Ambitions: The Spread of Nuclear Weapons 1989-1990 (Boulder, Colorado: Westview Press, 1990) 293-304. George Bunn has presented a similar consensus in his briefing "Controlling Proliferation: The Nuclear Nonproliferation Treaty and its Renewal" (lecture notes dated 22 Feb 1994).

³¹ Carter, 6.

to the success of the regime, not of its failure.³² One of the four, South Africa, has now dismantled its weapons, reversed its program, and converted some of its weapons technologies to peaceful uses. Even in the cases of the two obvious failures, North Korea and Iraq, the regime has partially redeemed itself. In the case of North Korea, it is constructive to recall Ambassador Robert Galluci's insight that "the only reason we know there is an anomaly in North Korea is because of an ad hoc (IAEA) inspection carried out at a declared facility."³³ In the Iraqi case, IAEA inspections carried out under the United Nations Special Commission (UNSCOM) are the tool by which most of the Iraqi WMD program has been exposed and dismantled. Although the regime is vulnerable to deception, the inspections it requires remain a robust tool which can be further strengthened by more intrusive procedures and the use of so-called "challenge inspections" in which inspectors will have the ability to search other than declared facilities.

One strong criticism of the regime is that it "enshrines discriminatory principles and practices" by establishing two categories of states, those which have nuclear weapons and those which do not.³⁴ Developing states have made claims of discrimination for political leverage, but the only forum in which they have been aired with any effect was in the debate over the options for the extension of the NPT. Third World states claiming discrimination tried to hold the NPT extension issue hostage in return for greater progress from the nuclear weapons states on nuclear disarmament, or for private

³² Cohen, 73-74.

³³ Robert L. Gallucci, "Non-proliferation and National Security," Arms Control Today, vol. 15, no. 10 (April 1994), 15.

³⁴ John Simpson and Anthony G. McGrew, "Nuclear Proliferation At the Crossroads?" The International Nuclear Non-Proliferation System: Challenges And Choices (New York: St Martin's Press, 1986), 4.

concessions. And despite the fact that the NPT has been extended by consensus, the regime will continue to be dogged by the perception of "do as I say, not as I do," particularly if the nuclear weapons states continue to upgrade their arsenals.³⁵

In counterpoint, it may also be argued that developing states should have the greatest interest in preserving the regime indefinitely. Weak states must rely heavily upon international regimes "for their survival as viable members of the international system."³⁶ Despite the ferocity and moral appeal of their rhetoric, these countries depend on a strong, permanent regime because they do not have the resources to deal with a world full of nuclear armed states. Their support of the regime is not merely a gift to the nuclear weapons states, but more realistically an investment in their own national security as well.³⁷ Discrimination is a convenient argument to bolster their prestige and is also used by some, such as India and Brazil, to avoid joining. While many states feel justified to proclaim it in support of their national interests, non-proliferation must of necessity rank higher.

Claims of discrimination have seldom been made by more advanced countries capable of building nuclear weapons, but which have foresworn them. But it could be argued that the regime discriminates against them also. From a neorealist point of view, possession of nuclear weapons could make the survival of these states in a chaotic world system less problematic. The fact that these states have found it in their national interest to foreswear

³⁵ Simpson and McGrew, 5.

³⁶ Paulo S. Wrobel, "Counterproliferation: A View From South America," in Reiss, and Müller, International Perspectives On Counterproliferation, 50.

³⁷ Council on Foreign Relations, Report of an Independent Task Force on Nuclear Proliferation, Nuclear Proliferation: Confronting The Challenges (New York: Council on Foreign Relations Press, 1995), viii.

nuclear weapons for the present, must not be overlooked when considering the state of the world system at any given moment. If one or more of these states deemed that its security was threatened, it might reconsider its decision making the case that the regime is discriminatory and prejudicial to its survival. Covert proliferation or overt withdrawal from the regime by one or more of these "nuclear capable" states would be a far greater problem than the current rhetoric of discrimination from the Third World.

The regime is vulnerable to deception and depends upon its parties to be honest citizens within the world community. Inspections certify the peaceful use of declared facilities and fissile materials. But a country which desires to cheat can attempt to do so in many ways. At present, inspections may only be conducted at declared facilities with the consent of the host government. The IAEA, in the interest of strengthening the inspection aspect, has reasserted its right to conduct so-called "challenge inspections" wherever it wishes, but it remains to be seen if this right will be honored when again put to the test. Such inspections, when cued by intelligence from member states, may unmask undeclared or hidden nuclear infrastructure.

The inspection procedures have weaknesses that could be exploited. Fissile material diversion could be masked by inaccuracies in calculations of the amount produced in enrichment or reprocessing operations. One critic alleges that Japan may be "missing" up to seventy kilograms of plutonium, based on imprecision inherent in its measuring and estimating techniques that could be as high as thirty percent. The possibility of such a diversion stretches the glib and overworked aphorism that "no system is perfect" to its limit.³⁸ Japan's neighbors can not help but be concerned.³⁹

³⁸ Paul L. Leventhal, "The New Nuclear Threat," The Wall Street Journal (8 June 1994).

³⁹ Ibid.

Current intelligence capabilities often lack the means to discern the motivations, intentions, and technological progress of proliferating state. It remains to be seen whether new technologies and a sharper focus on emerging nuclear weapons programs will be able to prevent future covert proliferation. The international community's lack of access to information regarding the real state of affairs within proliferation-risk countries, whether due to limitations of intelligence capabilities, or the unwillingness of states to share their information, is a serious shortcoming that will not be easily resolved. The resulting lack of transparency excludes the possibility of making the non-proliferation regime adequate for the real threat.⁴⁰

The regime also has no effective means of enforcement. Direct sanctions for violators consist largely of withholding materials and technical assistance and of publicizing the violation to the world community.⁴¹ UNSCOM's dismantling of the Iraqi nuclear infrastructure, may well be only an anomaly, rather than a model for dealing with future regime violators. Iraq's aggression against Kuwait was the justification for the harsh treatment its weapons programs have received. By contrast, the delicate handling of North Korea, despite its intransigence, may well be the more likely approach to enforcing the regime in the future. North Korea has been far more subtle and cautious in its behavior. It seems likely that future suspected violators will be treated commensurate with their pattern of behavior. The past record of Security Council inaction in dealing with the nuclear programs of South Africa, Israel, India, and Pakistan is a strong testimony to a global lack of will to seriously censure new nuclear states, although there is likely to be more

⁴⁰ Sergei Kortunov, "Non-proliferation and Counterproliferation: Russian Perspective," paper presented at the National Defense University Topical Symposium, Washington, DC (16-17 November 1994), 9.

⁴¹ Julie Dahlitz, Nuclear Arms Control (London: George Allen and Unwin, LTD., 1983), 180.

interest as the NPT approaches closer to universal acceptance.

Despite its inherent flaws and obvious failures, the regime nonetheless must be regarded as successful. It was responsible for turning back many would-be proliferators including such advanced threshold states as Argentina and Brazil, and the so-called "born proliferator" states of Ukraine, Belarus, and Kazakhstan, although Ukraine's compliance is not yet a completed act. It stopped many states from acquiring nuclear weapons by putting the economic and political costs out of their reach, effectively lengthening and steepening the approach to the threshold.⁴² The few gaps that remain in the regime must be closed by new initiatives supported by the bulk of the international community whose cooperation made the regime possible in the first place.⁴³ The regime must improve upon its cold war roots and limitations to be viable in the next millennium.

B. THE IAEA STATUTE

1. Its Role and Function:

Predating the NPT by more than ten years, the IAEA Statute is the oldest regime component. It charters the IAEA as an autonomous United Nations agency. The statute was a compromise achieved by twelve negotiating states in response to President Eisenhower's "Atoms for Peace" proposal and was widely praised at the Conference on the Statute of the IAEA which endorsed it with some amendments in 1956.⁴⁴ The IAEA was to assist

⁴² Davis, 7.

⁴³ Council on Foreign Relations, 6.

⁴⁴ Lawrence Scheinman, The International Atomic Energy Agency and World Nuclear Order (Washington, D.C.: Resources for the Future, 1987), 70. Chapter Two of this book has a detailed description of the Eisenhower's complex motivations for the speech, the initial criticism by the Soviet Union, and the multilateral approach which ultimately produced the statute.

states with the development of nuclear energy for peaceful purposes. Nuclear assistance was to be provided to any country willing to abide by an IAEA safeguards agreement. The IAEA thus became the custodian and guarantor of safeguards agreements, ensuring the integrity of declared nuclear materials and facilities through its inspection program.

2. The Nature of the IAEA Statute:

The IAEA statute established a system of nuclear safeguards to allow technology transfers to promote the peaceful uses of nuclear energy. It was at best an incentive program by which states could purchase equipment and assistance from nuclear capable states as long as they promised it would not be used to develop nuclear weapons. The safeguards were weak in that they were not a "full scope" program encompassing a state's entire nuclear infrastructure. They were much more like a licensing system for individual construction contracts and purchase orders. There was no requirement to place already existing facilities under safeguards. As it turned out, some countries including India acquired both safeguarded and unsafeguarded facilities, which allowed a significant proliferation loophole. India's 1974 "peaceful nuclear experiment" was made from plutonium produced in a loosely safeguarded reactor, an indigenously built copy of a safeguarded reactor provided by Canada.

3. Legal Ramifications of the IAEA Statute:

The IAEA Statute requires very little of its members which currently number over 120.⁴⁵ Membership is open to all states, but a state need not negotiate a safeguards agreement to be a member of the IAEA. The most interesting legal aspect of this statute is the lack of obligations upon its members. Most ostensibly it "does not require any member of the Agency to submit to safeguards except insofar as the state requests and receives nuclear

⁴⁵ U.S. Department of State, Treaties In Force, January 1st 1994 (Washington: Government Printing Office, 1994), 298-99.

assistance from or through the Agency.”⁴⁶ This is a built-in conflict of interest, because threshold states such as Israel, India, and Pakistan may serve on the Board of Governors, the entity responsible for negotiating and approving safeguards agreements, while maintaining unsafeguarded facilities themselves. There are no provisions to punish proven safeguards violators.

4. Effectiveness of the IAEA Statute:

The Statute’s goals were “to promote the peaceful use of the atom and, at the same time, to guard against the products of this use being diverted to any military purpose.”⁴⁷ It failed to do this in several key areas, most notably in its failures to restrain the threshold states, and in the widespread deception evident in Iraq. But the blame lies in the weaknesses of the statute, not a lack of skill or determination by agency personnel. Some blame may also be cast upon the IAEA budget, which was frozen at the same rate from 1982 until 1992 despite ever expanding obligations.⁴⁸ The IAEA as originally conceived was a disinterested middleman which brokered safeguards agreements and conducted inspections to verify that diversion of declared nuclear materials had not occurred. As long as the letter of safeguards agreements was backed with the proper paperwork, seals, and monitoring devices, the IAEA paid little attention to the spirit with which states complied with their safeguards agreements. The problem was not one of deliberate disinterest, but rather a function of its very limited charter. It was not chartered to collect intelligence, or conduct intrusive inspections. Within the scope of its charter, it

⁴⁶ Paul C. Szasz, “International Atomic Energy Agency Safeguards,” in Mason Willrich, ed., International Safeguards And Nuclear Industry (Baltimore: The Johns Hopkins University Press, 1973), 75.

⁴⁷ George Bunn, Arms Control By Committee: Managing Negotiations with the Russians (Stanford, California: Stanford Press, 1992), 85.

⁴⁸ Center for Disarmament Affairs, The United Nations Disarmament Yearbook, volume 17: 1992 (United Nations: New York, 1993)

performed flawlessly. Prior to the revelations of the clandestine Iraqi program, IAEA inspections had never turned up a bona fide violation of safeguards. But the IAEA was inadequate for the threat of clandestine proliferation occurring within the shroud of legitimacy provided by fuel accountancy at declared facilities.

5. Future Viability of the IAEA:

Despite its inability to unearth the clandestine nuclear program in Iraq, and the repeated frustration of its inspectors by North Korea, no one is seriously calling for the IAEA to be disbanded or superseded. The Council on Foreign Relations recommends that the United States assume a leadership role in expanding IAEA funding which should then allow it to "expand the envelope of its activities under the existing safeguards agreements at locations where it suspects undeclared nuclear activity might be going on" and perform so-called " 'challenge inspections' . . . upon a complaint from an aggrieved state."⁴⁹ Some changes have already been implemented, including more intrusive inspection procedures, and the establishment of a liaison office to receive intelligence information on undeclared nuclear activities.⁵⁰ Despite embarrassment over Iraq and North Korea, the IAEA retains a reputation as perhaps the most professional and efficient of all United Nations agencies.

6. Vulnerability of the IAEA:

The IAEA's open membership policy allows non-NPT countries to keep the agency's safeguards "as weak as possible."⁵¹ These same members have

⁴⁹ Council on Foreign Relations, xi.

⁵⁰ Davis, 3-4.

⁵¹ Paul L. Leventhal, "Plugging the Leaks in Nuclear Export Controls: Why Bother?" Orbis, vol. 36, no. 2 (Spring 1992), 177.

resisted the idea of challenge inspections as too extensive and too intrusive.⁵² Changing the policy or the authority of the Board would be difficult since it would involve changing the statute. Removing non-NPT countries from the Board through a vote of the General Council might be possible, however, and should be pursued.

7. How the CPI Could Enhance the IAEA:

A credible counterproliferation capability, regardless of who controlled it, could enhance the IAEA by deterring states from stonewalling IAEA inspections, especially challenge inspections ordered by the UN Security Council. It could also enhance the safeguards process by deterring cheating in two ways. First it would lower the potential military value of nuclear weapons by sending a signal that the United States and its allies have a credible military capability to prevent these weapons from being used. If a threshold state perceived that its use of such weapons could be denied, particularly by nonnuclear means, then it might be dissuaded from acquiring them in the first place. A credible counterproliferation capability would also confront such a state with the real possibility of punishment beyond economic sanctions if it couples its violations of safeguards agreements with hostile intent.

8. How the CPI Could Undermine the IAEA:

There has been a tendency to link the CPI to Israel's air strike against Iraq's Osiraq reactor complex in 1981. While the linkage is artificial in many elements, Osiraq is instructive as a worst case reminder of the political damage which could ensue if the United States were to conduct counterproliferation operations without broad-based international support or sound after the fact legal justification. The director-general of the IAEA, Sigvard Eklund, portrayed the Osiraq strike as "an attack on the Agency's

⁵² Ibid.

safeguards.”⁵³ Israel had, after all, attacked a reactor under IAEA safeguards in an NPT signatory state. “From the IAEA perspective, Iraq enjoyed the presumption of innocence as long as the IAEA had not determined otherwise.” The UN Security Council, with the United States abstaining, censured Israel for the attack calling it “a serious threat to the entire IAEA safeguards regime.”⁵⁴ Although the Osiraq strike probably allowed the 1991 Gulf War to be fought without the fear of an Iraqi nuclear threat, the United States can ill afford to follow the Israeli example in future scenarios. The United States as one of the IAEA’s leading advocates must insure that counterproliferation operations be conducted along sound principles of international law. Failure to do so would badly discredit both counterproliferation and the IAEA.

C. THE NON-PROLIFERATION TREATY (NPT)

1. Its role and function:

The NPT is without doubt the flagship of the nuclear non-proliferation regime. McGeorge Bundy recently called it “the cornerstone of an international regime that has had much more success than its founding father, Lyndon Johnson, would have dared to predict.”⁵⁵ With 174 members it is the most broadly supported agreement in history, other than the UN Charter.⁵⁶ It developed from a 1961 UN General Assembly resolution, called informally “the Irish Formula,” which called for an agreement by which states which had nuclear weapons would refrain from relinquishing control of

⁵³ Cohen, 89.

⁵⁴ Ibid.

⁵⁵ McGeorge Bundy, “Nuclear Trap,” The Washington Post (25 January 1995).

⁵⁶ Council on Foreign Relations, vii.

them and from transmitting the information for their manufacture to states not possessing such weapons. It also called upon states which did not have nuclear weapons to refrain from acquiring them.⁵⁷ But nearly thirty five years later, despite the unanimous vote on the resolution, universal consensus for the actual treaty has not yet been achieved.

2. The Nature of the NPT:

Even though it was negotiated within the forum of the ongoing United Nations Conference on Disarmament in Geneva, the NPT was largely the work of the two Cold War superpowers. The treaty is discriminatory in that it establishes two legal categories of states, nuclear weapon states, and non-nuclear weapon states, and bids all but the five states which had completed nuclear weapons tests prior to 1 January 1967 to sign-up in the latter category. In order to induce states to sign the treaty, the two superpowers and the United Kingdom made a series of compromises, including a long term commitment in both the preamble and Article VI to stop the nuclear arms race at the earliest possible date and work towards eventual disarmament.

Although it has been alleged that "a discriminatory basis of partnership in a treaty is a most inappropriate form of association,"⁵⁸ the NPT has been tremendously popular. Its popularity is likely attributable to its overarching purpose of preventing nuclear proliferation. The treaty's business is the containment of a "dreadful threat," not the laudable but necessarily lesser

⁵⁷ Bunn, 64-65. There were four "Irish Resolutions" between 1958 and 1961. After much negotiating over the terminology, the fourth finally met the approval of both the United States and the Soviet Union and was adopted unanimously. All four enjoyed broad support among the non-nuclear weapons states.

⁵⁸ Ambassador I. E. Ayewah, of Nigeria, prepared remarks distributed at The Conference on The Non-Proliferation Treaty, The Carnegie Endowment for International Peace, Washington DC (30 January 1995), 3.

goals of equality of nations and international civil rights.⁵⁹ The discriminatory mechanism of the treaty is a necessary evil which the states party to the treaty accept for the foreseeable future as the price of a viable non-proliferation treaty. It is useful to note that nearly all newly independent nations in the past thirty years, including those which once made up the former Soviet Union, have joined the NPT in relatively short order after achieving their independence. Even the tiny Pacific island nation of Nauru, which has refused to join the United Nations, promptly joined the NPT upon achieving independence in 1982.⁶⁰ Membership in the NPT is both a status symbol of sovereignty and an important element of national security despite the discriminatory implications.

3. Legal Ramifications of the NPT:

The NPT is binding upon its parties as "treaty law" under the precepts of international law. In addition to obligations incumbent upon its parties, it also creates an expectation of the same sort of behavior upon non-parties. This "double source of obligation," inherent in all treaties, is applicable even if a party formally withdraws from the treaty.⁶¹ Under this tenet of treaty law, which has been upheld repeatedly in international legal cases, parties which remain outside of a treaty, or which withdraw, can not disestablish or undermine the law established by the treaty. An expectation develops that they must behave like the parties of the treaty. Had North Korea withdrawn from the NPT, it would have remained under obligation to observe the attending norm of non-proliferation created by the treaty. The NPT's double

⁵⁹ Jessica Matthews, "Nuclear Weapons: The Iran Question," The Washington Post (22 January 1995), C7.

⁶⁰ Council of Foreign Relations, 85.

⁶¹ Anthony D'Amato, The Concept Of Custom In International Law (Ithaca, New York: Cornell University Press, 1971), 107.

source of obligation is responsible for the ambiguous declarations of the threshold states regarding their weapons programs and intentions. It is also responsible for India's vehement and almost apologetic declaration that its 1974 test was a "peaceful nuclear explosion," and its insistence that it maintains no arsenal, but merely a "nuclear option."

4. Effectiveness of the NPT:

Most scholars and parliamentarians agree that the treaty has been largely successful. Perhaps the best measure of its success is the fact that "most of the states that were viewed as potential proliferation candidates in the 1960s -- the industrialized states of Europe and Asia -- clearly have the potential to develop nuclear weapons but have to date seemed content not to do so."⁶² The NPT played a major role in accomplishing this record, in conjunction with the relative stability of the Cold War bipolar alliance structure. Coupled with the various security assurances given by the nuclear weapons states, it met the security needs of most sovereign countries, and reduced the demand for WMD. Former ACDA Director Paul Warnke recently referred to the NPT as "the strongest inhibition on nuclear proliferation."⁶³ Although it has fallen short of creating an absolute norm of nonproliferation, it has nevertheless created a form of interstate peer pressure whereby most states comply with the non-proliferation expectations of their peers, although a few can be expected to buck the peer pressure at the risk of some degree of ostracism.

5. Future Viability of the NPT:

Although the NPT has been extended indefinitely and unconditionally, it remains subject to review and dependent upon broad consensus to be effective in the future. A proposal approved at the recently concluded NPT

⁶² Council on Foreign Relations, 1.

⁶³ Paul C. Warnke, "Strategic Nuclear Policy and Non-proliferation," Arms Control Today, vol. 15, no. 11 (May 1994), 3.

Review and Extension Conference requires an annual review commencing in 1997. The annual requirement will likely keep the issue of consensus at the forefront of the nonproliferation and disarmament agenda. It will also create a strong pressure for the approximately one dozen-plus remaining hold-out states to sign the treaty and make it universal. Since it will be the bulwark upon which further nuclear arms reductions and ultimate disarmament must hang, there will also be strong pressures to ensure that states abide by their obligations, and do not withdraw. The norm of nuclear nonproliferation will be even further enhanced.

There has been much talk of a strengthened NPT. It would be difficult to achieve the consensus necessary for a formal amendment because of the political diversity of the post-Cold War world. The East and West blocs which were somewhat easy to coopt have given way to a much more diverse international community whose members in exchange for their support will insist upon concessions that are unacceptable or at best highly problematic. The best hope for a strengthened NPT lies in improving cooperation among the parties in sharing intelligence and airing potential threats within the UN Security Council. The use of IAEA challenge inspections would also give the NPT more clout. Both of these enhancements are already possible within the terms of the NPT and IAEA safeguards.

6. Vulnerability of the NPT:

The NPT is vulnerable to deception, and allegations that it only serves to keep honest states honest. There is no formal procedure to search out clandestine or undeclared nuclear activities, to ensure that violators are punished, or to force compliance. Except for the inspection and safeguards procedures, there is also no system to ensure that honest parties stay honest. It is a voluntary and cooperative treaty, by which 174 non-nuclear weapons states willingly renounce nuclear weapons in good faith that the other parties will all abide by the same obligation. The NPT, like the functioning of a

community, depends on the "voluntary obedience of the vast majority," of its parties, notwithstanding the ability to police the treaty.⁶⁴

7. How the CPI Could Enhance the NPT:

The real issue in enhancing the NPT is to develop the means to deal with the handful of countries likely to cheat on their NPT obligations while maintaining the broader consensus of the treaty. In a recently released report by its Independent Task Force on Nuclear Proliferation, The Council on Foreign Relations notes that

Pursuit of a carefully chosen program of counterproliferation measures need not contradict, but could support the non-proliferation efforts of the United States and other responsible states. Such measures not only could enhance the U.S. ability to defend itself, they also could augment the international community's capacity to respond to threats to the peace.⁶⁵

This recommendation is in concert with current Department of Defense thought. Mitchell Wallerstein, the Deputy Assistant Secretary of Defense for Counterproliferation Policy, has stated that preventing proliferation "remains the paramount objective of our policy."⁶⁶ He further stated "I want to emphasize that, in no way, have we given up on preventing proliferation, nor do we see counterproliferation as an alternative course of action to non-proliferation."⁶⁷ His immediate superior, Ashton Carter, echoes this theme

⁶⁴ Harald Müller, "Counterproliferation and the Non-proliferation Regime: A View From Germany," in Reiss and Müller, International Perspectives On Counterproliferation, 26.

⁶⁵ Council on Foreign Relations, 30.

⁶⁶ Mitchell Wallerstein, "Counterproliferation: An Update On Progress in Washington and Prospects at NATO," unclassified briefing presented at the NATO Defense Planning Symposium, Oberammergau, Germany (18 January 1995), 7.

⁶⁷ Ibid, 8.

often. In testimony last year before the Senate Armed Services Committee, he stated that "prevention is our first choice and our highest priority."⁶⁸ The intent of the CPI as explained by its leading proponents is one of preparation by the Department of Defense in the form of prevention through the existing non-proliferation regime and protection when needed to reinforce the regime.⁶⁹ If the CPI can be developed into policy supported by legitimate political organizations such as NATO and the UN Security Council it could strengthen the NPT so long as it is not perceived as illegitimate or in violation of the consensus upon which the NPT depends.

8. How the CPI Could Undermine the NPT:

Although it is binding by international law upon its parties, and has created an expectation of non-proliferation even among the non-party states, the NPT by its very nature depends upon the cooperation and goodwill of its parties to insure its legitimacy. Any initiative which is perceived as operating outside of the envelope of cooperation and goodwill could undermine the treaty. One problem with the CPI which must be dealt with to keep the NPT consensus intact is the acknowledgement that the CPI is aimed at the small number of potential "bad actors" who are, nevertheless, ostensibly good citizens within the requirements of their treaty obligations. The difficulty is in labeling bad actors.

The current situation regarding Iran's desire to complete its Bushehr nuclear power complex may well be illustrative of how the CPI could undermine the NPT. The United States claims to have strong evidence that Iran is violating the spirit of its obligations, but in all measurable ways it is in compliance. As a member of the NPT in good standing, Iran has a right to insist on free access to peaceful nuclear technology under the terms of

⁶⁸ Carter, 4.

⁶⁹ Wallerstein, 7.

Article IV. Iran is legally entitled to such assistance until a violation can be proven. It claims harassment to bolster its argument against indefinite extension of the NPT among the developing states. If the current intelligence on Iranian nuclear intentions can not be shared with the UN Security Council, the United States would be wise to keep quiet until it has information that is appropriate for that forum. Divulgence of sensitive intelligence when the case is less than convincing, even to key partners such as Germany and Russia, risks the compromise of intelligence sources, which if exposed could preclude U.S. ability to monitor additional violations or hostile intent. There is a long history that U.S. partners and allies are far less willing to admit the proliferation potential of threshold states.⁷⁰ The current dialogue in the media, only gives Iran greater opportunity to protest its innocence, and to assert its legal rights, thus undermining the U.S. case.

The CPI could undermine the NPT if its proponents fail to disassociate it from the notion of preemptive military strikes. In his 1994 testimony to the Senate Armed Services Committee, Ashton Carter challenged this association claiming that "some commentators have misinterpreted the counterproliferation initiative to be focused on 'preemptive' attacks on weapons of mass destruction facilities," an obvious reference to the 1981 Israeli air strike on Osiraq.⁷¹ He also stated that "our focus is on the danger that WMD will be used against U.S. citizens, forces, or allies in the course of a

⁷⁰ The most obvious example is the wanton disregard by members of the Nuclear Suppliers Group to police exports of nuclear and dual-use technology until after the Iraqi nuclear weapons program was exposed. In the case of Iran, Russia is willing to overlook the long stream of hostile rhetoric towards the West and Israel, while asserting that it is merely providing the same sort of technology to Iran that the U.S. and South Korea are willing to provide to North Korea.

⁷¹ Carter, 4.

regional conflict.”⁷² Evolving counterproliferation policy must continue to make this message clear.

Another way the CPI could undermine the NPT is in the development of a new generation of nuclear weapons. Although so-called “tiny nukes” and “micro nukes” might prove useful to penetrate underground facilities, developing new nuclear weapons would be discomforting amid the broad based calls for further nuclear arms reductions and eventual disarmament.⁷³ To develop new nuclear weapons would be inconsistent with current political trends, including the drive for a comprehensive nuclear test ban, and the call from some camps to speed the arms reduction and disarmament processes. Admiral H. G. Chiles, Commander-in-Chief of the United States Strategic Command, recently testified before the Senate that no new nuclear warheads are currently in development.⁷⁴ But such assurances have yet to be convincingly put forward by the Defense Department. Perhaps this will be confirmed officially once the Comprehensive Test Ban is concluded.

D. NUCLEAR WEAPONS FREE ZONES

1. Their Role and Function:

The Latin American Nuclear Weapons Free Zone (NWFZ) established

⁷² Ibid.

⁷³ Hans M. Kristensen and Joshua Handler, Changing Targets: Nuclear Doctrine from the Cold War to the Third World (Washington D.C.: Greenpeace International, 1995), Appendix B, as quoted from U.S. Navy, “STRATPLAN 2010,” Phase II, June 1992, 93. STRATPLAN 2010 has since been superseded.

⁷⁴ Admiral H. G. Chiles, statement before the Senate Armed Services Committee (23 February 1995), 8.

by the Treaty of Tlatelolco actually predates the NPT by more than a year.⁷⁵ The other NWFZ at the present is in the South Pacific, and was established by the Treaty of Rarotonga which entered into force in 1986. The agreement signed between North and South Korea in 1992 to negotiate a treaty to "denuclearize" the Korean Peninsula promised to ban not only nuclear weapons, but also uranium enrichment and plutonium reprocessing, although the negotiations have been repeatedly delayed by the North.⁷⁶ Negotiations are in progress to establish an African NWFZ,⁷⁷ and the idea of a NWFZ in the Middle East remains active, having been most recently aired by President Clinton during the visit of Egyptian President Mubarak in April of 1995.⁷⁸

The advantage of NWFZs is that they express a strong regional consensus against nuclear proliferation by banning nuclear weapons from an entire region. They may prove successful in rolling back or reversing nuclear weapons development programs where other efforts have failed. The Latin American NWFZ helped influence Argentina and Brazil to stop their nuclear weapons research, to conclude a mutual safeguards agreement with the IAEA, and to join the Treaty of Tlatelolco itself. Argentina has since joined the NPT, and Brazil is also exploring the issue. Israel supports a Middle East NWFZ,

⁷⁵ The Treaty of Tlatelolco entered into force in 1968, several months before the NPT negotiations were concluded.

⁷⁶ Jon Brook Wolfsthal, "Nuclear-Weapon-Free Zones: Coming of Age?" *Arms Control Today*, vol. 13, no. 9 (March 1993), 3-4.

⁷⁷ David Fischer, "Reversing Nuclear Proliferation: South Africa," *Security Dialogue*, vol. 24, no. 3 (September 1993), 284.

⁷⁸ Douglas Jehl, "Clinton Presses for Nuclear-Free Mideast," *The New York Times* (6 April 1995), A7.

but continues to insist on regional peace must be a prerequisite.⁷⁹ As early as November 1972, the Pakistani prime minister called for a South Asian NWFZ.⁸⁰ Pakistan has repeatedly tendered this offer, but India continues to insist that it needs to keep its "nuclear option" because of broader problems. Future NWFZs offer a useful tool to keep the three most notorious NPT holdouts, Israel, India, and Pakistan engaged in the non-proliferation dialogue, and given the right political prerequisites might allow these countries to ultimately step back from the nuclear threshold without the loss of face that would be inherent in capitulating to the NPT. They are highly compatible with counterproliferation since they create areas in which U.S. or U.S.-led coalition forces would be unlikely to encounter nuclear weapons.

2. The Nature of NWFZs:

NWFZs are less threatening to the NPT holdout states, and are not discriminatory. The defining element of a NWFZ is regional consensus on a common declaration of non-proliferation and nuclear security issues. Unlike the NPT, they have a broader objective which demands the total absence of nuclear weapons from a specified region, and which compels commitments from the nuclear weapons states.⁸¹ In the case of the Treaty of Tlatelolco, the obligations are more stringent than the NPT. All states must submit to full scope safeguards, provide semi-annual reports by members certifying no

⁷⁹ Wolfsthal, 7. Israel abstained from a 1974 vote in the UN General Assembly calling for the creation of a NWFZ, but voted in favor of a resolution by consensus in 1980.

⁸⁰ Munir A. Kahn, "Problems of Nuclear Weapons Proliferation in South Asia," paper presented at the International Conference on Promoting Nuclear Disarmament of the Italian Union of Scientists for Disarmament, Castogliancello, Italy (5-8 October 1991), 13-15.

⁸¹ Helen Leigh-Phippard, "Nuclear Weapon-Free Zones: Problems and Prospects" Arms Control, vol. 14, no. 2 (August 1993), 93.

activity prohibited by the treaty has occurred within its territory, provide special reports if requested by the General Secretary, and submit to challenge inspections.⁸² The Treaty of Rarotonga also allows challenge inspections, in sharp contrast to NPT procedures.⁸³ These treaties point the way for a strengthened NPT.

3. Legal Ramifications of NWFZs:

a. The Latin American Nuclear Weapons Free Zone:

There are three sets of legal obligations. The first requires regional parties to keep the zone free of nuclear weapons. There are only two apparent loopholes in this agreement: the treaty allows peaceful nuclear explosives, and it allows by interpretation the right of each party "to grant or deny permission for the transit of nuclear weapons through its territory, territorial waters, and ports,"⁸⁴ The issue of peaceful nuclear explosives over time has become a non-issue owing to their questionable utility, and the corresponding decline in interest. The right to grant or deny transit is increasingly a non-issue since the navies of nuclear weapons states, most notably the United States Navy, withdrew tactical nuclear weapons from ships.

The second set of legal obligations is framed within Additional Protocol I and compels non-Latin American states exercising jurisdiction over territory within the zone to abide by the same obligations as the treaty parties. Four non-regional states have acceded to this protocol, including the United States, the United Kingdom, France, and the Netherlands. This protocol further strengthens the legitimacy of the treaty by preventing the basing of extra-regional nuclear weapons in these territories.

⁸² Ibid, 98-9.

⁸³ Wolfsthal, 3.

⁸⁴ Leigh-Phippard, 96.

The third set of legal obligations is contained within Additional Protocol II which compels all five nuclear weapons states to respect the treaty regime, agree not to act in ways to violate it, and not to use or threaten use of nuclear weapons against any of the parties to the treaty. Only China has accepted this protocol without reservation, consistent with its declared policy of "no first use." France retained its right to self-defense under Article 51 of the UN Charter, and the remaining three nuclear weapons states reserved a right to reconsider their obligations under the protocol if attacked by a party of the treaty assisted by another nuclear weapons state. But despite these qualifications, the treaty "represents the first and only instrument of its kind under which the nuclear weapon states have formally undertaken to guarantee the nuclear security of certain non-nuclear weapon states."⁸⁵

b. The South Pacific Nuclear Free Zone:

The Treaty of Rarotonga does not prohibit all peaceful nuclear activity, so the zone is really a NWFZ despite its name. It bars its parties from the same sorts of activity as the Treaty of Tlatelolco, with one important addition, a ban on the export of nuclear materials except "in accordance with strict non-proliferation measures to provide assurance of exclusively peaceful non-explosive use."⁸⁶ This wording allows Australia to continue to operate its uranium export industry which was already under strict export controls before the treaty was negotiated. The treaty also contains three additional protocols for non-regional parties, the first two of which are similar to the protocols of the Treaty of Tlatelolco.

Protocol 1 seeks to obligate France, the United Kingdom, and the United States to observe the same prohibitions on manufacturing, possessing, stationing, and testing nuclear weapons within the zone to which the parties

⁸⁵ Ibid, 98.

⁸⁶ The Treaty Of Rarotonga, Article 4 a (ii).

must adhere. It remains unsigned, owing to a number of concerns over sovereignty and security including positive security assurances provided to key allies to protect them against nuclear attack. Protocol 2 obligates the nuclear weapons states not to use or threaten use of nuclear weapons against states within the zone. Protocol 3 proscribes the testing of nuclear weapons within the zone.

To date, China and Russia have signed Protocols 2 and 3, but both reserve the right to reconsider if attacked by a party that is backed by a nuclear weapons state. France rejects the protocols as an infringement upon its sovereignty over its territories in the region, which include its nuclear test site in French Polynesia. Both the United Kingdom and the United States have stated that signing the protocols would be contrary to their national interests, although both noted that their activities in the region are not inconsistent with the requested behavior.⁸⁷ There is an inconsistency in the behavior of both the United Kingdom and the United States in their willingness to abide by the additional protocols of the Treaty of Tlatelolco while rejecting those of the Treaty of Rarotonga.

4. Effectiveness of NWFZs:

The Latin American NWFZ was not initially effective. It was hamstrung by the nuclear rivalry of Argentina and Brazil. The rivalry also embroiled Chile, which feared Argentine nuclear potential, but which lacked the infrastructure and resources to proliferate. When all three countries joined the treaty in 1992 it allowed the zone to be brought into force for the entire landmass of South and Central America and most of the Caribbean islands. The only holdout is Cuba, which has nonetheless announced its

⁸⁷ Leigh-Phippard, 103-04.

intentions to abide by the terms of the treaty.⁸⁸ The support of the Additional Protocols I and II by the nuclear weapons states and the Netherlands gives the treaty additional strength of consensus. The South Pacific Nuclear Free Zone is undermined to a degree by the unwillingness of France, the United Kingdom, and the United States to sign Protocols 1, 2, and 3.

5. Future Viability of NWFZs:

NWFZs have a bright future. The two existing zones are strong and can be made stronger. The prospects for other NWFZs are good. The United States has contributed positively to the process by listing seven conditions for its support of such zones.⁸⁹ These conditions will be useful to regional negotiators as they work the details of future zones. It is constructive to note that "the very process of working to create one can have a beneficial effect . . . (and) can help allay suspicions, increase transparency, and build confidence among neighbors."⁹⁰ The rapprochement of Argentina and Brazil, their accession to the Treaty of Tlatelolco, and Argentina's accession to the NPT have greatly improved the political situation and security of all of Latin America. Perhaps similar results can eventually be realized in such trouble

⁸⁸ Wolfsthal, 5. The seven conditions include the following: 1. initiatives to create a NWFZ must come from the states in the region concerned, 2. all states whose participation is deemed "important" should be included, 3. the zone arrangement should provide "adequate" verification of compliance with the zone's provisions, 4. the establishment of the zone should not disturb existing security arrangements to the detriment of regional and international security, 5. The zone arrangement should effectively prohibit its parties from developing or otherwise possessing any nuclear explosive device for whatever purpose, 6. the zone should not seek to impose restrictions on the exercise of rights recognized under international law, particularly the principle of freedom of navigation, and 7. the establishment of a zone should not affect the existing rights of parties to grant to other states transit privileges, including port calls and overflights.

⁸⁹ Ibid, 4.

⁹⁰ Ibid, 4.

spots as the Middle East, the Korean Peninsula, and South Asia.

6. Vulnerability of NWFZs:

As with the NPT, a clandestine nuclear program could develop inside a NWFZ, but two things work against such programs. One is the challenge inspection system, and the other is the element of regional peer pressure inherent in such agreements. In both cases of existing NWFZs the states in these areas are already closely dependent upon each other for their economic livelihood, which further enhances the sense of peer pressure in the realm of nuclear non-proliferation and security. In a relative sense NWFZs are somewhat less vulnerable to cheating than the NPT, owing to a stricter system and the strength of regional ties.

7. How the CPI Could Enhance NWFZs:

The CPI has little to offer to the existing NWFZs, and potentially little to offer to future zones. Dedicated as they are to strong consensus on regional nuclear non-proliferation, NWFZs have a stronger base of consensus, and less likelihood that a member state would defect by proliferating. Like the NPT, these treaties create a dual source of obligation for non-parties and those that might withdraw to comply with the norm of the treaty. Once a state enters into such a treaty it has a great deal to lose by cheating or quitting. The CPI could provide a deterrent to prevent cheating, but it would be secondary to the heightened deterrence inherent in an egalitarian agreement among neighbors who are all subject to the same requirements. Improved passive and defensive options provided they were shared equally throughout a NWFZ could prove useful.

8. How the CPI Could Undermine NWFZs:

There is little likelihood that the CPI will undermine NWFZs since the potential adversaries against whom it would be employed both offensively and defensively would likely not be member states of a NWFZ treaty. In the unlikely event of a member of a NWFZ pursuing a clandestine nuclear

proliferation program counterproliferation could be employed with the consensus of the other members without undermining the political consensus.

E. EXPORT CONTROLS

1. Their Role and Function:

Nuclear export controls, notably the Zangger Committee list of the IAEA and the Nuclear Suppliers Group export cartel (also known as "the London Club") are based on the idea that nuclear proliferation can be delayed or set back, if not prevented outright, by the denial of key technologies and equipment. These controls are an attempt by nuclear suppliers to backfill a loophole in the NPT which "does not require specifically that the export of nuclear facilities should trigger safeguards, even though it would seem logical that control over materials and equipment would imply control over facilities as well."⁹¹ Some countries used this loophole liberally, including Italy which sold hot cells and a fuel fabrication plant to Iraq in the late 1970s without informing the IAEA or requiring safeguards.⁹² Export controls have been further tightened since the revelation of the extensive Iraqi deception and its use of front companies and other deceptive schemes.

2. The Nature of Export Controls:

Export controls have long been derided by the developing countries as another example of discrimination. Munir A. Kahn, former director of the Pakistani Atomic Energy Commission has publicly charged that "the overall effect was a set-back for development of peaceful nuclear energy programs

⁹¹ Bailey, 18.

⁹² Ibid. Attributed to David Fischer, "The London Club and the Zangger Committee: How Effective?" in Bailey and Rudney, eds., Proliferation And Export Controls (New York: University Press of America, 1993), 42.

throughout the world.”⁹³ But an even greater discrimination is made by the suppliers between NPT signatories and the NPT holdouts in favor of the holdouts. Suppliers have favored non-parties “whenever economic conditions favor the non-party.”⁹⁴ The most embarrassing evidence is the “failure to require full-scope IAEA safeguards as an invariable condition of supply on the inconsistent and spurious ground that the requirement would constitute unwarranted interference in the internal affairs of sovereign states.”⁹⁵ But despite the inconsistencies and abuses in implementing them, export controls have steepened the approach to the nuclear threshold by cutting off legitimate access and raising the costs of proliferation.

3. Legal Ramifications of Export Controls:

Export controls are not legally binding as treaty law, because they are not treaties. They are gentlemen’s agreements which, however inconsistently applied over the course of time, are nonetheless becoming customary law. It remains to be seen if export controls will be codified as a treaty among the suppliers. Until the revelation of Iraq’s elaborate deception, there was little interest in strengthening these agreements. They were taken merely as recommendations or suggestions which sovereign states were free to implement to the degree they felt appropriate. Export controls remain the purview of national customs authorities and have a force of law only to the degree that the individual nations are willing to apply them. All countries seriously interested in furthering nuclear non-proliferation should ensure that export controls are enforced to a strong universal standard because they play the leading role in establishing a distinction between legitimate and

⁹³ Kahn, 14.

⁹⁴ Dahlitz, 141.

⁹⁵ Ibid.

illegitimate trade, which is important in separating proliferation risks from legitimate peaceful nuclear activities.⁹⁶

4. Effectiveness of Export Controls:

Export controls have been only marginally effective owing to the unwillingness of supplier states to enforce them consistently. Although they may not always succeed in preventing proliferation they play a large role in influencing events and political decisions, and in buying time for the other elements of non-proliferation policy to work.⁹⁷ By branding particular exports as illegal, export controls label both the exporter and the importer which can be useful in the political and legal processes of building nonproliferation consensus. One final measure of effectiveness is the idea of the "trigger lists" used by both the Zangger Committee and the NSG as a means of triggering the application of safeguards, and of providing an early warning of new nuclear activity which should be closely monitored to be sure of its legitimacy.

5. Future Viability of Export Controls:

One of the great advocates of export controls, Senator John Glenn, maintains that "(w)arts and all, export controls are still better than their *laissez faire* alternative as a foundation of world order."⁹⁸ A lively debate continues on several issues, including standardized customs procedures, the addition of "dual-use" items to the trigger lists, and the easing of controls to avoid hurting national commercial interests. Some argue that further tightening of controls will deepen the North-South divide far out of

⁹⁶ Henry D. Sokolski, "Proliferation: The Case for Export Controls," The Heritage Letters, No. 491 (Washington: The Heritage Foundation, 1994), 4.

⁹⁷ Ibid.

⁹⁸ Senator John Glenn, "Export Controls in the New World Order," Proliferation Watch, vol. 4, no. 4 (July/August 1993).

proportion to any benefits.⁹⁹ Others argue that further efforts to “tweak supply-side policies . . . are unlikely to be worth the resources they will require . . . and may actually distract valuable energies and resources from non-proliferation policies that could be more constructive.”¹⁰⁰ The original invitation made by the United States to the original partners in the fall of 1974 “singled out enrichment and reprocessing technologies as being particularly sensitive and in need of control.”¹⁰¹ No one with a serious interest in nuclear non-proliferation is calling for the weakening of export controls on these two capabilities. In 1992, the NSG voted to require full-scope safeguards as a prerequisite for any exports, a move long advocated and practiced by the United States.¹⁰²

6. Vulnerability of Export Controls:

Some groups say that the controls are hypocritical in allowing European states and Japan to reprocess plutonium while denying this capability to South Korea and Iran.¹⁰³ Greenpeace International has gone a step further, in alleging that U.S. exports of reprocessing technology to Japan violate U.S. law (the Nuclear Non-proliferation Act of 1978).¹⁰⁴ At issue are

⁹⁹ Leventhal, 168.

¹⁰⁰ Bailey, 25.

¹⁰¹ M. J. Wilmshurst, “The Development of Current Non-proliferation Policies” in eds., John Simpson, and Anthony G. McGrew, The International Non-Proliferation System (New York: St. Martin’s Press, 1984), 28.

¹⁰² Bailey, 18.

¹⁰³ Paul Leventhal, and Daniel Horner, “Peaceful Plutonium? No Such Thing,” The New York Times (25 January 1995).

¹⁰⁴ Greenpeace International, “Illegal Transfer of Sensitive Nuclear Technology: U.S. to Japan,” report pamphlet (8 September 1994).

confidential guidelines adopted by the U.S. Department of Energy in 1986 that may have skirted the law by allowing transfers of sensitive technology to states with advanced nuclear programs. The U.S. Congress is considering legislation to direct the Department of Energy to rescind these guidelines.¹⁰⁵ Inconsistency gives the NSG the reputation of being a "white man's club" which also has good relationships with the Japanese. Export controls are also vulnerable to being gradually made insignificant due to advances in indigenous production and the development of second tier suppliers which are increasingly capable of providing the requested materials and equipment. Some of these countries sell restricted technology not only for profit, but to spite the discriminatory nature of the NSG. But despite these tensions the NSG has expanded from its original membership from seven to twenty-eight.¹⁰⁶

7. How the CPI Could Enhance Export Controls:

Counterproliferation is compatible with export controls since their advocates are the developed states which all share a common vision of preventing nuclear proliferation to unreliable states. CPI policy must be shaped to take advantage of this already existing tool of the advanced countries. The use of export controls to label a potential proliferator is a useful political tool which a credible counterproliferation capability may be able to enhance. Countries to which counterproliferation policy would likely be applied are also of interest to the NSG.

8. How the CPI Could Undermine Export Controls:

As long as counterproliferation is consistent with the group consensus of the NSG, it is unlikely that it would undermine export controls. Unilateral

¹⁰⁵ Programme for Promoting Nuclear Non-proliferation, PPNN Newsbrief, no. 28, (4th Quarter 1994), 10.

¹⁰⁶ Center for Disarmament Affairs, The United Nations Disarmament Handbook, vol. 18 (New York: United Nations, 1994), 14.

or multilateral action which seemingly lacked legitimacy could, however, undermine export controls.

F. SECURITY ASSURANCES

1. Their Role and Function:

Security assurances are the promises made in the form of declarations, treaties, and UN Security Council resolutions regarding the use of nuclear weapons. Positive assurances are commitments by the nuclear weapons states to support and defend a non-nuclear weapon state if it is attacked with nuclear weapons. Negative assurances are pledges made by the nuclear weapons states that they will not use their nuclear weapons against non-nuclear weapons states. Security assurances are given by the nuclear weapons states as an inducement or compensation for non-nuclear weapons states to commit themselves to non-proliferation agreements. The only one positive security assurance is UN Security Council Resolution (UNSCR) 225 sponsored by the Soviet Union, the United Kingdom, and the United States when the NPT was opened for signature in 1968. It pledged immediate assistance to any victim of a nuclear attack or threat of nuclear aggression. UNSCR 984, approved on 11 April 1995, provides the strongest negative security assurance yet tendered, in which the five nuclear weapons states vowed not to use nuclear weapons against nonnuclear weapons states except when such a state is allied with a nuclear weapons state.¹⁰⁷

2. The Nature of Security Assurances:

These pledges are one-sided compensatory concessions for the discriminatory nature of the non-proliferation regime. They help reduce the fears and criticisms of the non-nuclear weapons states. In the case of NWFZs, they are useful tools to strengthen regional consensus. There have been

¹⁰⁷ Barbara Crossette, "Discord Is Rising Over Pact on Spread of Nuclear Arms," The New York Times (17 April 1995), A1 and A4.

many calls to strengthen and standardize the assurances among the five nuclear weapons states. China has long argued that the only truly effective negative security assurance is its policy of "no first use," but the other nuclear weapons states have been unwilling to accept this position. In fact, Russia recently abandoned the no first use policy of the Soviet regime. States are only willing to give assurances that are consistent with their security needs. Additional Protocol II of the Treaty of Tlatelolco provided a negative assurance like the April 1995 Security Council Resolution, but only to the members of the Latin American Nuclear Weapons Free Zone. Although a similar assurance is provided in Protocol 2 of the Treaty of Rarotonga, France, the United Kingdom, and the United States have refused to sign it. George Bunn describes U.S. refusal to sign Protocol 2 as "a discrepancy hard to explain," indicating that U.S. resistance is not based on security issues.¹⁰⁸ France, however, has security needs tied to its sovereignty over French Polynesia and the use of its nuclear testing facility there.

3. Legal Ramifications of Security Assurances:

Legal ramifications differ depending on the nature of the particular assurance. China's no-first use policy is a moral tool by which China bridges the gap between the nuclear weapons states and the non-nuclear weapons states. It has created a norm of Chinese behavior which is unlikely to be reversed, especially since China lacks a credible second strike capability. The negative security assurances provided by the Western nuclear weapons states at the Geneva Conference on Disarmament in 1978 have become customary law. They are now strengthened and codified by UNSCR 984, which has the force of international law. The negative assurance provided in Additional

¹⁰⁸ Ibid. U.S. resistance to Protocol 2 seems to be based on a political struggle with ANZUS partner New Zealand over its refusal to allow the port visit of the USS Buchanan after U.S. Navy officials refused to confer or deny the presence of nuclear weapons on board. After the withdrawal of shipboard tactical nuclear weapons ordered by President Bush in September 1991, this issue seems obsolete.

Protocol II of the Treaty of Tlatelolco as well as the positive assurance given in UNSCR 225 also have this force of law. There is also a nearly fifty year old taboo against the use of nuclear weapons which is developing the force of customary law.

4. Effectiveness and Stability of Security Assurances:

Assurances that are binding under international law are the most effective and stable. States have difficulty reversing themselves once they have a legal commitment through a treaty or Security Council Resolution. The negative assurances UNSCR 984 and in the Treaty of Tlatelolco are the most convincing, because of their uniformity. The positive assurance of UNSCR 255 is somewhat less convincing, because it is vaguely worded and is reactive not preventive. There is also the broader question of whether positive security assurances are even credible in world with nuclear weapons. NATO allies often questioned U.S. resolve to use nuclear weapons to protect Europe, and the assurance had to be backed by a massive U.S. conventional forces presence. Back when the Security Council was split on East-West lines any attempt to implement it would have run the risk of a veto. Other assurances are less effective because they lack the force of treaty law.

5. Future Viability of Security Assurances:

The new cooperation among the five permanent members of the Security Council (nuclear weapon states), as expressed in UNSCR 984 is a hopeful indicator of stronger assurances in the future. China's "no first use" negative security assurance is convincing, and gives it the high moral ground. From many angles, the call comes for the U.S. to strengthen its negative assurance by agreeing to no first use, and to deny use except in retaliation for a nuclear attack on the United States or its allies. David Fischer proposes that the nuclear weapons states adopt a uniform negative assurance with the qualification that a treaty violator should not be regarded in the same light as

a state that is meeting its treaty obligations.¹⁰⁹ For the foreseeable future, less developed states will push for stronger assurances as a just compensation by nuclear weapons states to the non-nuclear weapons states in exchange for their willing participation in the nuclear non-proliferation regime.

6. Vulnerability of Security Assurances:

The positive assurance of UNSCR 225 is weak because it is reactive. While the Security Council would be unlikely to allow a state threatened by nuclear weapons "to take the first hit" there are nonetheless no assurances that the Council or its member would take preventive measures. Some would argue that 225 and the fear of global condemnation is deterrent enough, but others view it as a paper tiger, especially because of its vague wording, and the lack of clear consequences. It could be interpreted as demonstrative of a lack of resolve among the five permanent members. Hopefully this will be resolved soon with a strengthened resolution. The negative assurances are clearer in stating the intentions of the nuclear weapons states not to use nuclear weapons, even with the various reservations.

7. How the CPI Could Enhance Security Assurances:

UNSCR 255 has often been criticized as too general and too limited in scope. The Stockholm International Peace Research Institute (SIPRI) claims that it is of questionable value, noting that "it provides for action only when a threat of nuclear attack has been made or an attack has already occurred . . . (and) it does not offer assurance for the prevention of the use or threat of use of nuclear weapons."¹¹⁰ The combination of a strengthened Security Council resolution offering uniform positive assurances backed by a credible

¹⁰⁹ Fischer, Towards 1995, 167.

¹¹⁰ Stockholm International Peace Research Institute (SIPRI), Arms Control, A Study and Appraisal of Multilateral Agreements (London: Taylor and Francis, LTD., 1978), 16.

counterproliferation capability and a common consensus for counterproliferation policy would offer a considerable deterrent to a would-be proliferator, while adding a strong measure of legitimacy to both the assurance and to counterproliferation. The CPI does not offer any additional strength or credibility to negative security assurances, unless it specifically uses only non-nuclear means.

8. How the CPI Could Undermine Security Assurances:

Offensive counterproliferation using nuclear weapons would badly undermine negative security assurances. It would not only break the norm of non-use of nuclear weapons, but would also underscore the perception among the developing countries that the nuclear weapons states were insincere all along in their assurances. Default on a negative assurance would strain the credibility of other negative assurances, which could in turn undermine the NWFZ treaties. Offensive counterproliferation by non-nuclear means would probably have little direct effect on either negative or positive assurances. If it were successful and perceived as legitimate, it would be cheered.

G. CONCLUSIONS REGARDING THE CPI'S IMPACT ON THE NUCLEAR NONPROLIFERATION REGIME

Despite its limitations and failures, the regime is viable for the future and enjoys strong international support. Its discriminatory nature will continue to be a focus of Third World rhetoric and political posturing, but the regime will nonetheless be strengthened because the alternatives for even the most vociferous critics are far worse in terms of both security and economy. This analysis largely supports the claims of the CPI's advocates that counterproliferation complements the nonproliferation regime. The key will be properly managing counterproliferation so that it does not undermine the sense of international consensus upon which the nonproliferation regime

will continue to be based. Many observers continue to see in the CPI the possibility of unilateral preventive strikes and the possible use of nuclear weapons. Both of these possibilities undermine the sense of international trust and cooperation embodied in the IAEA, the NPT, and the security assurances.

The components of the regime likely to be affected by the CPI are the components most dependent upon solid international trust: the IAEA and the NPT. The NPT is the most important to the regime, and damaging the spirit of consensus must be avoided. However, the NPT could be strengthened by counterproliferation if properly managed and applied (as suggested by the Council on Foreign Relations task force study). It is compatible with export controls. NWFZ's are unlikely to be undermined or strengthened by the CPI. As long as nuclear weapons are not used in counterproliferation, it will not undermine security assurances. The question which this study of the nonproliferation regime now begs, is how should counterproliferation be managed and applied?

III. THE EVOLUTION OF THE COUNTERPROLIFERATION INITIATIVE

A. A CONTROVERSIAL ANNOUNCEMENT BEGETS CONFUSION

When he first announced the CPI, former Secretary of Defense Aspin claimed that it "will allow us to deal with the number one threat identified in the Bottom-up Review, and it will provide the real strength America needs to meet the dangers we face."¹¹¹ He insisted that it was not meant to replace or lessen U.S. nonproliferation efforts. It would strengthen the preventive aspects of nonproliferation, while also providing protection in the cases where proliferation occurs.¹¹² Aspin realistically admitted that some proliferation was inevitable despite the most determined nonproliferation efforts. The CPI offered the possibility of dealing with these selected cases on the implied assumption that such states would be hostile towards the United States and its allies. To Aspin, it seemed a natural response to such a threat.

Aspin implied that the CPI was a new direction for U.S. nonproliferation policy. First, he used the new term "counterproliferation," a word which was invented within the Department of Defense, and which was virtually unknown prior to his announcement.¹¹³ Second, he called his proposal an "initiative," implying that the Department of Defense was embarking upon a new venture of its own making. He stated that the initiative was "a drive to develop new military capabilities."¹¹⁴ Finally, he stated that the first of the CPI's five elements was "the creation of the new

¹¹¹ Aspin, 3.

¹¹² Ibid, 2.

¹¹³ The term has been attributed by multiple sources to Captain Larry Sequist, USN (retired).

¹¹⁴ Ibid.

mission by the president.”¹¹⁵ But the “newness” of the CPI brought with it many problems.

The most immediate problem was confusion over the meaning of the new term. It caused confusion in the State Department and at ACDA, as well as with foreign governments and political analysts. Although Aspin outlined five points to meet the post-Cold War proliferation threat, he did not explain the new term. He announced a major new policy initiative without explaining the principle behind it. Although the principle seems to make good sense by providing some additional options, the lack of detail in the explanation spawned confusion and criticism. It was apparent from the interagency debate that ensued that the Defense Department had not clarified its position with the other agencies prior to the announcement. One Department of Defense official has since stated that the CPI means the five points in Aspin’s announcement.¹¹⁶ Benjamin Sanders states that:

searching through the literature I did not come upon one agreed definition that covers both its purpose and its nature . . . few of the descriptions pass as clear definitions . . . it seems to promote the conduct of lively and increasingly heated discussions on the subject which in consequence tend to confuse the issues and tend not to be very productive.¹¹⁷

Over time, and with repetition by key Defense officials, it has become more clear that counterproliferation means an expansion of military options to deal with the cases of WMD proliferation where diplomatic efforts fail.

¹¹⁵ Ibid.

¹¹⁶ Interview with the author, 1 February 1995.

¹¹⁷ Benjamin Sanders, “Counterproliferation: How Does It Play on the International Stage?” in Reiss and Müller, International Perspectives on Counterproliferation, 1-2.

The packaging of the CPI as a Defense Department initiative embodying a new mission and new technologies implied a new direction which might eventually produce new behavior. Some critics immediately feared the worst. The most vocal linked it to Israel's Osiraq air strike and condemned the idea of preventive strikes or raids. Reenforcing this linkage, Israeli proliferation scholar Avner Cohen, recently called it "an ideological sibling of the Begin Doctrine."¹¹⁸ The Washington Post has referred to Osiraq as "the best-known example of counterproliferation."¹¹⁹ Others have questioned its "newness." David Fischer notes that at first glance

one is tempted to ask what U.S. forces have been doing during the last forty-five years if not preparing themselves to do battle against an adversary that was ready to use weapons of mass destruction . . . on a far greater scale than any that U.S. forces are likely to encounter now.¹²⁰

Joseph Pilat notes that the United States has responded to proliferation in the past, by new strategies, tactics, and capabilities to deter use in the cases of the Soviet Union and China, by cut-offs of nuclear assistance to India, and by

¹¹⁸ Cohen, 74-75 and 95. Cohen asserts that the Osiraq strike publicly established the "Begin Doctrine." See also Jed Snyder, "The Road to Osiraq: Baghdad's Quest for the Bomb," Middle East Journal, vol. 37, no. 4 (Autumn 1983), 581-2, in which Snyder quotes an Israeli government statement declaring that "under no circumstances would it 'allow the enemy to develop weapons of mass destruction against our nation; we will defend Israel's citizens with all the means at our disposal'" (taken from FBIS report dated 9 June 1981). See also Dan McKinnon, Bullseye One Reactor (San Diego, California: House of Hits Publishing, 1987) 4-5 and 185-189, provides excerpts of Begin's 9 June 1981 press conference. McKinnon quotes Begin as saying "Tell your friends, tell anybody you meet, we shall defend our people with all the means at our disposal."

¹¹⁹ Ibid, as quoted from Thomas Lippman, "If Nonproliferation Fails, Pentagon Wants 'Counterproliferation' in Place," The Washington Post (15 May 1994).

¹²⁰ Fischer, "Forcible Counterproliferation: Necessary? Feasible?," 11.

cutting economic and military assistance to Pakistan (though there was little open response to Israel). He concedes that past counterproliferation was an "ad hoc reaction to proliferation" not part of a grand strategy.¹²¹ Aspin's vision was to make it a part of grand strategy.¹²²

Aspin stated that the Defense Department was "adding the task of protection to prevention," and "adding protection as a major policy goal."¹²³ He said that it would supplement existing nonproliferation efforts. The initiative would provide protection through deterrence, by developing a credible military capability to counter the use and effects of WMD with the hope of ultimately preventing their use on future battle fields. Zachary Davis of the Congressional Research Service asserts that a primary objective of the CPI is "to articulate a credible deterrent posture to dissuade acquisition, transfer, or use of WMD. This aspect of counterproliferation builds on classical deterrence theory."¹²⁴ Michèle Flournoy cautions that "conditions conducive to credible deterrence may not always be present," and that the requirements for deterrence may differ from case to case.¹²⁵ The new capabilities Aspin called are meant to provide such deterrence.

The Department of Defense Annual Report (January 1994) contained a diagram entitled "Responding to the Proliferation Threat" which showed

¹²¹ Pilat, 4-5.

¹²² I equate grand strategy to national security strategy as articulated approximately annually by the White House in the president's National Security Strategy.

¹²³ Aspin, 2.

¹²⁴ Davis, 7-8

¹²⁵ Michèle Flournoy, "Implications for U.S. Military Strategy," in Blackwill and Carnesale, New Nuclear Nations, 141-142.

Aspin's vision of an expanded spectrum of nonproliferation policy options including deterrence (figure 1). Eight responses are shown, four under the heading Prevention and four under the heading Protection. The four Protection responses were tagged with the label "Special DoD Responsibility" while all eight responses were tagged with "DoD Shares Interagency Responsibility."¹²⁶ The diagram was consistent with the text of Aspin's speech, but did not show which of the eight responses were actually considered to be counterproliferation. One month later the Daniel Poneman memorandum stated that counterproliferation

refers to the activities of the Department of Defense across the full range of U.S. efforts to combat proliferation, including diplomacy, arms control, export controls, and intelligence collection and analysis with particular responsibility for assuring that U.S. forces and interests can be should they confront an adversary armed with weapons of mass destruction or missiles.¹²⁷

Comparing the memo with the diagram, would imply that all eight of the responses fall under counterproliferation, since Defense claims to share interagency responsibility for all of them, and no one has rebutted the diagram.

Ashton Carter repeated Poneman's counterproliferation definition verbatim during his 28 April 1994 presentation to the Senate Armed Services Committee.¹²⁸ He also stated that "in placing new emphasis on countering the effects of proliferation in regional conflicts, we are in no way de-emphasizing our efforts to prevent proliferation in the first place. Prevention

¹²⁶ U.S. Department of Defense, Annual Report (Washington: Government Printing Office, January 1994), 37.

¹²⁷ Poneman.

¹²⁸ Carter, 3.

Responding to the Proliferation Threat

Figure 1



Prevention	Protection
Dissuasion Emphasizing economic, political, and military causes of proliferation Positive/Negative security assurance and guarantees Security assurances Public Diplomacy	Defense TMD BW vaccines Strategic and tactical warning Unconventional delivery, counterterrorism Border/perimeter Control
Denial Export Controls Interdiction Disruption of supply networks	Offense Underground structures SCUD hunting Contamination problems
Arms Control NPT, BWC, CWC Nuclear Free Zones Confidence Security Building Measures Rolling back Argentine Missiles, South African nukes. Inspections and monitoring	Deterrence Small nuclear arsenals CW BW Undeterrables
International Pressure Sanctions Isolation Publicizing violations Intelligence sharing to persuade others of the danger	Defusing Cooperative dismantlement Safety and security enhancements Stabilizing measures Confidence Security Building Measures

Special DoD Responsibility

DoD Shares Interagency Responsibility

is our first choice and our highest priority.”¹²⁹ He expounded upon the same five areas covered by Aspin six months earlier. He also pointed out ways in which the Defense Department supports other nonproliferation activities. But he did not say how such improved support under the CPI might enhance these activities. The Defense Department has not yet publicly explained how the CPI will enhance nonproliferation activities, and it has yet to admit that there is a risk of undermining them as well.

In May 1994, the Defense Department issued its Report on Nonproliferation and Counterproliferation Activities and Programs (the Deutch Report). It was the result of a study chaired by Deputy Secretary of Defense John Deutch. The report repeated the Poneman definition of counterproliferation, and discussed the same eight responses to proliferation presented in the January report.¹³⁰ The report calls these responses a “balanced program” but fails to explain why it is balanced, nor how counterproliferation can coexist with traditional nonproliferation activities.¹³¹ The broad representation from thirteen government departments and agencies, give this report significant credibility, but the lack of explanations of how the policy might actually work indicated that this issue needed further study.

The Deutch Report identifies two National Security Council committees. The Principals Committee is “the senior interagency forum for consideration of issues affecting national security” and the Deputies Committee is “the senior sub-cabinet interagency forum for review and

¹²⁹ Ibid.

¹³⁰ John M. Deutch, Report on Nonproliferation and Counterproliferation Activities and Programs (Washington: Department of Defense, 1994), 1 and 4.

¹³¹ Ibid.

monitoring the work of the interagency process.”¹³² It also mentions two special assistants to the President, one for Defense Policy and Arms Control, and one for Nonproliferation and Export Controls. Each assistant chairs an Interagency Working Group “to address issues in these areas.”¹³³ The report provides a consensus of how interagency tasking and coordination on both nonproliferation and counterproliferation is to be accomplished.¹³⁴

The newly released National Security Strategy and National Military Strategy, both dated February 1995, do not specifically mention the CPI. Although countering WMD is mentioned briefly, this is a significant change from previous editions of these documents. Traditionally these documents describe U.S. strategy in only the most general terms, leaving the details to more detailed documents, many of which are classified. Although it may be tempting to view the light treatment of counterproliferation in these documents as evidence that there is little clear support for counterproliferation outside of Ashton Carter’s office, it is probably more accurate to say that what is mentioned is an important step towards developing the idea of counterproliferation into national security policy. Although the policy is still being worked out at both classified and unclassified levels, countering WMD is now clearly established as an element of national strategy.

The introduction to the National Security Strategy lists the administration’s accomplishments and briefly mentions that “the President launched a comprehensive policy to combat the proliferation of weapons of

¹³² Ibid, 7.

¹³³ Ibid.

¹³⁴ Ibid, Appendix B. This Appendix contains a complete list of both principals and working level officials who participated in the review.

mass destruction and the missiles that deliver them.”¹³⁵ A few pages later, under the heading “Enhancing Our Security” it mentions that “we are developing integrated approaches for dealing with threats arising from the development of nuclear and other weapons of mass destruction by other nations.”¹³⁶ A sentence under the subheading “Countering Weapons of Mass Destruction” mentions that

we are devoting greater efforts to stemming the proliferation of weapons of mass destruction and their delivery means, but at the same time we must improve our capabilities to deter and prevent the use of such weapons and protect ourselves against their effects.¹³⁷

Under the subheading “Nonproliferation and Counterproliferation” two additional sentences state

A critical priority for the United States is to stem the proliferation of nuclear weapons and other weapons of mass destruction and their missile delivery systems. Countries’ weapons programs, and their levels of cooperation with our nonproliferation efforts, will be among our most important criteria in judging the nature of our bilateral relations.¹³⁸

At the conclusion of this section is a statement which captures the essence of the CPI, which calls for the capability not only to deter the use of WMD “against either ourselves or our allies and friends, but also, where necessary and feasible, to prevent it.” The idea of preventing the use of WMD by an adversary is a major new direction when compared to previous versions

¹³⁵ The White House, A National Security Strategy of Engagement and Enlargement, 3. This is clearly a reference to the CPI.

¹³⁶ Ibid, 8.

¹³⁷ Ibid, 9.

¹³⁸ Ibid, 13.

which focused on deterring their use. Deterrence accepts the fact that an adversary already has WMD, whereas prevention embodies the intent to prevent an adversary from acquiring or deploying WMD in the first place. The conclusion also called for placing “a high priority on improving our ability to locate, identify and disable arsenals of weapons of mass destruction, production and storage facilities for such weapons, and their delivery systems.”¹³⁹ Such improvements must be realized in order to support a strategy of prevention.

The National Military Strategy has three sentences on the subject of “Countering Weapons of Mass Destruction” which also clearly show the new direction.

(1) adversaries should recognize our capability to dominate any escalation of conflict should weapons of mass destruction be employed against us.

(2) we will maintain and strengthen our defensive capabilities against such weapons.

and

(3) we continue efforts to prevent the use of mass destruction weapons and make preparations to operate effectively in environments marked by biological, chemical, or radioactive contamination.¹⁴⁰

By comparison, the 1992 version mentioned only the deterrence of an

¹³⁹ The White House, A National Security Strategy of Engagement and Enlargement, 14-15.

¹⁴⁰ The Joint Chiefs of Staff, National Military Strategy of the United States of America (Washington: Government Printing Office, 1995), 15.

adversary's WMD with U.S. nuclear weapons.¹⁴¹ It also discussed shifting the Strategic Defense Initiative to the Global Protection Against Limited Strikes (GPALS) program as a response to ballistic missile proliferation.¹⁴² But just three years ago, the spread of WMD had yet to be labeled by the Bottom-up Review as the nation's number one security threat. Accordingly its strategy documents were not yet as sharply focused on the proliferation issue.

One notable trend is that key officials responsible for national security do not use the term "counterproliferation," nor do they mention the CPI. President Clinton, Secretary of Defense William Perry, Chairman of the Joint Chiefs of Staff General John Shalikashvili, and National Security Advisor Anthony Lake do not routinely refer specifically to the CPI or counterproliferation in public forums.¹⁴³ Doing so would give both the initiative and the principle behind it greater legitimacy. But it also seems possible that due to political sensitivities these officials have relegated the

¹⁴¹ See the Joint Chiefs of Staff, National Military Strategy of the United States (Washington, D.C.: Government Printing Office, January 1992) 3-4, 6-7 and 13. This document does not mention WMD under the heading "The Threat." It does say that in light of the large nuclear arsenal and instability in the former Soviet Union "and the threat posed by the increasing number of potentially hostile states developing weapons of mass destruction, maintenance of a modern, fully capable, and reliable strategic deterrent remains the number one defense priority of the United States." It also reiterates that one of the purposes of U.S. nuclear weapons is to deter the use of weapons of mass destruction.

¹⁴² Ibid.

¹⁴³ President Clinton did not use the word counterproliferation or mention the CPI in his January 1994 NATO Summit address, in either the 1994 or 1995 State of the Union Address, or in any other significant public speech. Secretary Perry also has not used referred to either, although both the word and the initiative are staffed in his department. General Shalikashvili did not even mention WMD, let alone counterproliferation or the CPI in his 10 February 1995 posture statement before the Senate Budget Committee. Anthony Lake has spoken publicly about non-proliferation and the importance of a comprehensive test ban, but has yet to discuss counterproliferation or the CPI publicly.

terminology to Ashton Carter at the "think tank" level to conduct the studies and negotiations necessary to develop a policy. Counterproliferation and nonproliferation are not issues which generally interest the public. Both may be best served by keeping the CPI out of the spotlight at the cabinet level while allowing Carter's office to explore the possibilities and forge the working relationships both domestically and with allies.

Only one of the commanders in chief (CINCs) of the Defense Department's nine unified commands addressed counterproliferation in their February 1995 statements before key Congressional committees. General Wayne Dowding, Commander in Chief, United States Special Operations Command stated that special operations forces would play a significant role in the complex mission of counterproliferation, and that it would require continuous detailed planning and coordination from the NSC.¹⁴⁴ The silence

¹⁴⁴ Statements of General Wayne A. Dowding, Commander in Chief, United States Special Operations Command, before the Committee on Armed Services, United States Senate (undated), 33-34; Admiral H. G. Chiles, Jr., Commander in Chief, United States Strategic Command, before the Senate Armed Services Committee (23 February 1995); General Joseph W. Ashy, Commander in Chief, North American Aerospace Defense Command and Commander in Chief, United States Space Command, before the U.S. Senate Armed Services Committee (23 February 1995); Admiral Richard C. Macke, Commander in Chief, United States Pacific Command, before the Senate Armed Services Committee Posture Hearing (16 February 1995); General John J. Sheehan, Commander in Chief, United States Atlantic Command, before the Committee on Armed Services, United States Senate (14 February 1995); General Barry R. McCaffrey, Commander in Chief, United States Southern Command, before the Senate Armed Services Committee (16 February 1995); General J. H. Binford Peay, III, Commander in Chief, United States Central Command, before the House National Security Committee (23 February 1995); General George A. Joulwan, Commander in Chief, United States European Command, before the House Appropriations Committee, National Security Subcommittee (16 February 1995); and General Robert L. Rutherford, Commander in Chief, United States Transportation Command, before the Senate Armed Services Committee (23 February 1995). General Ashy did make several points on how Space Command will be able to provide support for improved theater ballistic missile defenses when new systems are brought on line. Admiral Macke discussed the Agreed Framework capping North Korea's nuclear program. General Peay

of the CINCs is somewhat disconcerting, but it may be due to the fact that at the time of their testimony, a classified Joint Staff study defining the CINC's roles and Services' functions in counterproliferation was still in progress. It is also possible that the Defense Department as a whole was deliberately downplaying counterproliferation during the sensitive preparations for the NPT Review and Extension Conference.

B. THE INTELLECTUAL HISTORY OF COUNTERPROLIFERATION

The intellectual history of counterproliferation goes back to before the advent of the first nuclear weapons. Avner Cohen notes that the Manhattan Project had, in addition to its task of producing nuclear weapons, "the task of monitoring and, if possible, denying German nuclear weapons activities."¹⁴⁵ From the fall of 1943 until October 1945 an extensive intelligence collection program under the code-word "Alsos" focused on Italian, French, and German nuclear research.¹⁴⁶ In response to a Manhattan Project request, saboteurs attacked the heavy water facility at Vemork, Norway in February 1943 temporarily disrupting Germany's only heavy water supply.¹⁴⁷ After the facility returned to operation it was bombed in a massive raid in November 1943. This source was never restored, and shortages of heavy water severely

identified theater ballistic missile defense as a "key requirement." General Joulwan expressed his support for extending the NPT and for funding improved theater ballistic missile defenses.

¹⁴⁵ Cohen, 73, as described in Leslie R. Groves, Now It Can Be Told: The Story of the Manhattan Project (New York: Harper and Brothers, 1962), 185-223 and 230-252.

¹⁴⁶ Leslie R. Groves, Now It Can Be Told: The Story of the Manhattan Project (New York: Harper and Brothers, 1962), 185-198, 207-223, and 230-249.

¹⁴⁷ *Ibid*, 188-189. Groves calls the location Rjukan, but most scholars call it Vemork.

limited further German nuclear research. Norwegian commandos caused additional damage as the Germans attempted to move surviving components back to Germany.¹⁴⁸

By the Fall of 1944, the Alsos program had determined that most of the German nuclear scientists were concentrated in the Black Forest towns of Hechingen and Bisengen, and that construction of large industrial facilities was proceeding at a feverish pace. The status of German research was not then known, but it was feared that a "German Oakridge" was fast developing. General Leslie Groves, the Manhattan Project's director hesitated to request the bombing of these facilities "since that would only drive the project underground and we would run the risk of not finding it again in time."¹⁴⁹ His concerns offered a prescient view of the current dilemma on the possible effectiveness of military strikes as counterproliferation tool.

In the closing months of the war, Groves and others became increasingly concerned that German nuclear scientists, fissile materials, and facilities would fall into the hands of advancing French and Soviet forces. Alsos sources confirmed the presence of a facility for the manufacture of thorium and uranium components at Oranienburg, near Berlin, which lay in the path of the Soviet advance. Groves requested that the target be bombed, and on 15 March 1945 it was destroyed by a massive bombing raid.¹⁵⁰ In another operation on 22 April, U.S. forces cued by Alsos information seized a uranium stockpile in the town of Stassfurt, a town caught in between the advancing U.S. and Soviet armies. This seizure constituted the bulk of the

¹⁴⁸ Ibid, 189 and 231.

¹⁴⁹ Ibid, 218.

¹⁵⁰ Ibid, 230-231.

refined uranium ore captured from Belgium in 1940.¹⁵¹

The final counterproliferation stroke of the Manhattan Project occurred from 23 to 26 April under the name Operation Harborage. The goal was to prevent the capture of German nuclear scientists and technology in the Hechingen-Bisengen area by the advancing French Army. Acting on Alsos intelligence, and directed by one of Groves' operatives, U.S. forces were diverted into the French zone several days ahead of the French forces and quickly rounded up German scientists, seized their equipment, and dismantled their laboratories.¹⁵² On the final day, the U.S. force also captured the German stocks of heavy water and uranium oxide.¹⁵³

Cohen also notes that in the early post-war period when the United States still had its nuclear monopoly, some intellectuals urged the use of military force to block the Soviet Union from acquiring nuclear weapons. One was the renowned British socialist and pacifist philosopher Bertrand Russell.¹⁵⁴ Russell developed a strong hostility towards the Soviet Union in response to its domination of Eastern Europe. Deeply concerned with the prospect of a nuclear arms race, he suggested in 1948 that the U.S. use the strength of its nuclear monopoly to threaten war in order to force the Soviets to accept nuclear disarmament. The Soviet Union, he argued, was weak and would "very likely yield to the demands of the West."¹⁵⁵ He justified his

¹⁵¹ Ibid, 236-239.

¹⁵² Ibid, 241.

¹⁵³ Ibid, 242.

¹⁵⁴ Ibid.

¹⁵⁵ Bertrand Russell, The Autobiography of Bertrand Russell: 1944-1967, volume III (London: George Allen and Unwin, LTD., 1969), 18.

position on the basis that "some wars, a very few, are justified, even necessary. They are usually necessary because matters have been permitted to drag on their obviously evil way till no peaceful means can stop them."¹⁵⁶ Many prominent American "doves" ultimately agreed with Russell. A similar rationale might be applied to the use of force in counterproliferation.

Both the Soviet Union and the United States considered using military force to stop the Chinese nuclear weapons program. The Soviets considered using military force on two occasions, and at one point consulted with the U.S. Government about the possibility of joint action.¹⁵⁷ A conventional strike against China's gaseous diffusion plant was studied in the Department of Defense in 1965, but was ultimately rejected.¹⁵⁸ Even though the strikes were not conducted, the intelligence collection, staff planning, and intergovernmental consultation which transpired are all elements of counterproliferation.

During the Cuban Missile Crisis, President Kennedy's Executive Committee of the National Security Council (Ex Comm) considered conventional air strikes against the Soviet medium and intermediate range ballistic missile sites before finally arriving at the decision to impose a naval quarantine instead. This action, had it been carried out, leans more in the direction of preemption than prevention, but it is nonetheless akin to possible counterproliferation missions, especially when the intelligence and targeting support for such a mission is considered. It may well be illustrative of the

¹⁵⁶ Ibid.

¹⁵⁷ Cohen, 73. Cohen does not elaborate on a primary source, but it was confirmed in an oral interview with Professor Patrick J. Parker of the Naval Postgraduate School, Monterey, California, who was an official in the Department of Defense at the time.

¹⁵⁸ Ibid.

enormity, and hence the difficulty of conducting air strikes in some counterproliferation scenarios. Because of the large number of launcher sites and the requirement to strike Cuban air force airfields as well, the U.S. Air Force predicted it would need some 500 aircraft sorties to accomplish the mission and could not guarantee that all the missiles would be destroyed.¹⁵⁹ Secretary of Defense Robert McNamara argued that such a strike "should only be considered 'on the assumption that we can carry it off before these (missiles) become operational.'"¹⁶⁰ Although the less provocative quarantine option carried the day, a preventive strike was staffed and seriously considered. I argue that the naval quarantine option is also an example applicable to counterproliferation, although it was aimed at a state which already had nuclear weapons, and not at rolling back a nascent nuclear weapons state.

More recently, Coalition forces bombed various Iraqi WMD facilities in the 1991 Gulf War. Although it was not specifically directed under the mandate of the UN Security Council, Coalition commanders realized an opportunity to disable these facilities even before the war started and took action. It was clearly within the broader context of disabling Iraq's ability to wage war. There was little international criticism of this effort. In hindsight, this set of strikes revealed the limitations of Coalition intelligence, targeting, and strike capabilities.¹⁶¹ From the outset, the war itself took on a preventive

¹⁵⁹ Raymond L. Garthoff, Reflections on the Cuban Missile Crisis (Washington D.C.: The Brookings Institute, 1989), 49-50.

¹⁶⁰ Ibid, 50, quoted from "White House Tapes and Minutes of the Cuban Missile Crisis," International Security, vol. 10 (Summer 1985), 176.

¹⁶¹ See David A. Brown, "Iraqi Nuclear Weapons Capability Still Intact," Aviation Week and Space Technology, vol. 134, no. 26 (1 July 1991), 23. In this account, U.S. Air Force Lieutenant General Charles Horner, commander of the coalition air forces, concedes that "possibly eighty percent of all Iraqi nuclear

coloration that is much in the spirit of counterproliferation.

It is clear from this evidence that counterproliferation is not a new concept.¹⁶² The United States has a long history of counterproliferation-like activity including intelligence collection, analysis, planning, and even using military force when needed to protect against WMD proliferation. Using Russell's logic, counterproliferation can be justified on moral grounds which would be consistent with the American tradition of morality in its foreign affairs, including the use of force. In peacetime, it would seem prudent to develop and engage wholeheartedly in the full range of counterproliferation activities short of actually using force, in anticipation of using force if ever it should be required.

C. CHARACTERIZING THE FIVE POINTS OF THE CPI

Lacking more precise definitions, the Defense Department's definition of counterproliferation has defaulted to Poneman's definition: the actions by the Defense Department across the full spectrum of WMD proliferation responses. It is therefore crucial to understand Aspin's five original points,

facilities were hit" over the course of the forty three day air campaign. See also Thomas A. Keaney and Eliot A. Cohen, Gulf War Air Power Survey, Summary Report (Washington, D.C.: Government Printing Office, 1993), 78-79. This account is an in depth critical study of the entire air campaign. It concludes that "the Iraqi nuclear program was massive . . . and less vulnerable to destruction by precision bombing than Coalition air commanders and planners or U.S. intelligence specialist realized before Desert Storm." It also notes that at the start of the air campaign, the target list contained two nuclear targets, but that UNSCOM inspections ultimately revealed more than twenty sites including sixteen key facilities.

¹⁶² In September 1807, long before the nuclear era, the Royal Navy bombarded Copenhagen and seized the Danish fleet in anticipation of an impending alliance between Denmark and France. The British goal was to prevent the Danish navy from aiding the French before Denmark actually joined the conflict. See William L. Langer, An Encyclopedia of World History, fifth edition, (Boston: Houghton Mifflin Company, 1972), 642.

which remain the department's road map for developing policy. Aspin's original five points were: (1) the new mission, (2) what we buy, (3) how we fight wars, (4) intelligence, and (5) international cooperation. The first three have evolved into (1) policy, (2) acquisition, and (3) military planning. The final two remain the same.¹⁶³ The points have become more sharply defined over time and with further study. I use Aspin's original labels for the following sections, while tracing their development in the open sources from the CPI announcement to the present.

1. The New Mission:

Aspin stated that "President Clinton not only recognized the danger of the new threat, he gave us this new mission to cope with it."¹⁶⁴ He said then defense planning guidance was being issued to the services "to make sure everyone understands what the president wants."¹⁶⁵ But the question must be asked why the president's desires were not made clear to the other agencies before Aspin's announcement. Much of the strife and confusion could have been avoided. The most vexing issue of the CPI is the ongoing effort to clarify its purposes without having to justify it or apologize for it. As an example, Carter and Wallerstein continually emphasize that it does not portend preemptive strikes or the use of nuclear weapons.

In his April 1994 speech, Carter explained that "the Secretary of Defense has amended - and continues to amend - those standard guidance documents that direct the CINCs, Services, Agencies and the acquisition community

¹⁶³ The comparison is made between Aspin's 7 December 1993 speech and Wallerstein's January 1995 NATO brief. The changes are subtle concessions that better define the original points and are less controversial.

¹⁶⁴ Aspin, 2.

¹⁶⁵ Ibid.

toward this key priority.”¹⁶⁶ Carter also reported that thirty people were assigned to work on policy under a deputy assistant secretary for counterproliferation policy. In his January 1995 briefing to the NATO Defense Planning Symposium, Wallerstein reported that “as we began to formulate our thinking about counterproliferation, we realized that a well-articulated policy statement was essential to direct the myriad of relevant Defense Department activities,”¹⁶⁷ Both Carter’s speech and Wallerstein’s briefing make a clear linkage that the new mission is to develop a counterproliferation policy.

Aspin created the new position of assistant secretary of defense for nuclear security and counterproliferation “to reflect the importance of the new mission.”¹⁶⁸ This title subsequently changed to assistant secretary of defense for international security policy, the position held by Carter. The creation of this position and its staff is tantamount to creating a think tank dedicated solely to policy issues. It is a normal bureaucratic reaction. It is interesting to note that Carter’s CPI think tank has a larger budget for one issue, than many prominent civilian think tanks have for their entire operations.¹⁶⁹

It remains to be seen whether a high profile announcement of a new mission, and the creation of a think tank was the right approach. The declaration of a new military mission created widespread confusion within the departments and agencies that are interested in WMD proliferation. By

¹⁶⁶ Carter, 4.

¹⁶⁷ Wallerstein, 10.

¹⁶⁸ Ibid.

¹⁶⁹ Budget authority for counterproliferation in the FY 1995 Federal Budget was \$60 million.

announcing a new mission, Aspin subjected counterproliferation to unwarranted scrutiny and put the Defense Department in the position of defending a new mission not only among its bureaucratic rivals, but in the highly politicized arena of public opinion as well. The actions of General Groves in the closing days of World War II never needed justification. The current initiative could have easily been linked to those actions. Aspin missed the opportunity to assert that counterproliferation is clearly supported by a long record of intelligence collection and planning, and the occasional use of force when appropriate. This tradition should be rediscovered and grafted into the current thinking.

A final criticism of the "initiative" approach to counterproliferation is that the timing and high profile nature of Aspin's announcement were inappropriate in view of the proximity to the 1995 NPT Extension Conference. The confusion over a new mission, and accusations that the CPI is aimed at the Third World could have undermined traditional U.S. leadership in the NPT movement. It is significant that despite this potential strain, counterproliferation was not raised during the four weeks of the conference.¹⁷⁰ Perhaps this is due to skillful behind the scenes work by Clinton Administration staff, and self-imposed silence within the Department of Defense over the past six months.

2. What We Buy:

Aspin stated that the department was reviewing its programs "to see what we can do better."¹⁷¹ He briefly mentioned the possibilities of advanced

¹⁷⁰ I rely here upon the experiences of various staff and associates of the Monterey Institute for International Studies (MIIS) who attended the conference, which were conveyed at an informal seminar discussion led by Bill Potter held on 19 May 1995. MIIS staff members attended the conference in various official and unofficial capacities, some as staff workers on the various committees, some as part of the Kirgiz and Armenian delegations, and some in an NGO capacity.

¹⁷¹ Aspin, 3.

nonnuclear penetrating munitions, hunting mobile missiles, and theater ballistic missile defenses.¹⁷² Carter relabeled this point "Acquisition and Technology Base," and emphasized defenses against chemical and biological weapons.¹⁷³ The Deutch Report, produced a preliminary list of "high priority capability shortfalls," grouped into eight functional areas.¹⁷⁴ The study participants included both policy level and working level officials from the various departments and agencies involved in nonproliferation. The Department of Defense was represented by both civilians and uniformed personnel.¹⁷⁵ This list of shortfalls is extensive and appears to be a significant interagency step towards Aspin's second point, as well as toward broader nonproliferation goals. Wallerstein's January 1995 NATO briefing credited the study as a catalyst for action, and with garnering funding support in the Fiscal Year 1995 budget. He also stressed the need to achieve savings by adapting existing systems and platforms wherever possible. He admonished against relying upon a single solution to the proliferation problem.¹⁷⁶ It seems that this point of the CPI is maturing with a substantial degree of interagency cooperation.

¹⁷² Ibid.

¹⁷³ Carter, 4.

¹⁷⁴ Deutch, 28-29. The eight functional areas include intelligence, battlefield surveillance, passive defense, active defense, counterforce capabilities, inspection support, support for export control programs, and counterterrorism.

¹⁷⁵ Ibid, Appendix B. Fourteen principals were listed representing thirteen different departments or agencies. Twenty two working level officials were listed from nine different organizations.

¹⁷⁶ Wallerstein, 15-16.

3. How We Fight Wars:

Aspin stated that his department was developing guidance for dealing with the new threat, and that he had directed the services to tell him how prepared they were for it. He also mentioned that the Joint Chiefs of Staff and the CINCs "are developing a military planning process for dealing with adversaries who have weapons of mass destruction."¹⁷⁷ Carter relabeled this point "Military Planning and Doctrine," perhaps to reflect the reality that this point encompasses not only fighting battles and campaigns, but day-to-day contingency planning as well. He stressed that a conflict involving WMD "is a different kind of war," and focused on the potential impact of chemical and biological weapons on all aspects of military operations, including logistics, doctrine, planning, and tactics.¹⁷⁸

Wallerstein refined the labeling of this point further, calling it simply "Military Planning." He stated that a Joint Staff study of the CINC's missions and service functions was forthcoming which would "determine how best to respond to proliferation and to implement counterproliferation."¹⁷⁹ He also stressed the need to improve modeling of WMD effects in wargames as a tool for planners. His last comment on this point highlighted the need for curricula development at service colleges and development of doctrine in response to the lessons learned from wargames.¹⁸⁰ The value of wargames as both "an educational device, and also as a tool to help explore new ideas, and to create and evaluate new concepts and plans" is well documented, particularly in the experience of the U.S. Navy and the Naval War College at

¹⁷⁷ Aspin, 3.

¹⁷⁸ Aspin, 5.

¹⁷⁹ Wallerstein, 11.

¹⁸⁰ Ibid, 12.

Newport, Rhode Island.¹⁸¹ This point of the CPI also seems to be making progress towards Aspin's stated objective.

4. Intelligence:

Aspin introduced this point by briefly discussing the post-Gulf War discovery of the extent of Saddam Hussein's WMD programs, as well as the U.S. failure to destroy some of the facilities that had been discovered and targeted. He highlighted the establishment of the intelligence community's Nonproliferation Center under the Director of Central Intelligence, and noted that a deputy director for military support had been created. The number of Defense Department experts assigned to the center was to be tripled, he added. The goal of the department's involvement in this effort was to get "intelligence that is useful militarily, not only diplomatically."¹⁸²

Carter's speech went beyond Aspin's call for militarily useful intelligence, to say that military planners

must know how many weapons exist, what infrastructure supports them, where that infrastructure is, what the consequences are of striking that infrastructure, and what indications would signal a proliferator is most likely to use those weapons. ¹⁸³

He also explained that commanders in the field as well as the National Command Authority "need a better understanding of a proliferator's strategic

¹⁸¹ Peter P. Perla, The Art of Wargaming (Annapolis, Maryland: Naval Institute Press, 1990), 103. Pages 61 to 103 lay out an exhaustive history of Naval War College war gaming, with a thorough explanation of its advantages and limitations, the evolution of modeling, and the rival schools of thought concerning its value.

¹⁸² Aspin, 3.

¹⁸³ Carter, 5.

and operational personality.”¹⁸⁴ This seems appropriate, although the elements of information Carter alludes to most likely can not ever be known with great certainty. There will always be a risk that the information is not correct, or only partially correct, a risk that may very likely preclude military action in view of the high stakes of counterproliferation. Carter’s final comment was that “intelligence will need additional equipment support.”¹⁸⁵ This comment is somewhat disturbing, because it implies that the answer to the intelligence problem lies solely in a yet to be discovered technical solution. If this is what Carter intended, it is an incomplete approach, one which considers only hightech intelligence capabilities, while neglecting more traditional human intelligence (HUMINT) and open source intelligence (OSINT). It would seem that this was more likely an oversight.

The Deutch Report included intelligence as the top category in its list of high priority capability shortfalls. The list of intelligence shortfalls was extensive, and although it did not address specific intelligence capabilities, only elements of information which must be obtained, the implication is clear that the intelligence capabilities required go beyond mere improvements in technology. The lead item on the intelligence list was a “reliable methodology for detecting WMD programs early in their development including motivations, plans, and intentions of policy makers.”¹⁸⁶ One can not

184 Ibid.

185 Ibid.

186 Deutch, 28. The other intelligence capability shortfalls listed in the report include the following:

1. Effective methods to understand and counter diverse concealment, denial, and deception practices, particularly the identification and characterization of underground facilities and dual use facilities.
2. Non-optimal exploitation of collected information because of lack of intelligence community connectivity and effective processing and analytical tools.
3. Ability to locate and identify nuclear, chemical, and biological weapons

envision a technology to assess the motivations and intentions of policy makers. While artificial intelligence may one day help categorize massive amounts of information, identify significant clues to a particular intelligence puzzle, and provide threat warnings, assessing an adversary's motivations and intentions can only be done by human analysts.¹⁸⁷

There is a serious question as to whether such analysis can be done with a high degree of certainty, and it will be done only with great difficulty when examining a closed society with reclusive leadership and a clandestine weapons program, as is to be expected in future states likely to proliferate. Forming an accurate intelligence picture of such a state's motivations and intentions may well be in the category of too hard. The U.S. experience with North Korea illustrates the problem. North Korean motives and actions in the on-again, off-again bilateral negotiations over the future of its nuclear weapons program defy explanation. U.S. intelligence officials seem unable to understand and affect North Korean motives with any degree of accuracy.¹⁸⁸

Wallerstein's NATO briefing offers no additional insights on

activities.

4. Identification and characterization of technology transfer networks supporting the development of WMD.

5. Intelligence preparation of the battlefield, including characterization of WMD forces and infrastructure, identification and targeting of WMD and their missile delivery systems, bomb damage assessment, and fusion of WMD related sensor / signature data.

6. Real-time intelligence to the war fighter including sensor-to-shooter linkage in operational command-control.

¹⁸⁷ See Albert Clarkson, Toward Effective Strategic Analysis: New Applications of Information Technology (Boulder, Colorado: Westview Press, 1981) for a detailed explanation of the potential and limitations of artificial intelligence in strategic analysis.

¹⁸⁸ See for example the preface by Lieutenant General Harry E. Soyster, Director of the Defense Intelligence Agency, in North Korea, The Foundations for Military Strength (Washington, D.C.: Defense Intelligence Agency, undated).

intelligence. It reiterates the importance of the operational utility of intelligence on WMD proliferation, and the role the Nonproliferation Center and the Defense Intelligence Agency will play to ensure that military counterproliferation intelligence requirements will be met.¹⁸⁹ Like those before him, he did not say how these requirements would be met, or even defined. Although intelligence collection and analysis is being refocused, the intelligence community has a long way to go to be able to meet the shortfalls listed in the Deutch Report.

There is a wishful quality to the intelligence element of the CPI that places great hope in establishing a perfect intelligence picture that will be militarily actionable. Intelligence is clearly its proverbial Achilles heel, and the stakes are far higher than in any previous military endeavor in history. One need not read too many books to develop the picture that military intelligence, even at its functional best, has never succeeded in removing the element of uncertainty from military operations.¹⁹⁰ Carter himself acknowledged the difficulty in determining when a state crosses the nuclear threshold, and that covert nuclear weapons programs and arsenals are difficult intelligence targets. He also cautions that the Cold War style of threat assessment which was largely successful with the Soviets will not likely work

¹⁸⁹ Wallerstein, 13-14.

¹⁹⁰ A useful starting point is the collection of essays edited by Michael I. Handel, Intelligence and Military Operations (London: Frank Cass and Co., Ltd., 1990). Eliot A. Cohen and John Gooch's Military Misfortunes (New York: Vintage Books, 1990) takes a broader look at failure in war due to an array of factors including intelligence failure, equipment failure, and human factors in combat. Both are sobering accounts which accurately characterize the element of uncertainty in warfare.

against other states.¹⁹¹ The intelligence point of the CPI will be the most difficult to resolve, will require the greatest allocation of resources, and over the long term will be the most controversial even if accurate intelligence assessments can be developed. While accurate intelligence supports a variety of options short of the use of military force, including diplomacy, sanctions, export controls, and IAEA inspections, there will always be the nagging question of whether a good enough assessment can be developed to support military action when it is needed.

5. International Cooperation:

Aspin's final point of the CPI was that U.S. allies and security partners have as much at stake as the United States. He mentioned a NATO initiative against proliferation of weapons of mass destruction, and cooperation with Japan on deployment and possible joint development of theater ballistic missile defenses. He then gives a brief overview of the Nunn-Lugar program to improve fissile material security in the former Soviet Union, and attempts to reorient sensitive technology export controls to help prevent proliferation.¹⁹² Carter's April speech parallels Aspin's announcement. He said he was "heartened by the favorable international response to these initiatives," and looked "forward to a strong counterproliferation environment that builds on and reinforces non-proliferation norms and agreements that are the foundation of U.S. and international efforts to combat

¹⁹¹ Robert Blackwill and Ashton B. Carter, "The Role of Intelligence," in Blackwill and Carnesale, New Nuclear Nations, 230-233. Cold War threat assessment will not work because, unlike the Soviets, which did not conceal their facilities, which openly paraded their weapons, and which referred to them in the press as signs of progress, prestige, and military might, states with clandestine nuclear programs keep their programs under tight security controls which are far less vulnerable to intelligence collection.

¹⁹² Aspin, 3.

proliferation.”¹⁹³

Wallerstein’s January 1995 NATO briefing provides a significant update and clarification on the international cooperation point. He says that this point “recognizes that, in future conflicts where (WMD) may be involved, in all likelihood . . . we will be engaging along with allies or coalition partners, and most likely will be operating from the homelands of regional partners.” He then explains the function of the newly created NATO Senior Defense Group on Proliferation (DGP), co-chaired by Ashton Carter and French Minister of Defense Jean-Claude Mallet. Wallerstein outlined the DGP’s three phase plan to assess the risk, its impact on NATO capabilities, and necessary improvements.¹⁹⁴

Wallerstein also noted that the Defense Department had presented a counterproliferation conceptual framework briefing to the Russian General Staff which resulted in a constructive dialogue, and that the Russians had offered to meet again to present their views. As a possible precursor of future Russian interest Russian Federation arms control ambassador Gennady Evstafiev recently stated that counterproliferation “is a positive idea,” because of the balance of prevention and protection.¹⁹⁵ Wallerstein also mentioned that the United States was “striving to work with key friends and allies in the Pacific on these important issues,” and he also mentioned the ongoing discussion with Japan.¹⁹⁶

¹⁹³ Carter, 6.

¹⁹⁴ Wallerstein, 17-18.

¹⁹⁵ Exclusive interview by the Center for East-West Trade Policy at the University of Georgia with Gennady Evstafiev, The Monitor, vol. 10, no. 0 (February 1995), 10.

¹⁹⁶ Ibid.

The cooperation envisioned by Aspin appears to be proceeding forward, albeit cautiously. In response to President Clinton's proposal at the January 1994 NATO summit, the NATO Heads of State and Government issued a declaration which included a statement that the organization would "intensify and expand (its) political and defense efforts against proliferation, taking into account the work already underway in other international fora and institutions." The statement also directed the alliance to develop an overall policy framework to consider how to reinforce prevention efforts, reduce proliferation, and protect against it.¹⁹⁷ This statement represents a small step towards consensus among fifteen U.S. allies to move forward with the development of a NATO counterproliferation doctrine. But so far, all NATO press releases and articles in NATO Review, its publicity magazine, have referred only to the defensive aspects of counterproliferation, and have not used the word "counterproliferation." It can be safely stated that, NATO is interested in continuing to study the issue through the DGP's three phase plan, and appears to be supportive of at least the defensive aspects of the CPI, though it appears to be keeping its options open for the present by not associating itself directly with the CPI or the term counterproliferation.

D. CONCLUSIONS ABOUT THE COUNTERPROLIFERATION INITIATIVE

1. Department of Defense Claims:

The CPI is the Defense Department's response to the number one threat to the United States and its allies as identified in the Bottom-up Review of 1993. But it has the potential of promising more than it can deliver.

Optimism is useful but it can also breed a sense of false security. While the CPI seems to be a reasonable approach to identifying the path to a

¹⁹⁷ NATO Press Communique M-1 (94)3, "Declaration of the Heads of State and Government Participating in the Meeting of the North Atlantic Council Held at NATO Headquarters, brussels, on 10-11 January 1994 (11 January 1994), 6.

counterproliferation policy, it must also be viewed as a tool to identify additional problems which it can not solve. It therefore must not be viewed as a silver bullet-type solution, but rather as another useful step in the ongoing proliferation problem. Joseph Pilat cautions that "counterproliferation is a potentially important, but limited, instrument . . . (and that) it is no substitute for the existing regime of treaties, institutions and arrangements designed to prevent proliferation."¹⁹⁸ He adds that since "there may be no choice but to counter a proliferant's actions, it would be desirable to have genuine options."¹⁹⁹ The spectrum diagram of the eight responses to proliferation in figure 1 seems a reasonable way to show that the CPI merely adds more options. It must be tempered by the reality that other problems may arise. While it seems reasonable that the CPI may provide some solutions for dealing with future nuclear states, it is uncertain that it can provide adequate protection against a non-state terrorist organization using a hidden nuclear weapon for blackmail.

The declaration of a new mission with new military capabilities to follow, implies the possibility of new behavior from the Department of Defense. This uncertainty creates tension between the United States, its allies, and other states. It appears that the long legacy of U.S. counterproliferation-like activities has been overlooked. The Defense Department needs to rediscover this legacy as a justification for future counterproliferation if and when diplomatic efforts fail. This will help clarify U.S. resolve to undertake counterproliferation. It will also help break the linkage to Osiraq.

U.S. leadership across the spectrum of WMD proliferation responses must be asserted. The complementary role of counterproliferation must be asserted. Diplomatic efforts to slow or reverse proliferation in North Korea

¹⁹⁸ Pilat, 1.

¹⁹⁹ Ibid.

and Iran must continue to receive wide publicity. Caution has always been the norm in past U.S. responses to proliferation. Zachary Davis notes that "whether friend or foe, the United States has been extremely cautious about threatening military action to combat nuclear proliferation."²⁰⁰ This caution must continue to guide the development of counterproliferation policy.

2. Progress Towards the Five Points:

Some real progress has been made towards developing Aspin's five points. Although the interagency review which produced the Deutch report was directed by Congress before the CPI was even announced, Deutch nonetheless used it to help institutionalize and legitimize counterproliferation. The report laid out the process by which the National Security Council tasks the various agencies and departments for both nonproliferation and counterproliferation activities. This is an important step, since it helps set aside interagency strife, and established a clear headship over all proliferation activities. The report's list of capability shortfalls points the direction for future research, development, and acquisition of intelligence and battlefield equipment.

The forthcoming Joint Staff study which includes the CINC and Service staffs is also a positive development. It will likely forge a consensus among the uniformed services of their current capabilities and limitations, as well as provide recommendations for doctrine, strategy, tactics, logistics, and acquisitions. The input of the professional military who must implement the policy is an important part of developing a policy that will work. This study also forces the issue of counterproliferation through the inertia of military bureaucracy by requiring each of the key commanders and staffs to tender an opinion.

The NATO DGP's three phase study will also likely be useful. The first phase is already complete, and the second is now in progress. Like the Joint

²⁰⁰ Davis, 3.

Staff study, it requires the participants to address the issue and provide an opinion. Although NATO seems more cautious about counterproliferation, the study is a mechanism by which consensus can be reached among key U.S. allies. Even if NATO only develops the intelligence and defensive aspects of counterproliferation, it will nonetheless be a positive contribution since it will create more response options.

Modeling and wargaming may prove a useful tool in developing doctrine. The past success of these tools in showing the strengths and limitations of doctrine, strategy, tactics, and logistics must be considered and applied to counterproliferation. They will also be useful to test new approaches to counterproliferation. Their limitations as tools and not outright solutions must, however, not be overlooked. Modeling and wargaming will also be useful for teaching commanders and staffs how to plan, operate, and fight in the face of the WMD threat.

3. Big Hurdles:

The intelligence problem appears to be the most difficult hurdle. There may be scenarios for which an accurate intelligence picture can not be developed. Refocusing intelligence collection and improving sensors are logical steps. But improving the human intelligence process must also be part of the effort. There is also a tendency to be overly optimistic about our ability to develop intelligence estimates. Past experience shows that sophisticated intelligence can be wrong and can even be deceived. And yet counterproliferation will demand a high degree of accuracy because of the high stakes involved. It may be that some aspects of the intelligence problem, especially the accurate assessment of motivation and intentions, can not ever be solved.

There is also a disturbing tendency to trust hightech solutions. This is a problem endemic in both the U.S. military culture and the society as a whole. High technology often implies ease, but there is a great danger to this sort of

complacency. The search for hightech answers must be filtered through the experience of human error and reason. High technology may well deliver some useful systems and adaptations, but it must be regarded cautiously.

A final hurdle is public opinion. Counterproliferation is perceived to run contrary to the growing momentum of arms control. There is also the perception that its focus is on preventive strikes, not just protection. The CPI will have to be marketed as a rational approach to a serious threat that is fully within the spirit of nonproliferation. Thus far it appears to be moving in that direction. Clarifying the terminology and continued dialogue will help this effort. In the end, it is likely that when given the range of options, the public in the United States and most countries will not tolerate the idea of taking the first blow from an adversary armed with WMD, and therefore it will support a strong counterproliferation policy.

IV. THE TENSIONS OF COUNTERPROLIFERATION

Models are useful tools for applying theory to help explain real world situations. This section uses three-tiered prism consisting of three models to provide insight into the different factors that affect how states form policies. The prism helps sort and analyze the various tensions which the CPI has created. Each model used in this analysis covers a different aspect of government interaction which can influence policy formation. The three different perspectives provided by the models help provide insights into the character, strength, and potential impact of each tension, and will help determine how tensions are likely to impact on policy. The insights derived from using these models will ultimately contribute to specific findings and policy recommendations. Two of the models are attributable to Graham Allison, and the third I construct myself.

A. THE SIGNIFICANCE OF ALLISON'S MODELS

In his classic Essence of Decision, Graham Allison analyzed the decision-making processes of the U.S. and Soviet governments during the thirteen days of the Cuban Missile Crisis. Allison used three models to explain how both sides thought through and acted out their respective policies. They have since been adapted to explain a wide variety of decision-making and policy process scenarios. I have adapted Model I and Model III as two of the three facets of a theoretical prism to view the tensions created by counterproliferation.

Model III, also called the Governmental Politics or "Bureaucratic" Model helps explain the decision-making process from an intragovernmental perspective by examining "mechanisms from which governmental actions emerge."²⁰¹ It "focuses on the politics of a government" and explains policy

²⁰¹ Allison, 6.

"not as choices or outputs, (but) rather . . . as a resultant of various bargaining games among players in the national government."²⁰² As Allison himself explains, an analyst using Model III has "explained" an event "when he has discovered who did what to whom that yielded the action in question."²⁰³ He also explained the Model III perspective as a chess variant involving "a number of players, with distinct objectives but shared power over the pieces, . . . determining the moves as the resultant of collegial bargaining."²⁰⁴ The interagency tensions which the CPI created are the outward manifestations of bargains and political power plays between entrenched bureaucracies and powerful political figures. The most prominent of the bureaucracies involved in counterproliferation policy are the Defense Department, State Department, and ACDA.

Allison's Model I is often called the Rational Actor or "Classical" Model. It explains events and decisions as "the more or less purposive acts of unified national governments."²⁰⁵ The focus of analysis using this model is on key individuals acting for the government, or on a sequence of known or expected logic such as cost/benefit analysis. Allison explained it as a chess scenario in which "an individual player was moving the pieces with reference to plans and tactics toward the goal of winning."²⁰⁶ Model I is probably the best way to explain the tensions created between the U.S. government and other governments (including allies). Carter and Wallerstein are presenting

202 Ibid.

203 Ibid, 7.

204 Ibid.

205 Ibid, 5.

206 Ibid, 7.

the CPI with monolithic perspective through a variety of international forums including the NATO DGP, and various bilateral ventures as well. As shown in Figure 1 in the last chapter, they have sole responsibility within the government for counterproliferation policy. This was also affirmed by the Deutch Report. Carter's organization behaves outwardly as a Model I unitary actor, unchallenged publicly by rival agencies and departments, and free to engage representatives of foreign governments in an official capacity.

To explain the tensions between nonproliferation and counterproliferation, as well as tensions which counterproliferation uniquely creates, I used an angle Allison overlooked, the impact of public and expert opinion on decision-making. This angle might best be labeled the "State-Societal Model." These tensions have been consistently expressed by the NGO community through a variety of media, including books, journals, papers, conferences, and speeches.²⁰⁷ These organizations and individual analysts are the CPI's most vocal and continuing critics. Depending upon the weight of their arguments, they may play a role in shaping policy. Some analysts will obviously carry more weight than others based upon their expertise or their ability to manipulate public opinion.

The chess analogy which describes this perspective is of a committee of players representing U.S. government agencies and the executive who must achieve consensus before moving the pieces as in Model III, but who in addition are receiving loud, often conflicting information from a grandstand full of spectators, obviously interested in the game, but not responsible for its outcome. This analogy best explains the possible impact upon counterproliferation policy-making of the plethora of opinions being tendered from the NGO community. Like a noisy crowd at a sporting event, this

²⁰⁷ These include NGOs and individuals which concentrate on the disarmament issue, as well as those which address the broader spectrum of environmentalism and world peace.

gallery of proliferation connoisseurs will produce a high level of general noise, with occasionally coherent shouts from individuals or a group. These shouts may ultimately influence the game, but they also might be ignored in favor of the existing game plan. Each player must weigh a suggestion and criticism before he acts to determine whether or not it will have an impact on his next move. NGO analysts contribute an important input to the debate because they discuss issues which government officials must consider, but are sometimes reluctant to acknowledge.

B. INTERAGENCY TENSIONS

1. The Bureaucratic Response to the President's Call:

In his address to the UN General Assembly on 27 September 1993, President Clinton articulated three major principles that would guide his administration's nonproliferation and export control policy:

- (1) making nonproliferation "an integral element of our relations with other countries,"
- (2) to expand "trade and technology exchange with nations . . . that abide by global nonproliferation norms," and
- (3) to "build a new consensus . . . to promote effective nonproliferation efforts and to integrate our nonproliferation and economic goals."²⁰⁸

²⁰⁸ The White House, Office of the Press Secretary, "Fact Sheet -- Nonproliferation and Export Control Policy (27 September 1993), 1. In the actual speech, reprinted in Vital Speeches of the Day, the president stated that "one of our most urgent priorities must be attacking the proliferation of weapons of mass destruction," but his subsequent comments indicated that he would do this by controlling fissile materials, ratifying the Chemical Weapons Convention, strengthening the Convention of Biological Weapons, and codifying the Missile Technology Control Regime into "a set of rules that can command universal adherence." This speech seems to have been heavily influenced by ACDA, because of its emphasis on the whole spectrum of current diplomatic arms control and disarmament issues.

He also stated that his administration would "give proliferation a higher profile in our intelligence collection and analysis, and defense planning."²⁰⁹ The President reiterated his commitment to WMD nonproliferation treaties and agreements, but he did not declare any new missions or otherwise change the focus of any government organization. Joseph Pilat noted that the vagueness of this announcement "may be a result of the serious interagency infighting now occurring over counterproliferation."²¹⁰ Carter's staff was at that time newly formed, and was only just beginning its work. The speech may also have been the cause of some of the infighting, since it was made more than two months before Aspin announced the CPI.

If the president intended for the Defense Department to move out with a new mission, he could have pointed the way by publicly outlining specific objectives. This would have removed much of the confusion and would have prevented much of the bureaucratic infighting. Merely sharpening the focus of the Department of Defense's efforts on the WMD threat, and expanding its resources to update and improve its capabilities might have accomplished the same thing without creating the controversy of a new mission.

Aspin's CPI announcement seems to have caught the government arms control community by surprise. The ensuing confusion over definitions and turf gives the appearance that prior dialogue with the State Department and ACDA was ineffective. The new military mission appeared to be in direct competition with the diplomatic approach; and precipitated a behind the scenes bureaucratic turf battle over its compatibility with existing treaties and agreements. Aspin's disclaimers that the new mission would not replace diplomacy and would not lessen nonproliferation efforts were not altogether

²⁰⁹ Ibid, 4.

²¹⁰ Pilat, 1.

convincing, and implied a possible conflict of interests. When a policy initiative cuts across cabinet boundaries, as it clearly did in this case, the least controversial approach is for the president or his national security advisor to announce it. This approach would clarify that it is the president's initiative, and not that of one of the competing bureaucracies. The CPI clearly had the label "defense," and thus it was destined to create bureaucratic tension, particularly because its critics inferred that the use of force might replace diplomacy.

2. Interagency Bureaucratic Tensions:

When Aspin announced the CPI, he said that "President Clinton not only recognized the danger of the new threat, he gave us this new mission to cope with it."²¹¹ But the five points Aspin announced, and the spectrum of new proliferation response options they created were not clearly understood within the competing agencies. If they had been, there would have been little need for Daniel Poneman's well-known memorandum explaining the difference between counterproliferation and nonproliferation. The counterproliferation debate became unnecessarily "complicated by divergent bureaucratic interests and the absence of a widely accepted definition of the term."²¹² Policy initiatives should help clarify what an administration wants to do, not create additional confusion within its own ranks. The CPI seems to have backfired in this regard. The fact that there has been little direct evidence of this tension in government documents or speeches by key officials speaks well of the American system of political discourse, the relative efficiency of U.S. government bureaucracy, and the discretion of key officials and their staffs. But the tension is clearly evident among secondary sources, including working level officials and the private analysts who regularly

²¹¹ Aspin, 1.

²¹² Pilat, 3.

interact with them.

Aspin's strong unilateral approach created new tensions between inherently competitive bureaucracies, particularly between Defense, State, and ACDA. The impression that the Defense Department was encroaching on diplomatic turf was furthered by the inability of Defense Department officials at both the senior and working levels to clarify what they intended.²¹³ Carter even admitted in his April 1994 testimony to the Senate Armed Services Committee, that "frankly, I don't think we have done a very good job of explaining what we mean by counterproliferation."²¹⁴ These bureaucracies all have long traditions of independence, assertiveness, and rivalry. The individual egos of both senior and working level officials also play a part as in any contest between organizations. Those experienced in the staff environment of a government or corporate organization understand the contempt with which a rival staff is occasionally held when they do not appear to be well organized, or are advancing a contrary position. Carter's office initially faltered on both accounts, and the result was bureaucratic tension which has only just now faded with time, clarification, and experience.

Counterproliferation must not envelop nonproliferation.²¹⁵ The long

²¹³ This perception is a synthesis based on office interviews with various working level officials and private analysts. A primary cause of this tension was that the working level officials under Ashton Carter had little prior experience with WMD proliferation. They were proven analysts from other areas of the Department of Defense, but initial confusion was inevitable. After the first year, the Carter's staff had developed effective working relations with their counterparts at State and ACDA, and had gained an in depth knowledge of WMD proliferation issues.

²¹⁴ Carter, 2.

²¹⁵ Davis, 6. Zachary Davis raised the balance question this way: "would (counterproliferation) be expansive and essentially absorb nonproliferation, or would it be limited to improving the uniquely military aspects of nonproliferation

tradition of American bureaucracy and of constitutional checks and balances contributes to maintaining the status quo. This is one of the great hallmarks of the U.S. government. New initiatives sponsored by one bureaucracy are always weighed in the balance by others. Rapid shifts in policy are thus generally avoided. The CPI fits this pattern also. Although it produced lively debate and fears of irresponsible behavior, it has not actually produced a radical new direction or behavior within the Department of Defense. The most significant outward manifestation of the CPI across the various departments and agencies interested in WMD proliferation turned out to be the flurry of activity to conduct studies, publish reports, and stake out a budget. The reports have been helpful in better understanding the CPI's strengths and limitations.

3. Tensions Within the Department of Defense:

The CPI also created some tensions within the Department of Defense. One of these involved the U.S. Strategic Command's (STRATCOM's) Silver Book initiative. STRATCOM proposed to use its unique strategic intelligence and targeting expertise to develop regional WMD target plans. According to an unclassified official source, the plans included

a compilation of planning assumptions, tasks, policies, targets and strike options with regard to countries, organizations or groups posing a significant proliferation threat . . . and would include several military options for the president and Secretary of Defense to exercise if they deemed a response necessary.²¹⁶

The set of targets for each region would comprise a "Silver Book" to support a

policy?" In reality, the answer is shaping up somewhere between these two extremes. Counterproliferation's advocates stress that it reinforces traditional nonproliferation measures. NSC management of proliferation responses should prevent counterproliferation from displacing nonproliferation.

²¹⁶ U.S. Strategic Command, Command Briefing, (June 1994), 77. This briefing was unclassified and widely distributed.

regional CINC. The concept received international attention when it was reported in Jane's Defense Weekly. The article reveals that "the regional CINCs are cautious about the plan and concerned it infringes on their own intelligence and targeting capabilities," though it did not divulge specific sources.²¹⁷ The article also says that critics claim that the Silver Book concept is of questionable value because STRATCOM's plans may not contain the proper "implementation and deconfliction plans" that a regional CINC would require in order to properly conduct operations in his theater.²¹⁸ They argue that the regional CINCs know their own targeting requirements best. The Silver Book issue outlines a bureaucratic tension between a supporting CINC (STRATCOM) and a supported CINC (regional) that is not untypical of joint military operations. It is likely that as counterproliferation policy is further developed, that similar bureaucratic conflicts will emerge over the roles and functions of the CINCs and various subordinate commands. These tensions are characteristically minor, and are generally resolved through discussion and compromise.

The potential for rivalry between STRATCOM, which has arguably the world's most capable targeting cell, and the regional CINCs is high. With the declining number of nuclear warheads, STRATCOM's targeting operation may be a vulnerable target for budget cutters. The Silver Book project appears to be a bureaucratic response to help justify STRATCOM's retention of a robust targeting capability amid the reality of fiscal constraints. It suggests that STRATCOM views itself as the premier targeting cell, and that it should therefore assume the WMD targeting role in support of the regional CINCs. For their own bureaucratic reasons, the staffs of each of the regional CINCs

²¹⁷ Barbara Starr, "STRATCOM Sees New Role in WMD Targeting," Jane's Defense Weekly, vol. 22, no. 28 (14 January 1995), 3.

²¹⁸ *Ibid.*

feel compelled to protect their own organizations. Each regional CINC would be understandably cool to a STRATCOM proposal to take over targeting issues in his theater. The Silver Book label was recently changed to Theater Planning Support Document, probably to emphasize STRATCOM's support role for the regional CINCs and to defuze the perception of encroachment. This tension is a natural outgrowth of the joint warfare process.

The adequacy of intelligence support for counterproliferation may become a source of tension among the intelligence community, commanders, and planners. There is nothing in the official open source literature to suggest that it is currently a problem, but it has been a typical problem in past military operations. Many outside of the defense community have questioned whether present or future intelligence capabilities will be able to provide the precise targeting data needed to conduct counterproliferation air strikes or commando raids. After the 1981 Israeli air strike on the Osiraq reactor, the Iraqi nuclear weapons program was dispersed and duplicated. The focus was also changed from plutonium production to uranium enrichment, which allowed further decentralization from a single site production reactor. Many of these facilities were not identified by Coalition intelligence until after the 1991 Gulf War.²¹⁹ North Korea with its maze of tunnels poses a similarly formidable intelligence target.

Even though counterproliferation intelligence collection may only have to focus on a few target countries, identifying WMD production and storage facilities may prove difficult, if not impossible. There will never be a guarantee that intelligence can locate all of the weapons or facilities. Accordingly, the Osiraq strike may well be a unique event unlikely ever to be repeated. As Cohen aptly puts it, "even overwhelming air power cannot

²¹⁹ Cohen, 92-93. He also notes that Israeli intelligence had failed to identify many of these new facilities. The Iraqis had, in Cohen's words, learned from Osiraq and "immunized" their program from future precision strikes.

destroy what it cannot find.”²²⁰ This tension will be a part of the planning process each time military options are considered. It is a useful tension which can serve to keep planning honest and realistic, by pointing out the limits of intelligence.

There is a strong desire to avoid the appearance that the CPI is another program out of the Strategic Defense Initiative (SDI) mold. The primary concern is that like the SDI, the CPI could become a major technology acquisition program “outside of normal acquisition channels.”²²¹ The SDI was criticized because of the unorthodox way in which it spent large sums of money.

Unlike SDI, the CPI has been criticized not over fiscal matters, but over policy, because of the confusion created when it was not clearly defined or explained.²²² This confusion has died away over time, particularly as Carter’s staff acquired greater proficiency in dealing with WMD proliferation issues, and the definition of counterproliferation defaulted to the concept of additional responses to proliferation when nonproliferation efforts are exhausted. There is presently little interdepartmental or interagency criticism of the CPI. Also, unlike the SDI, counterproliferation projects do not yet draw budget dollars away from other capabilities the services would rather have. The Theater Ballistic Missile Defense program, a first generation counterproliferation capability, enjoys broad support from the services and in the Congress. The services and Congress also clearly see the value of

²²⁰ Ibid, 96.

²²¹ Pilat, 1.

²²² Ibid. Although he does not identify who is involved, Pilat claims that there is “a desire by the services and by some officials to avoid another strategic defense initiative, i.e., a major technology program undertaken outside of normal acquisition channels, which also serves as a lightning rod for criticism . . .”

improved passive defense measures, intelligence capabilities, and multilateral cooperation in counterproliferation. Thus far, this tension has been managed well, although there is a potential for sticker shock when the price tag for new technologies is known.

4. NSC Management Reduces Tensions:

The NSC hierarchy for managing the full spectrum of proliferation responses as formalized in the Deutch Report helps reduce bureaucratic tensions. Tasking originates in the NSC principals and working level committees, and is disseminated to the proper agency for action. This process legitimizes tasking, helps minimize interagency bickering, and allows the NSC to be the conduit of the president's authority in defining the national interest and security policy. The NSC is ultimately the arbiter of the delicate balance between nonproliferation and counterproliferation, and the crucial link from both sides of proliferation policy back to the president. Clarification of the NSC's role as the manager over all counterproliferation and nonproliferation issues was a very positive step towards defusing interagency tension.

C. INTERGOVERNMENTAL TENSIONS

1. The Defense Department as a Unitary Actor:

The CPI is championed by two advocates, each of whom presents a united front approximating the behavior of a unitary actor. Ashton Carter and Mitchell Wallerstein thus far are the two Clinton Administration officials who speak openly about the CPI and who use the term "counterproliferation." It is unclear whether the term is reserved solely for their use by an executive order or other policy directive, or whether they are the mantle bearers by default because higher officials have distanced themselves from it. Which ever the case, they have staked ownership of both the term and the broader issue with no visible opposition. Their office is the single point of contact for

international dialogue on the subject.

2. Official Foreign Perspectives:

Foreign governments have been remarkably reserved in their response to the CPI. This is not completely unanticipated, since governments tend to be cautious in their handling of controversial foreign policy issues. It is also likely that some government-to-government exchanges on this issue will be in the forum of closely guarded exchanges between ambassadors and key officials, and are likely never to be aired in public. There are several other possible explanations as well.

One possibility is that many states, particularly the developing states and those belonging to the Non-aligned Movement, simply do not have the resources to focus on more than one or two WMD proliferation issues at a time. States in this position will work on the issues of most immediate concern to their national interests. Until now, many have been riveted on the NPT extension process. Others are interested in nuclear weapons free zone negotiations such as in Africa and the Middle East. Still others are more interested in easing export controls and clarifying dual-use technology issues. Few probably took more than a passing notice, if any at all, of an initiative designed to target the few states that might be likely to break their NPT obligations. Harald Müller summarized the non-reaction of most states declaring that he is "not sure whether the counterproliferation concept and its corollaries have been noticed beyond the rather narrow group of specialists -- mainly from the West -- and expert government officials involved in NATO discussions."²²³ Although there was significant latitude for developing states to allege that the CPI was part of the discriminatory regime of the nuclear states over the non-nuclear states, this issue has not been raised officially. It is particularly interesting that the issue has not inflamed a North-South debate,

²²³ Müller, 28.

except among a handful of private political analysts.²²⁴

Some states greeted the CPI with what appeared to be a "wait and see" attitude. Japan and South Korea, for example, while being very much concerned about the implications of the North Korean nuclear weapons program, appear to have neither welcomed nor condemned it. There has been little said in public by either officials or private citizens. Most likely, this is because they are understandably unwilling to provoke North Korea.²²⁵ In Japan, it may also be a reflection of reluctance to be mired in controversial foreign politico-military issues while they struggle with the stability of their own government and economic recession. Another key ally, Australia, has also been notably quiet. Australia is less directly threatened by nuclear weapons and is part of the South Pacific Nuclear Free Zone. The CPI might upstage its own initiatives in chemical and biological nonproliferation, so it has much to gain by waiting to see what develops from the CPI, while continuing its own efforts.

Some U.S. allies welcomed the initiative, but are not comfortable with either the vagueness with which it was presented, are reluctant to wholeheartedly follow U.S. leadership, or are merely interested in studying the issue further. This appears to be the case among the NATO allies. The Declaration of the Heads of State and Government following the 10-11 January 1994 NATO Summit cautiously stated that "we have decided to

²²⁴ There have been no official allegations of North-South discriminations from developing or non-aligned states.

²²⁵ See Seongwhun Cheon, "A South Korean View of the U.S. Counterproliferation Initiative," in Reiss and Müller, International Perspectives on Counterproliferation, 110 - 112. Cheon states that "the South Korean government and public have expressed consistent opposition to any measure that might increase tensions on the Korean peninsula." He also notes that the vast majority of the Korean population opposed an April 1991 statement made by South Korean Defense Minister, Lee Jong-ku, that the North's suspicious Yongbyon nuclear complex should be struck by a commando raid.

intensify and expand NATO's political and defense efforts against proliferation, taking into account the work already underway in other international fora and institutions."²²⁶ It also called for "work to begin immediately . . . to consider how to reinforce ongoing prevention efforts and how to reduce the proliferation threat and protect against it."²²⁷ These two sentences are the only commentary on counterproliferation contained in the summit declaration, although it was one of three primary summit issues presented by the United States.²²⁸ It is typical of NATO's caution that the statement mentioned only political and defensive efforts and the need to protect against proliferation. The term counterproliferation was not used, specific mention of the U.S. CPI was avoided, and none of its five points were addressed.

NATO appears to be content to study the issue methodically under the auspices of its Defense Group on Proliferation. This in the end works to the advantage of all by creating a broad consensus in a forum of sixteen coequal partners, each of whom will consider the CPI from its own unitary perspective as it considers its own national interests. It is also helpful to remember that key allies have not always viewed proliferation with the same urgency as the United States. Disagreements over export controls and control of dual-use

²²⁶ NATO Press Communique M-1 (94)3, Declaration of the Heads of State and Government Participating in the Meeting of the North Atlantic Council Held at NATO Headquarters, Brussels (11 January 1994), 6, para 17.

²²⁷ Ibid.

²²⁸ Ibid. The other two issues were the Partnership for Peace program which dominated the summit, and the concept of Combined Joint Task Forces. The statement contained an additional paragraph calling for the indefinite and unconditional extension of the NPT, and for the implementation of the Convention on Chemical Weapons, the Biological Weapons Convention, a universal Comprehensive Test Ban Treaty, and ensuring the integrity of the Conventional Forces in Europe Treaty.

technologies are clear evidence that the allies are slow to develop consensus on proliferation issues. From an international relations theory perspective, NATO allies have the luxury of "free riding" on the U.S. initiative, while maintaining cautious or ambivalent stances in the public forum.

NATO progress on counterproliferation can be expected to proceed slowly. The formation of the NATO DGP and its study of counterproliferation issues is, as Mitchell Wallerstein states, "the first step of many that will be necessary."²²⁹ It is auspicious that the late NATO Secretary General, Manfred Wörner, stated after Aspin's December 1993 briefing to NATO's Defence Planning Committee (comprising the defense ministers of NATO member countries) that it was NATO's duty to prevent rogue or terrorist states from obtaining WMD.²³⁰ One year later, Wörner's successor, Willy Claes, cautiously reported that "NATO has adopted a policy framework which sets the stage for its consideration of political and defense-related steps if nonproliferation efforts fail. A task of the Alliance is the further active development of this initiative now under study."²³¹ NATO can be expected to make further progress, but at a cautious pace to ensure a thorough study of

²²⁹ Wallerstein, 20. An important parallel may be drawn by looking at NATO's response to President Kennedy's doctrine of "flexible response," the strategic doctrine which evolved once mutually assured destruction became a reality. Under this doctrine, Kennedy launched a build-up of conventional and special operations forces so that U.S. capabilities would not be limited to an overwhelming nuclear response. It took six years for NATO to finally adopt the doctrine for its own use, as documented in Richard Hart Sinnreich, "NATO's Doctrinal Dilemma," *Orbis*, vol. 19, no. 3 (Summer 1975), 462.

²³⁰ Barbara Starr, "NATO Ministers Back Aspin on Proliferation," *Jane's Defence Weekly*, vol. 20, no. 25 (18 December 1993), 7.

²³¹ Willy Claes, "NATO and the Evolving Euro-Atlantic Security Architecture," *NATO Review*, vol. 43, no. 1 (January 1995), 7.

the issues in order to reach a broad consensus.²³² It remains to be seen, however, if NATO will ultimately adopt the offensive aspect of counterproliferation, the most controversial part.

Two of the strongest U.S. allies have welcomed the initiative with considerable enthusiasm. One week after the January 1994 NATO Summit while presenting a statement on "UK Defence Strategy: A Continuing Role For Nuclear Weapons?" the British Defense Minister gave his approval for the CPI. He said that "the American administration has made countering proliferation a major policy priority. We warmly welcome this, and we are looking forward to discussions with our NATO allies on this important subject over the coming months."²³³ The French Defense White Paper - Livre Blanc sur La Defense 1994 - issued in March 1994 devoted six pages to the need to improve deterrence against WMD. It calls for a new strategy using conventional military capabilities emphasizing action, prevention, and protection of military forces from WMD.²³⁴ France also showed its enthusiasm and staked its claim in counterproliferation by insisting that it provide the first European co-chairman of the NATO DGP. This move also helped NATO solidify counterproliferation as a political issue, and not just a

²³² An article dealing with the DGP's study appeared in the June 1994 edition of NATO Review. The words "assess, consult, and examine" were prominent. The article did not embrace the full scope of the CPI, but emphasized only diplomacy, discouraging use of WMD, and protecting territory, populations, and forces. There was no admission that current NATO military capabilities, including intelligence might be inadequate for the task. See "Alliance Policy Framework on Proliferation of Weapons of Mass Destruction," NATO Review, vol. 42, no. 3 (June 1994), 28-29.

²³³ Statement of the UK Minister of Defence, "UK Defense Strategy: A Continuing Role for Nuclear Weapons?" (18 January 1994), chapter 45.

²³⁴ French Ministry of Defense, Livre Blanc Sur La Defense 1994, 77.

military one.²³⁵ British and French interest in counterproliferation gives the concept far greater legitimacy not only within NATO, but also within the broader international forum.²³⁶ Consensus building with these and other allies helps reduce government-to-government tensions.

NATO members have historically exercised great discretion when debating issues. In a rare public display of potential allied tensions over counterproliferation and nonproliferation, German Foreign Minister Klaus Kinkel issued his Ten Point Nonproliferation Initiative on 15 December 1993, eight days after Aspin announced the CPI. Based on the timing of its release and its content, it seems clear that it was intended to counter or at least to balance the CPI. The final point appears to be a direct slap at any U.S. intention to conduct counterproliferation unilaterally. It says that

Military enforcement measures against proliferators, pursuant to Chapter VII of the UN Charter, can only be conceived of as *ultima ratio* in case of a threat to international security and peace. Military measures necessitate -- except in the case of defense against armed attack -- always the legitimization by the UN

²³⁵ France does not participate in the NATO Military Committee. French involvement in counterproliferation necessitates that it be conducted on the political side of NATO. This rendering of counterproliferation as a political issue parallels the U.S. Department of Defense assertion that it is a set of additional response options subordinate to diplomacy. By placing counterproliferation under its political structure rather than under its military structure, NATO avoids the perception of a conflict of interest inherent in the U.S. Defense Department's management of the CPI as a competitor to diplomatic means.

²³⁶ In contrast to the normal criticism that the CPI was too vague, and did not provide clear definition, Virginia S. I. Gamba believes that the lack of definitions "seemed to have worked as a stimulant rather than a hindrance . . . (and) that months before the U.S. administration had a firm idea of what its own initiative meant and what it entailed, major NATO partners were already busily interpreting Aspin's words on counterproliferation." See Virginia S. I. Gamba, "Counterproliferation: Harmony or Contradiction?" in Reiss and Müller, International Perspectives on Counterproliferation, 58.

Security Council.²³⁷

Harald Müller notes that prior to the January 1994 NATO Summit, various Europeans insisted that NATO deal not only with the military ramifications of counterproliferation, but the political ones as well. A compromise was reached in which two committees were formed. One, the DGP was to explore the military issues of counterproliferation under the leadership of Carter (United States) and Mallet (France). A second committee was formed to examine the political issues chaired by NATO Deputy Secretary General Von Moltke of Germany.²³⁸

The decision paper produced at the follow-on NATO Summit in June 1994 at Istanbul emphasized the existing nuclear nonproliferation regime, and discussed how NATO could better support traditional nonproliferation policy. It paid only fleeting attention to counterproliferation, calling for a threat assessment (completed in December 1994), a study on the implications for defense planning and capabilities, improvements in NATO defensive capabilities to protect territory from the threat of WMD, and for possible diplomatic efforts making use of its defense posture to prevent or rollback proliferation. Müller says that the document reads "much like a European victory," but this view does not take into account NATO's traditionally cautious approach to new policies and doctrines.²³⁹ To the contrary, the Department of Defense views NATO progress on counterproliferation to date as a very encouraging trend. Although there is some tension evident between counterproliferation and nonproliferation in the NATO sphere, this tension

²³⁷ Müller, 29-30 and n.9, attributed to FRG Foreign Office, "Deutsche 10-Punkte-Erklärung zur Nichtverbreitungspolitik" (Bonn: 15 December 1993), 4.

²³⁸ Ibid, 30.

²³⁹ Ibid.

does not appear to be harmful, and appears to be producing a healthy debate which will probably eventually lead to greater consensus as it has so often in the past.

D. STATE-SOCIETAL TENSIONS -- THE NON-GOVERNMENT ORGANIZATIONS

1. Non-government Organizations and Public Opinion:

The opinions of non-government organizations (NGOs) are an important part of the counterproliferation debate. Although the general public is largely uninformed and unaware of the CPI and evolving counterproliferation policy, the more narrowly defined "informed public," including private analysts and researchers, and environmental and disarmament groups, has a loud voice on the issue which can not be ignored. I liken this voice to that of a crowd at a sporting event, or for the sake of Allison's chess allegories, to a crowd anticipating and responding to moves by chess masters. They can not themselves affect the game by moving the pieces, but they may occasionally through their cheering or disapproval influence the next move. Often, however, the crowd merely produces noise of little consequence to the game.

Freed of the constraints of government protocol, NGOs and private analysts have been far more vocal and are more broadly published than government officials. They have become the conduit through which many tensions reach the public forum. The NGO input is important to consider, particularly with regard to the fundamental tensions between the very natures of counterproliferation and nonproliferation, as well as the tensions which surround the possible use of force. These tensions are largely scenario driven, and will in all likelihood have to be dealt with if and when military force is used. Therefore, they must be considered in the contingency planning process.

2. Tensions Between Counterproliferation and Nonproliferation:

The NGO community has articulated many tensions which exist directly between the concepts of counterproliferation and nonproliferation. Some of these tensions have no doubt surfaced as interagency tensions and intergovernmental tensions as well, but only the NGOs have stated them in the public fora of the news media, journals, books, and speeches. These tensions are all operative regardless of where government officials take their stands. Many of these tensions hinge upon varying interpretations of counterproliferation and nonproliferation principles. They can not be ignored

The most apparent tension is the fear that the United States or a U.S.-led Coalition will undermine the nonproliferation regime by substituting counterproliferation for nonproliferation whenever it sees fit to do so, without concern for broader international consensus. Brazilian Paulo Wrobel cautions that it took both time and persuasion to develop this consensus. He claims that the ongoing success of nonproliferation requires the continuing harmonization of many competing interests, and the willingness of each state involved to give up some of its national autonomy in decision-making. Since counterproliferation is a unilateral U.S. national policy, it carries with it a high risk of disrupting this multilateral harmony, which may have a devastating effect on the regime's further development.²⁴⁰

Another aspect of this tension has been developed by David Mussington, a Canadian analyst, who says that counterproliferation implies that the United States will address proliferation problems based on a country's technical capabilities rather than its legal status relative to the nonproliferation regime. This would further imply that United States participation in the nonproliferation regime from a strictly legal sense might be conditional with the option of substituting counterproliferation when it

²⁴⁰ Wrobel, 47-49.

saw fit.²⁴¹ Zachary Davis adds a further element to this tension by asserting that "even those countries that would welcome the elimination of WMD threats may balk at having the United States act as self-appointed 'judge, jury, and executioner,' " implying that if the United States makes the judgment call unilaterally that nonproliferation has failed, it risks harming the consensus of the nonproliferation regime.²⁴² After all, it may be logical to infer that since the regime operates on consensus, then consensus should also determine when the regime has failed.

On the other side of this tension, it may be difficult to achieve broad consensus on national, regional, and global security issues. Aspin himself said that the U.S. would seek to develop counterproliferation along with its allies, but he never said that it should become the tool of the UN Security Council, regional collective defense regimes, or other international security forum.²⁴³ In a broader context, President Clinton recently stated that "when our national security interests are threatened, we will act with others when we can, but alone if we must. We will use diplomacy when we can, but force if we must."²⁴⁴ It can and should be inferred that the president intends to apply this logic to the spectrum of security issues, including counterproliferation and nonproliferation, making it possible that the United

²⁴¹ David Mussington, "The Shape of U.S. Counterproliferation Policy," in Mutimer, David, ed. Control But Verify (York, Canada: Center for International and Strategic Studies, 1994), 127-128.

²⁴² Davis, 17.

²⁴³ Aspin, 2-3.

²⁴⁴ Bill Clinton, "We Must Secure Peace: A Struggle Between Freedom and Tyranny," delivered before the 49th Session of the UN General Assembly, New York, 26 September 1994, as quoted in Vital Speeches of the Day, vol. 61, no. 1 (15 October 1994), 2-5.

States reserves for itself the option to decide when to act without consensus, and whether it does so unilaterally or in concert with close allies. The ambiguity of this position forces a regional adversary state to carefully weigh the consequences of acquiring, possessing, and threatening the use of WMD. It may not be able to enjoy the privilege of a presumption of innocence merely because its affairs appear to be in order with the IAEA.

A related tension is found in the notion that by embracing counterproliferation, the United States is sending a signal that it no longer has confidence in the nonproliferation regime just at the time that it is having its greatest effectiveness. Brahma Chellaney, an Indian, asserts that the Defense Department is effectively telling the world that the United States cannot rely upon the nonproliferation regime to protect its national security interests.²⁴⁵ The implication is that other countries will also decide that they cannot rely upon it either. This could produce a chain reaction of degraded confidence in the regime which would damage the consensus.

On the other side of this tension, is the belief shared by a growing number of staunch nonproliferation advocates that there may be no option but to rely upon counterproliferation advocates. For example, Leonard Spector has recently suggested that the only way to ensure that North Korea negotiates in good faith toward implementing the Agreed Framework is for the United States to "carry a bigger stick," in the form of being prepared to strike the Yongbyon plutonium reprocessing plant in the event that talks fail and the North unfreezes its nuclear program.²⁴⁶ Spector's perspective

²⁴⁵ Brahma Chellaney, "International Implications of the U.S. Counterproliferation Initiative: A View From India," in eds. Reiss and Müller, International Perspectives on Counterproliferation, 121.

²⁴⁶ Leonard S. Spector, "Dealing With North Korea: Speak Softly and Carry a Bigger Stick," in William H. Lewis and Stuart E. Johnson, eds., Weapons of Mass Destruction: New Perspectives on Proliferation (Washington, D.C.: National Defense University Press, 1995), 116.

embraces the reality that nonproliferation efforts cannot solve certain aggravated cases of proliferation, particularly when the suspect state is patently dishonest, violates its treaty obligations, and deliberately impedes negotiations and safeguards inspections. This tension will likely give way to pragmatism among all but the staunchest idealists.

There is a strong tension between counterproliferation and nonproliferation because of the stark difference in the operative principles undergirding each. The nonproliferation regime relies upon a spirit of community, volunteerism, and cooperation.²⁴⁷ It assumes that its parties are in conformity with the regime unless proven otherwise by IAEA inspections. It operates based on an established set of norms and expectations, and engenders certain obligations towards the other members of the community.²⁴⁸ The operative principle of counterproliferation on the other hand is the assumption that nonproliferation has failed in a given case. This is antithetical to cooperation. It assumes guilt rather than compliance. This tension is not necessarily bad. Zachary Davis points out that the threat of unilateral American military action could actually render such an action unnecessary. It could galvanize the international community to adopt stricter measures other than force, including economic sanctions. It might also motivate a multinational coalition to mount its own military operation instead.²⁴⁹

²⁴⁷ The NPT, NWFZs, and security assurances rely upon the trust and cooperation of all parties involved, including both the nuclear weapons states and the nonnuclear weapons states. Export controls, however, rely upon the cooperation of the technically advanced states with the aim of preventing the spread of nuclear materials and technologies to states which don't yet have them unless they provide adequate assurances of peaceful use.

²⁴⁸ Müller, 26.

²⁴⁹ Davis, 17-18.

Secretary of Defense William Perry has stated that "the threat of military force should be sufficient to obviate the need to use it if the right military and political conditions are met, (and that) the threat will be maximally effective when political conditions permit the military force to be a broadly based coalition."²⁵⁰ Perry envisions that the threat of unilateral U.S. military action might in the end help to build consensus for a broadly supported military action under the aegis of the United Nations. This tension could therefore end up being a positive force if the possibility of unilateral U.S. military action is always kept open.

Many analysts fear that traditional U.S. leadership in nonproliferation issues may be compromised by counterproliferation. Harald Müller, who is uncomfortable with the possibility that counterproliferation will be a unilateral affair, asserts that there is a clear distinction between leadership, imposing new rules, and blatant disregard for the nonproliferation community's views.²⁵¹ He argues that when a state makes policy decisions or undertakes an initiative concerning the substance of the nonproliferation regime, it should only be done with consideration of the views and interests of the whole community.²⁵² By his reasoning, the United States must remain consistent with its historical leadership role in establishing the consensus upon which the regime was built.

Benjamin Sanders believes that unless counterproliferation receives the cooperation of other nations, it cannot succeed as a primary policy tool to protect U.S. interests, and that without such support it will be "more likely to

²⁵⁰ William J. Perry, "Military Action: When to Use It and How to Ensure Its Effectiveness," in Janne E. Nolan, ed., Global Engagement (Washington, D.C.: The Brookings Institute, 1994), 236.

²⁵¹ Müller, 27.

²⁵² Ibid, 26.

harm the purposes of the United States than to meet them."²⁵³ By his view U.S. leadership in nonproliferation would be seriously called into question if it acted unilaterally in counterproliferation. In reality consensus is often hard to come by, as is illustrated by China's steadfast refusal to support UN Security Council sanctions against North Korea for its refusal to comply with its safeguards obligations under the NPT. Counterproliferation, although a unilateral approach being developed under U.S. leadership, offers the possibility of driving a wayward state back to the diplomatic process by posing the possibility of punishment for willful nonproliferation violations. Müller and Sanders offer no alternative solutions to this problem. It seems that they would allow nonproliferation to be held hostage by a rogue state, rather than take action.

Leadership in the international arena is not static. Like conning a large ship in a narrow passage, it demands more than just the will to stay the course on nonproliferation. It must also entail the ability to discern when course corrections are required. Counterproliferation is such a correction. It may be needed only occasionally, but someone will have to exercise judgment and make the decision to use it. Lewis Dunn concedes that counterproliferation may prove operationally difficult, technically complex, costly, and in some instances not fully feasible. But he asserts that blind adherence to nonproliferation alone, something he calls "nonproliferation traditionalism," will not be sufficient to face future challenges.²⁵⁴ Since counterproliferation may not solve all future proliferation challenges, he calls for more "out of the box" thinking about additional initiatives.

Nonproliferation traditionalism suffers from several debilitating

²⁵³ Sanders, 9.

²⁵⁴ Lewis A. Dunn, "Proliferation Prevention: Beyond Traditionalism," in eds. Lewis and Johnson, Weapons of Mass Destruction, 27.

weaknesses: (1) its inability "to take advantage of potential synergies among global, regional, and national nonproliferation efforts," (2) its lack of a credible response to violations of nonproliferation norms and obligations, and (3) the lack of a viable solution to deal with countries acquiring WMD . . . for hegemonic purposes or to pose a direct threat to the United States.²⁵⁵ In Dunn's view, U.S. leadership beyond nonproliferation traditionalism is timely and necessary to correct the weaknesses of the nonproliferation regime. In the chaotic world system described by realist theory, U.S. leadership beyond nonproliferation traditionalism and the development of the self-serving policy of counterproliferation is a strong example of the principle of self-help.

Future WMD proliferation threats will evoke a wide spectrum of opinions from various governments, rather than the broad consensus that would be required for effective peer pressure. This phenomenon will likely be seen in both counterproliferation and nonproliferation spheres, depending on the nature of the threat, and may also polarize the two camps. The decision over which response to pursue in a given situation will always be a judgment call, and will always be vulnerable to being reassessed by outside critics.

Zachary Davis notes that

many other countries do not share the Clinton Administration's evaluation of the WMD threat as is evidenced by: (1) disagreements over export controls on dual-use technologies, (2) the inability of the United States to prevent the sale of nuclear reactors and other technologies to Iran, and (3) the debate over how to redress North Korea's nuclear activities.²⁵⁶

Decisions to use military options will likely have to stand up to the same spectrum of opinions. Broad consensus may be elusive.

Joseph Pilat points out that "unless military responses to proliferation

²⁵⁵ Ibid, 51.

²⁵⁶ Davis, 16.

are undertaken in unequivocal self-defense or are sanctioned by the UN Security Council, they constitute challenges to national sovereignty and raise questions of international law."²⁵⁷ But even in clear-cut cases of self-defense, or when action is taken under a Security Council Resolution these issues will still be debated, because they are part and parcel political issues, and will always be the subject of judgment calls and political debates. Consensus will often be difficult to come by, will be valuable when achieved, but must not be a handicap to taking action, especially if the stakes are national survival. Although it would be desirable, it seems unrealistic to require international consensus as a prerequisite to taking action in every conceivable case.²⁵⁸ It often takes years to develop such a consensus, and the luxury to develop such a consensus when national security interests are threatened may not be available in every situation.

A final tension to consider is that counterproliferation and nonproliferation may work at cross purposes even if military force is never actually used. The fear of preventive military strikes will probably lead a country which acquires WMD to disperse and hide them as well as the production infrastructure, just as in the cases of Iraq and North Korea. The resulting loss of transparency and greater difficulty in collecting intelligence works against the purposes of the nonproliferation regime and IAEA inspections. But even more importantly, dispersion of the weapons themselves compounds the difficulties of command and control, creating a greater risk of a loss of control to domestic opponents in a civil crisis, and a

²⁵⁷ Pilat, 9.

²⁵⁸ See Perry, 235 - 241, which presents the advantages of conducting military action under the broad consensus of cooperative security. As has already been pointed out, President Clinton is quite candid and pragmatic on this issue, and has clearly established that such consensus is desirable but not a prerequisite for U.S. military action. Clinton, 2-5.

greater risk of unauthorized use during times of crisis.²⁵⁹ This tension is likely to be unmitigated, regardless of how counterproliferation policy evolves.

3. Other Related Tensions:

Occasionally public opinion may be mobilized around a certain issue to shape a political outcome, but thus far counterproliferation has evoked little interest, let alone subject recognition among the general public. Michéle Flournoy notes that

public opinion is, however, neither static nor impervious to persuasion, (and that) U.S. policymakers must therefore consider not only where public opinion stands on a particular case of proliferation, but also the extent to which it can be led to support a new U.S. military posture.²⁶⁰

In some cases of WMD proliferation the public may not see its interests threatened, and will be unlikely to support, or at least be ambivalent towards, the use of force. As in all past military endeavors a portion of the public can be expected to protest vigorously, and to lobby heavily for restraint. Concerns over retaliation, accidental detonation of WMD, and environmental contamination are likely to temper public enthusiasm for counterproliferation in some cases, but in the presence of a clear and present danger, particularly if there is international and domestic political consensus, the public will likely be supportive. Public opinion often hinges upon how effective the case can be made via the media. A convincing case will likely carry the public, but one that is less than convincing could provoke its ire and condemnation.

²⁵⁹ Dunn, "New Nuclear Threats to U.S. Security," in Blackwill and Carnesale, New Nuclear Nations, 34.

²⁶⁰ Flournoy, 139.

One frequent comment by analysts in both the United States and foreign countries is that the use of military force must not be allowed to undermine international law. Russian Deputy Foreign Minister Georgi Mamedov stated at the National Defense University Topical Symposium on counterproliferation in November 1994 that the unilateral use of force "without a UN Security Council decision and only on the basis of intelligence data . . . does not fit in with the norms of international law."²⁶¹ He also predicted that new high-precision weapons designed "for the implementation of the 'counterproliferation' idea will inevitably result in a new spiral in the world arms race and affect the present strategic stability."²⁶²

Others have stated that the use of force in counterproliferation is permissible in self-defense as allowed by Article 51 of the UN Charter. But there are differing interpretations of Article 51 which provoke strong intergovernment tensions. The narrow interpretation favored by some UN apologists such as Louis Henken "permits the use of force only in a very narrow and clear circumstance, in self-defense if an armed attack occurs."²⁶³ But most governments generally assert that their own right of self-defense must be defined by themselves alone, and not subordinated to the UN or other external authority. Judge Abraham Sofaer, former Reagan Administration State Department legal counselor, takes the view that "the right of self-defense is too fundamental for leaders to allow it to be

²⁶¹ Georgi Mamedov, "Counteracting the Proliferation of WMD," Unofficial translation of speech delivered at the National Defense University 1994 Topical Symposium (16-17 November 1994), 4.

²⁶² Ibid.

²⁶³ Louis Henken, How Nations Behave (New York: Columbia University Press, 1979), 141. Henken further insists that "nothing in the history of its drafting suggests that the framers of the charter intended something broader than the language implied."

subordinated to any scheme of world order based on theory and wishful thinking, however enlightened."²⁶⁴ The actual practice of most states has been to insist that others take the narrow view, while asserting their own right to take the broader view.

The broader view of self-defense espouses the doctrine of anticipatory self-defense, the notion that a nation need not be required to wait for the first blow to fall before it acts to defend itself. This issue has long been a source of international debate, and is without doubt the strongest single tension which the CPI evokes. Although Israel's air strike on the Osiraq reactor arguably violated the UN charter by the narrow view of self-defense, Israel justified its actions based on the broader view. The strike and the Begin Doctrine which was articulated shortly afterward are based on the notion that in rare circumstances a state is justified to act in anticipation of a threat. Israel was universally condemned at the time, but after the Gulf War revelations of the extent of Iraq's nuclear program, it was to a large degree vindicated. In the Spring of 1992 Secretary of Defense Dick Cheney effectively reversed U.S. condemnation of the Osiraq air strike by publicly thanking Israel, and noting that the strike had clearly prevented Saddam Hussein from possessing nuclear

²⁶⁴ Abraham Sofaer, "International Law and the Use of Force," The National Interest, no. 13 (Fall 1988), 61. See also Oscar Schachter, "Self-defense and the Rule of Law," The American Journal of International Law, vol. 83, no. 2 (1989) 259-260. Schachter develops the argument for the broader view of self-defense drawing from Hugo Grotius' seventeenth century legal classic De Jure Belli Ac Pacis (Of Law in War and Peace) and Hersch Lauterpacht's mid-twentieth century treatise The Grotian Tradition, considered to be two of the great works on international law. Schachter asserts that this right can not be invoked arbitrarily or for "reasons of state," and offers that states which exercise this right remain accountable under principles of positive (man-made as opposed to natural) law to the community of nations. The United States has long held to what Schachter describes as "the widely held view that the preservation of the state has precedence over positive law and with the practical understanding that it must be left to each state to decide what is necessary for its own self-defense."

weapons at the time of the Kuwait invasion.²⁶⁵ A future coalition united in anticipatory self-defense would probably enjoy wide public support and avoid the condemnation that generally accompanies unilateral action. The difficulty of developing such consensus would be in providing sufficient evidence to make the case, without compromising sources or the element of surprise. Some counterproliferation scenarios would be rendered impossible to execute by the need for such consensus.

There is also the potential tension raised when striking facilities in wartime which are otherwise safeguarded under IAEA safeguards agreements. The two cases of air strikes against Iraqi reactors are useful to illustrate this point. Both the Israeli strike in 1981 against the unfueled Osiraq reactor, and the Coalition air strike in 1991 against operating reactors at nearby Al-Tuwaitha were carried out on safeguarded facilities. The Israeli strike was universally condemned, while the Coalition strike received relatively little criticism. Although the Coalition did not have a specific UN mandate to strike the Iraqi facilities, it was able to justify the strike under its broader mandates to liberate Kuwait and to repulse the Iraqi forces. The Coalition strike was also masked in the public forum by a plethora of other wartime activity which enjoyed broad international approval, while the Israeli strike stood out as a singularly illegal act. This tension can be overcome, and the technicality of treaty compliance can be circumvented, by building a strong consensus for action within the UN Security Council based on solid intelligence that a state is willfully violating its obligations, and refusing to address the issue via diplomatic means.

²⁶⁵ Frank J. Gaffney, Jr., "An Exchange on Proliferation," The National Interest, no. 27 (Spring 1992), 108. See also Cohen, 101, note 80, which refers to Shlomo Nakdimon's First Strike (Hebrew revision) (Tel Aviv: Edanim Publishers, 1993), 381-382, which reports that Vice President Quayle and Secretary of Defense Cheney both openly acknowledged their gratitude to Menachem Begin for his decision to attack Osiraq.

A related tension is the concern over collateral damage and contamination from damaged or partially detonated weapons. Although no radioactive contamination was apparently released from the Al-Tuwaittha facility in the 1991 strike, this was a single event which may be as attributable to good fortune as to deliberate planning and skillful execution.²⁶⁶ David Fischer claims that this strike broke a long-standing international taboo against attacking operating reactors.²⁶⁷ This taboo dates from the Israeli decision to attack the Osiraq reactor before it was fueled to avoid spreading radioactive contamination.²⁶⁸ The spread of nuclear, biological, or chemical contamination is at best difficult to model, considering that blast effects, damage, containment, and environmental factors such as wind, rain, dust, and temperature can not be estimated with certainty. Worst case assumptions will probably be most useful in counterproliferation decision-making, but will generally be pessimistic. This tension will not easily be mitigated, particularly due to past public skepticism over government claims on environmental issues. The only way to overcome it is to build a convincing case for using force on legal and moral grounds to prevent the even bigger problem of taking the first hit when a weapon detonates over friendly forces, cities, or territories. This case could be made if the public became convinced that reasonable diplomatic possibilities are exhausted, and the danger of WMD

²⁶⁶ Fischer, Towards 1995, 49. He refers to the Iraqi government's report to the IAEA dated 26 April 1991 which reported no release of radioactivity from the facility.

²⁶⁷ Ibid.

²⁶⁸ Jed Snyder, "The Road to Osiraq: Baghdad's Quest for the Bomb," *Middle East Journal*, vol. 37, no. 4 (Autumn 1983), 581-585. Snyder gives a detailed analysis of the various factors behind the timing of the Israeli strike. See also Dan McKinnon, Bullseye One Reactor (San Diego, California: House of Hits Publishing, 1987), 86-93, which poses the analysis through a series of questions to the reader.

seems clear and present.

There is a potential for counterproliferation to further exacerbate North-South tension. Virginia S. I. Gamba claims that the CPI "helps consolidate the links between technology and security (and) effectively hardens the discussion of technology transfer," an issue dear to the developing countries.²⁶⁹ And as with technology transfer and export controls, "it is easy to envision similar accusations of discrimination" when it comes to counterproliferation.²⁷⁰ The implicit shift in NATO's focus from eastward to southward in matters of WMD proliferation might be offered as evidence for this charge. The U.S. Strategic Command's Silver Book concept also allegedly targets nuclear infrastructure in the developing countries.²⁷¹ Gamba also believes that most of the criticism of U.S. security policy has "been prompted by suspicions that the United States and other developing countries are attempting to adapt traditional doctrines of East-West deterrence to North-South interactions," while conceding that over time, most countries ultimately do "adopt and adapt" new U.S. sponsored security initiatives.²⁷² Broad based international consensus, when it can be achieved, will help defuze the potential North-South argument.

Hans M. Kristensen and Joshua Handler of Greenpeace International assert that the nuclear weapons states view Third World proliferation as a

²⁶⁹ Gamba, 66.

²⁷⁰ Ibid.

²⁷¹ Starr, "STRATCOM Sees New Role in WMD Targeting," 3.

²⁷² Gamba, 60.

rationale to keep robust nuclear arsenals.²⁷³ They infer that improvements in strategic intelligence and rapid retargeting, combined with initiatives like STRATCOM's Silver Book concept, and new strategic doctrine indicate a fundamental shift in nuclear deterrence strategy specifically aimed at developing countries.²⁷⁴ The result, they argue, is that "the United States is gradually adjusting its nuclear war plans to include fighting a nuclear war against a Third World nation or group of nations which may acquire weapons of mass destruction."²⁷⁵ They claim that this new strategic doctrine is not specifically part of the CPI, but that it exists in tandem with it.

These charges focus more on Greenpeace's traditional opposition to nuclear weapons and nuclear deterrence. They view changes in U.S. nuclear strategy as a sinister plot. In order to prevent the use of Third World nuclear weapons, U.S. nuclear forces must be able "to deter the use of WMD across the spectrum of potential conflict, from a massive exchange of nuclear weapons to limited use on a regional battlefield."²⁷⁶ Regardless of the extent of the threat, U.S. nuclear weapons "must confront an enemy with risks of unacceptable damage and disproportionate loss should the enemy choose to introduce

²⁷³ Hans M. Kristensen and Joshua Handler, Changing Targets: Nuclear Doctrine from the Cold War to the Third World (Washington, D.C.: Greenpeace International, 1995 - revised), 1.

²⁷⁴ Ibid, 1 and Appendix B. In the Appendix, Kristensen and Handler provide excerpts of Joint Publication (Joint Pub) 3-12, Doctrine For Joint Nuclear Operations (Washington, D.C.: The Joint Chiefs of Staff, dated 29 April 1993), as evidence of new nuclear doctrine, as well as Barbara Starr's article "STRATCOM Sees New Role in WMD Targeting," 3, as evidence of STRATCOM's Silver Book initiative.

²⁷⁵ Ibid, 1-3.

²⁷⁶ Joint Pub 3-12, I-2, excerpted in the appendix to Kristensen and Handler's report.

WMD in a conflict."²⁷⁷

Kristensen and Handler are concerned that such a deterrence posture is inconsistent with the negative security assurances given to the non-nuclear states which are parties to the NPT.²⁷⁸ Their logic implies that targeting an NPT signatory which violates its NPT obligations by proliferating is somehow unethical or illegal. Greenpeace's fundamental disagreement with longstanding nuclear deterrence focuses on a noble, but wishful desire for a nuclear weapons free world, not on the reality that more potentially hostile states are acquiring WMD. This tension will likely not be resolved, regardless of how U.S. counterproliferation policy and deterrence strategy are framed.

A related tension raised by a private analyst is whether counterproliferation would entail the use of nuclear weapons, despite the claims of Aspin and Wallerstein that it would only involve conventional capabilities. Despite these assurances, Paul Warnke notes that it is "discouraging and alarming to read in the 1994 Annual Report of the Secretary of Defense that: 'since the United States has foresworn chemical and biological weapons, the role of U.S. nuclear forces in deterring or responding to such non-nuclear threats must be considered.' "²⁷⁹ This tension may be useful in the end, particularly if the possible use of U.S. nuclear weapons in counterproliferation were left ambiguous. This risk might force states intent on acquiring WMD to recalculate the value of acquiring them. It might also compel the broader community of states interested in halting particular proliferation threats to work together for consensus for fear that if diplomacy failed, U.S. nuclear weapons might be used instead.

²⁷⁷ Ibid.

²⁷⁸ Kristensen and Handler, 25.

²⁷⁹ Paul C. Warnke, "Strategic Nuclear Policy and Nonproliferation," Arms Control Today, vol. 15, no. 11 (May 1994), 5.

E. CONCLUSIONS REGARDING THE TENSIONS CAUSED BY THE CPI

1. Bureaucratic Tensions are Dissipating:

These tensions were self-inflicted, because of the lack of clear definitions and the "initiative" approach of introducing a new mission with a new agenda into an arena of competitive bureaucratic interests. These tensions were avoidable and unnecessary, but they have not proven insurmountable. Many are fast fading away. Counterproliferation has been established as the full range of conventional military capabilities which can be brought to bear if diplomatic responses to proliferation fail to protect the United States and its allies from WMD. The biggest bureaucratic tensions remaining seem to be the questions of whether or not the intelligence will be available to support counterproliferation, and whether military forces can actually accomplish missions envisioned.

Much of the bureaucratic infighting has died down. The NSC has been firmly established as the arbiter of nonproliferation and counterproliferation issues. The President advised by the NSC will ultimately be the tasking conduit for counterproliferation contingency planning and execution. The Defense Department after an admittedly shaky start in which it had great difficulty explaining what it really meant has firmly established under Carter's office a single point of contact think tank to study the issue, develop policy, and conduct dialogue with both U.S. government agencies and foreign governments. The experience level of this office on WMD proliferation issues has developed over time, giving it greater credibility. Congress also took a role by commissioning the Deutch study to clarify the full range of activities and capabilities, including capability shortfalls and new requirements. The first Deutch Report of May 1994 did a great deal to solidify the interagency processes at work, and to legitimize the concept of counterproliferation within the U.S. bureaucracy. A second report is

anticipated in 1995. The Joint Staff, CINCs, and Services issued a report in May 1995 on the study they undertook beginning in January 1995, but its results are classified. It is likely that this study will further solidify the concept of counterproliferation, and forge a working consensus among the uniformed military of its capabilities, limitations, and anticipated requirements to fulfill counterproliferation missions.

2. Intergovernmental Tensions and Emerging Consensus:

Carter's office is clearly the single U.S. point of contact for counterproliferation. Past experience with NATO shows that consensus among sixteen nations with similar political, security, and economic goals takes time to build. Progress is apparent, but patience must be the watchword, particularly in light of the extensive study being undertaken by the NATO DGP. To date NATO consensus is forming over defensive measures and intelligence capabilities, while mention is not even made of offensive means, or the actual terminology of counterproliferation. But this is good progress nonetheless, particularly when viewed in the light of NATO's past record of methodical review and debate. NATO's approach has worked remarkably well in building consensus for controversial new policies in the past. The support and independent inquiries of key allies France and the United Kingdom will be helpful in forging future NATO consensus.

Other allies are more cautious and are waiting to see what develops. Japan and South Korea appear reluctant to embrace the CPI concept because of their fears of provoking North Korea. Australia may see the CPI in competition with its own WMD nonproliferation initiatives in the biological and chemical realms. Russia will tender its own views soon, although some of its diplomats have expressed initial skepticism.

Many nations have taken little or no interest in the CPI, either because they do not feel directly threatened by WMD, do not fear being targeted by the

CPI, or do not have the resources to focus on the issue and participate in the international debate. Some of these states are more focused on other WMD proliferation issues which more directly impact upon them. Others are struggling with more immediate issues of national security and national survival.

3. The NGOs are candid but often irrelevant:

The NGO analysts are the most prolific and best published critics of the CPI. They make an important contribution to the counterproliferation -- nonproliferation debate because they are free of the baggage of government policy, although they often defer to idealism instead of pragmatism. NGOs are not constrained by the requirement to actually develop and implement a policy that will meet particular needs and deliver on specific expectations. But they are free to express themselves as they see fit, and willingly commit themselves to print, whereas government officials many times will not, particularly in the development stage of policy, in which the CPI is currently managed. This freedom is the great value of examining the tensions through the NGO perspective.

Some NGO perceptions of the fundamental tensions between counterproliferation and nonproliferation are significant, and must not be lightly dismissed without detailed study. They sound the warning against unexamined policy development, and against potential abuses. The fear that the United States or a coalition it leads might wantonly substitute counterproliferation before nonproliferation actually fails is healthy, and establishes the benchmark that counterproliferation really is a last resort measure to be used only when nonproliferation can be shown to have failed decisively.

The shift to considering potential WMD proliferators by their technical capabilities rather than by their legal status before the IAEA is a positive shift. The tensions such a shift creates will likely mitigate. Tensions created by allegations that the United States does not trust the regime are misplaced,

based on a skewing of actual priorities, which place counterproliferation clearly in a support role to nonproliferation for the few extreme cases when the latter fails, as it inevitably will. The tension raised by the fundamental difference in operating principles will always remain. It can be mitigated by developing a policy which allows flexibility to analyze each potential proliferation case on its own merits. U.S. leadership in counterproliferation and nonproliferation is based on pragmatism not idealism. Tensions concerning potential damage to U.S. leadership in nonproliferation are worth considering, but will probably in the end give way to pragmatism. The cross purposes of counterproliferation and nonproliferation create tensions which may actually be harnessed to bring about broader international consensus for fear of unilateral U.S. action if consensus is not achieved.

The NGOs also raise a number of tensions unique to counterproliferation, particularly when contemplating the use of military force. Some NGOs will always be in opposition to government policy based on fundamental differences in perception of how the world system operates. The NGO input is loud but often of little consequence. It might have great impact in several key areas such as environmental impact and war escalation when it can play on popular fears to pressure government action or restraint. In many cases, however, these tensions will fade away in the presence of a clear WMD threat. While many NGO analysts are skeptical of counterproliferation and predict its failure as policy, many of their own governments have shown cautious interest and are moving forward to study it. As consensus takes shape, however slowly it may move forward, it is apparent that the criticisms of various NGO analysts do not constitute a failure of the CPI.

V. CONCLUSIONS AND RECOMMENDATIONS

The Counterproliferation Initiative is compatible with the nuclear nonproliferation regime. It enhances nonproliferation by raising the stakes for states which violate regime norms and obligations. The tensions it created are numerous, but manageable, and will not preclude the development of U.S. and allied counterproliferation policy. It seems safe to assume that the president and his cabinet will carefully fashion counterproliferation into a set of options subordinate to the largely successful nonproliferation policies of the past.²⁸⁰

Counterproliferation provides the stick, and nonproliferation the carrot necessary to treat future WMD proliferation attempts with the classic stick and carrot approach.²⁸¹ The legacy of U.S. leadership in global nonproliferation endeavors is a mandate to continue to seek international consensus whenever possible to enhance the nonproliferation regime. But it also seems wise to retain the option to use counterproliferation, preferably with U.S. allies or a U.S.-led coalition, but unilaterally if necessary, to deal with regional adversaries which attempt to acquire WMD, or which threaten to use WMD

²⁸⁰ This research supports the statements of Aspin, Carter, and Wallerstein that nonproliferation remains the strategy of choice to respond to WMD proliferation challenges. I agree with their statements that the military options which counterproliferation may provide will reinforce and supplement nonproliferation policy when it falters or fails.

²⁸¹ In some cases, nonproliferation also uses the stick approach, but to a lesser degree than in counterproliferation. Export sanctions have been enacted at various times against India, China, and Russia. U.S. economic and military aid was cut off to Pakistan, a vital Cold War ally, once the Soviets withdrew from neighboring Afghanistan, and amid growing concerns over Pakistani nuclear ambitions.

which they may already possess.²⁸²

President Clinton has said that WMD proliferation issues must be given a higher profile. He appears willing to combat WMD proliferation by regional adversaries with military means if diplomacy fails. This is a fundamental change in stated national security policy, but it does not undermine diplomacy. Counterproliferation puts such an adversary on notice that there may be severe consequences for acquiring or threatening use of WMD against the United States or its allies. It may induce states to reconsider the cost-benefit calculus of possessing such weapons and halt existing WMD programs. It will help influence such a state to search for its security in other venues.

A. ANCHOR POINTS FOR COUNTERPROLIFERATION POLICY

The six pairs of arguments and counterarguments presented in the introductory chapter have been examined over the course of this research. These pairs may now be resolved into clearly focused building blocks for counterproliferation policy. They must be viewed through the dual lenses of protecting U.S. security interests, while at the same time enhancing nonproliferation. These are the dual fundamental purposes of the CPI. By using both lenses, it may be possible to develop an effective counterproliferation policy which reinforces nonproliferation to the point that military responses to proliferation may never be required. Counterproliferation policy must be consistent with these elements if it is to succeed.

²⁸² The carrot and stick approach to WMD proliferation is consistent with President Clinton's speech entitled "We Must Secure Peace," delivered at the 49th Session of the UN General Assembly, New York, 26 September 1994, Vital Speeches of the Day, vol. 61, no. 1 (15 October 1994), 3. In this speech, Clinton forcefully states: "As President of the United States, my first duty is to the citizens of my country. When our national security interests are threatened, we will act with others when we can, alone if we must. We will use diplomacy when we can, but force if we must."

1. The CPI is a proper response to the number one U.S. security threat:

Although key friends and allies often disagree with the United States over the scope of particular WMD proliferation threats, there is no serious rebuttal on the nature of the threat. The *raison d' être* of the CPI is to combat this threat. No other strategies to meet this threat have yet been tendered by U.S. allies or by other states which maintain an interest in proliferation issues.²⁸³ British and French military doctrines now consider this threat, and incorporate many of the options espoused by the CPI.²⁸⁴ NATO's Defense Group on Proliferation has completed its own threat assessment, and is moving forward with its counterproliferation study.²⁸⁵ The growing allied consensus over the nature of the threat helps legitimize the CPI as an appropriate response.

2. Nonproliferation needs a forceful back-up:

There are widespread calls to strengthen each component of the nonproliferation regime, but it seems increasingly likely that nonproliferation alone will not stop a state which has the will and resources to acquire WMD. Past difficulties involving the tightening of export controls indicate that it may prove even more difficult to achieve the consensus necessary to change

²⁸³ NATO Press Communique M-1(94)3, issued by NATO following the January 1994 NATO Summit, stated that "we have decided to intensify and expand NATO's political and defence efforts against proliferation, taking into account the work already underway in other international fora and institutions" (emphasis added). This appears to be a diplomatic acknowledgment that at that point NATO would study the role of U.S. leadership in counterproliferation, and the course charted by the CPI, and would adapt elements of the U.S. proposal rather than develop its own alternative.

²⁸⁴ "UK Defense Strategy: A Continuing Role for Nuclear Weapons?" and Livre Blanc sur La Defense 1994.

²⁸⁵ Wallerstein, 18.

the NPT or the IAEA statute.²⁸⁶ The military options provided by counterproliferation add back-up capabilities of prevention, preemption, deterrence, and defense, which will make the diplomatic approaches of the nonproliferation regime more effective than before, and which will raise the stakes for states who might strive to cheat on their obligations. The possibility of unilateral U.S. military action may prompt states to work towards greater consensus in nonproliferation, which may in the end obviate the need for the use of military force.

3. U.S. leadership in counterproliferation is consistent with its past leadership in nonproliferation:

The extension of the NPT, the flagship component of the regime, and the component which draws the strongest international consensus, highlights the long standing success of U.S. leadership in nonproliferation. Fears that the CPI will undermine future consensus appear to be ill-founded.

Counterproliferation was not even brought up over the entire four weeks of the NPT Review and Extension Conference.²⁸⁷ None of the concerns raised

²⁸⁶ It was not until the embarrassment caused by the acquisition successes of the Iraqi nuclear weapons program that members of the Nuclear Suppliers Group accepted stricter export controls. Prior to the Gulf War, various European states argued against U.S. efforts to tighten export rules, and expand trigger lists. When the NSG founders announced their formal agreement in September 1977 launching the so-called "London Club" they refused to agree to a U.S. proposal for an outright ban on the sale of sensitive technologies and equipment, and agreed only to "exercise restraint" in exporting plutonium reprocessing and uranium enrichment facilities. This failure was due largely to commercial pressures which were flimsily disguised as issues of national sovereignty. See Lewis A. Dunn, Controlling the Bomb, Nuclear Proliferation in the 1980s (New Haven, Connecticut: Yale University Press, 1982), 33-34.

²⁸⁷ According to statements of faculty and associates of the Monterey Institute of International Studies who attended the conference in a variety of official and unofficial capacities, the issue of counterproliferation did not surface throughout the entire four weeks of the conference.

by the NGO community were addressed.²⁸⁸ The Review and Extension Conference is a useful barometer indicating that counterproliferation, if judiciously managed, may have a minimal impact on the nonproliferation regime. The United States should view the NPT extension as a mandate to continue its leadership in managing international responses to WMD proliferation. This will involve maintaining proven nonproliferation efforts, as well as developing new responses such as counterproliferation.

4. The CPI updates U.S. nuclear deterrence to the current threat:

Carter and Wallerstein claim that the CPI does not portend the first use of U.S. nuclear weapons.²⁸⁹ But the possibility that they may be used in a preemptive strike against an adversary's WMD before they can be used against the United States or its allies cannot be dismissed. This possibility is implicit in the longstanding U.S. nuclear weapons strategy of maintaining the option of first use, which formed the linchpin of NATO's "flexible response" strategy for many years. Credible military counterproliferation options, including the possible first use of nuclear weapons, will ultimately enhance U.S. nuclear deterrent strategy.²⁹⁰ The use of nuclear weapons in counterproliferation must therefore be left deliberately ambiguous.

²⁸⁸ Ibid.

²⁸⁹ Carter and Wallerstein have made similar claims at recent conferences on WMD proliferation.

²⁹⁰ LT Paul E. Espinosa's thesis titled "No-First-Use: Implications for Deterrence, Alliance Cohesion, and Nonproliferation" (Monterey, California: Naval Postgraduate School, 1994) reaches similar conclusions on the benefits of an ambiguous no-first-use policy. He concludes that a U.S. no-first use declaration would be shortsighted in that it would damage relations with U.S. allies which depend upon U.S. positive security assurances, and would increase the likelihood of nuclear proliferation.

5. The CPI's preventive and preemptive options can provide additional protection for U.S. citizens, forces, and territories:

Carter states that the CPI focuses on protection from "the danger that WMD will be used against U.S. citizens, forces, or allies in the course of a regional conflict."²⁹¹ The CPI's preemptive and preventive options are its strong suit, and can probably provide such protection. These options will likely provide an impetus for regional adversaries intent on acquiring WMD to reassess the benefits of doing so. An adversary which may already possess WMD will have to carefully assess the value of threatening or actually attempting to use them against the United States or its allies.

6. The CPI targets the handful of regional adversaries likely to attempt to acquire or threaten the use of WMD, not the broader international consensus of the nonproliferation regime:

The linkage established between nonproliferation and counterproliferation makes it clear that counterproliferation is focused on the handful of states which seem highly motivated to acquire WMD, and which have shown a strong record of hostile intent towards the United States and its allies.²⁹² States that are not pursuing the acquisition of WMD, and those which possess either the weapons or the capability to produce them, but do not demonstrate adversarial behavior, have nothing to fear from U.S.

²⁹¹ Carter, 4.

²⁹² Wallerstein, 2. Slide 2 from this briefing is titled "Proliferation -- The Danger." It states that "more than 25 countries, many hostile to the U.S. and our friends and allies, may have -- or may be developing -- nuclear, biological, and chemical weapons and the means to deliver them." It may be inferred from this slide that all of these countries could be evaluated for possible counterproliferation activity, depending upon their future behavior.

counterproliferation.²⁹³ The national leadership of the states which are targeted will be able to surmise whether or not they are targets based on their behavior with regard to WMD they either possess or intend to acquire.

B. RESEARCH FINDINGS

1. The nonproliferation regime is healthy:

The NPT was extended both indefinitely and unconditionally, and is well on its way to approaching a long hoped-for goal of universality, with the exception that Israel, India, and Pakistan will probably remain outside for the foreseeable future. U.S. leadership proved crucial in obtaining the extension, and will be necessary to bolster international consensus for nonproliferation in the future. U.S. leadership in both nonproliferation and counterproliferation does not appear to be a conflict of interest, but rather a strength, especially since the policies are inextricably linked. Strong U.S. leadership in nonproliferation, coupled to the possibility that the U.S. or a U.S.-led coalition will take military action if it deems that diplomatic means have failed can help stimulate consensus over nonproliferation. Concerns that counterproliferation will undermine the regime and destroy the existing consensus appear to be exaggerated, and play on popular fears. The United States has earned a mandate to lead out in the new direction of counterproliferation by virtue of its proven record as an honest manager of the nonproliferation regime.

2. The CPI is not a "fix-all" solution:

The CPI has two inherent risks that can not be lightly dismissed, and which will ultimately delineate the limitations of counterproliferation. The first risk is that there may be overconfidence in high technology solutions. This is a classic American weakness and a potential Trojan Horse which could

²⁹³ However, they might fear counterproliferation efforts by other states. What if for example Israel, India, and China develop their own counterproliferation policies with goals somewhat different from the United States and NATO?

lie dormant the day a military response is actually required. CNN video images of precision weapons going down ventilation shafts have now become part of America's public corporate memory. In future conflicts there may be expectations and illusions of fool proof hightech solutions to WMD proliferation. The fascination with high tech solutions, and the tendency to overlook the uncertainty of combat and the possibility of failure implicit in every military operation must not be allowed to cloud the judgment of policy makers, military planners, and commanders. Understanding this risk is vital.

The second risk is the possibility that intelligence support may be inadequate to execute required missions. It may be impossible to know how many, or even about how many special weapons an adversary may possess, where these weapons are hidden, and what defenses must be overcome to attack or disable them. The limitations of intelligence have often in the past dictated what could and could not be accomplished. It is likely that intelligence limitations will constrain military options in counterproliferation scenarios as well.

3. Intragovernmental tensions are fading:

Through the first year of the CPI there was much talk of tensions between the agencies and departments of the U.S. government which deal with proliferation issues. Many analysts both within the government and outside of it criticized the vagueness of the terms and principles of counterproliferation, and there appeared to be confusion over agency responsibilities and authority.²⁹⁴ While specific interagency tensions were not addressed in public sources, the general tensions, particularly at the working staff level, were described by many observers. The Deutch Report of May 1994 clearly established NSC authority over all proliferation policy

²⁹⁴ The various articles by private analysts in Reiss and Müller's International Perspectives on Counterproliferation are replete with such criticism.

issues.²⁹⁵ Interagency tensions have been eased, and the competing bureaucracies within the government are now achieving consensus on how to proceed.

4. Alliance tensions are manageable, and other intergovernmental tensions are largely inconsequential:

The initial consensus achieved within NATO and the progress to date in the Defense Group on Proliferation is very positive, and will likely give way to the formation of a NATO counterproliferation policy in the future.²⁹⁶ NATO's cautious approach to this issue, and its hesitancy to embrace the offensive element of counterproliferation is consistent with past behavior when confronted with major policy shifts.²⁹⁷ The CPI is consistent with NATO's defensive mission especially since its focus is on U.S. and Western/G7 security interests. As some NATO countries shift their security concerns southward, counterproliferation may partly fill the temporary vacuum caused by the short term disappearance of the former Soviet threat.

Consensus with Japan and Russia may be much further off in the future, if it is ever achieved at all. Preliminary discussions with both on theater ballistic missile defense cooperation and other aspects of counterproliferation have not been met with the same level of interest or

²⁹⁵ Deutch, 7-8.

²⁹⁶ See Wallerstein, 20, in which he expresses satisfaction in NATO progress to date, and optimism over future progress

²⁹⁷ By comparison, the doctrine of "flexible response" took six years to be adopted by NATO from the time it was first articulated by President Kennedy and Robert McNamara. Sinnreich, 462.

consensus characteristic of the January 1994 NATO Summit.²⁹⁸ Other countries outside of U.S. security relationships may be critical of counterproliferation's focus on U.S. and Western security, but this should be expected. Countries looking at American and Western security policy from the outside will generally be suspicious, if not critical.

5. Tensions raised by NGOs must be filtered:

There is much noise and little substance relevant to U.S. security policy in many of the tensions raised by the NGOs. Some of the international NGOs concentrate on refuting U.S. security policy, and always will. They also focus on the discriminatory nature of the nonproliferation regime, and the potential that counterproliferation will be applied in a discriminatory way to bully Third World states.²⁹⁹ Their arguments are based on idealism, not pragmatism or the realities of international power distribution.

NGOs occasionally identify tensions which must truly be considered in the development of counterproliferation policy. One such tension, which has been vociferously raised by the international NGOs (and which has been played down by the Defense Department) is the fear that U.S. nuclear weapons will be used to carry out counterproliferation actions. This tension is a good tension. It is a difficult tension for the U.S. government to confront politically, and Carter and Wallerstein have addressed it by stating that counterproliferation will only entail conventional means. But it is incalculably useful that organizations such as Greenpeace raise this tension,

²⁹⁸ Wallerstein, 17-19. Wallerstein states that "the most important of these multilateral efforts is here in NATO, of course." In describing overtures to Russia and Japan, he stated that he looked forward to a constructive exchange with Russian Federation officials, and that he was striving to work with key friends and allies in the Pacific and was continuing "to explore a possible relationship with Japan built around theater missile defense issues and technology sharing."

²⁹⁹ Kristensen and Handler of Greenpeace International allege that counterproliferation is a plot to retarget U.S. strategic weapons on the Third World.

because it creates the very useful ambiguity that the United States might actually take matters into its own hands and use its nuclear weapons if diplomacy cannot solve the most serious proliferation problems.

C. POLICY RECOMMENDATIONS

1. Counterproliferation policy must stress operational aims:

Counterproliferation policy must enable the unified CINCs to plan, operate, and fight under the WMD threat. The United States can not afford to allow a potential regional adversary to use WMD to deter U.S. or U.S.-led coalition military forces. Policy must prevent this scenario from ever occurring. It must also be able to deter a potential adversary which already has WMD from threatening to use them. A strong and credible counterproliferation policy should allow the CINCs to fight with little fear that a potential foe could successfully resort to WMD. Counterproliferation must also develop improved defensive measures to protect troops from WMD effects should such weapons be employed against them deliberately or accidentally.

2. Keep options for prevention and first use of U.S. nuclear weapons ambiguous:

Counterproliferation policy must keep options for preventive attacks and first use of U.S. nuclear weapons deliberately ambiguous. As has been previously mentioned, this ambiguity creates a good tension which ultimately may serve U.S. counterproliferation policy well. The United States can not flaunt this ambiguity as it will cause unwanted additional tensions with the NGO community, but it should nonetheless become an established principle of policy. It could be mentioned when needed to encourage diplomatic solutions by pointing out the possibility of a more severe outcome.

3. Give nonproliferation center stage whenever possible:

Nonproliferation options must be showcased as the response of choice. The U.S. legacy has been one of patience and often tolerance in pursuing nonproliferation. This tradition must continue, except in obvious cases where diplomacy fails to reverse extended stonewalling, blatant deception, or hostile intent. The linkage between nonproliferation and counterproliferation must model the carrot and stick approach. The advantages and benefits of nonproliferation must be held forth to states which have troublesome WMD proliferation records as the desirable outcome for all parties concerned.

4. The abundant historical record of previous counterproliferation planning and action must be rediscovered:

The initiative approach taken by Secretary Aspin in announcing the CPI may have been the wrong approach. This label implied that there would be new (and some clearly feared irresponsible) behavior within the Department of Defense. The "newness" of counterproliferation both in terms of poorly defined new terminology as well as new missions created many self-inflicted tensions. Counterproliferation should be presented as an extension of a long history of using military force when it was needed to stop WMD proliferation. World War II left behind a long record of counterproliferation-like activity against the German nuclear research program. There are also more recent examples. It can be argued that the 1991 Gulf War was itself a preventive war which was fought partly to prevent Saddam Hussein from going forward with his WMD programs.³⁰⁰ It is not too late to rediscover the history behind U.S. counterproliferation, and use it to illustrate that

³⁰⁰ Although a preventive war against Iraqi WMD capabilities was never specifically mandated by the UN Security Council, U.S. and coalition commanders apparently realized the opportunity to destroy Iraq's growing WMD infrastructure from the earliest days of the Desert Shield build-up, and began planning strikes against known targets.

counterproliferation is not a radical departure from the U.S. record.

5. Counterproliferation should be developed into a three-fold policy involving strategies of prevention, deterrence, and defense:

A preventive strategy with deliberate ambiguity with regard to first use of U.S. nuclear weapons and unilateral U.S. action must be the core strategy of counterproliferation policy. Although this may not be popular at the United Nations, prevention is the most important single aspect of the CPI. Without a credible strategy of prevention, countries determined to acquire WMD for hostile purposes will be free to do so with little fear of an international consensus being reached against them. A credible preventive strategy will enhance other counterproliferation strategies as well as nonproliferation options.

The emerging counterproliferation policy must also have a credible approach to deterring the use of WMD as well as to deter their acquisition in the first place. A strong deterrent strategy based on credible conventional and nuclear capabilities may influence a state intent on acquiring WMD to reconsider the costs and risks versus the perceived benefits.

Finally, it must have an effective defensive strategy to provide real protection to U.S., allied, or coalition forces, as well as populations and territory, from the effects of WMD. The defensive strategy must be based on three capabilities: (1) preemption using offensive means at the outbreak of hostilities in which an adversary's WMD are targeted and destroyed or disabled, (2) enhanced active defenses to intercept or disable the delivery of WMD before impact/detonation (such as theater ballistic missile defenses), and (3) enhanced passive defenses to improve the survivability of forces in the event that WMD are successfully employed.

6. A "watch list" of suspect states should be publicly established and kept as short as possible.

A watch list would be a clear indicator of U.S. resolve and leadership in

counterproliferation, and would serve as a warning notice. The United States has long subscribed to the practice of warning other states of intolerable actions in the hopes of prompting more serious diplomacy. The list should include likely regional adversaries which have the capability to produce WMD, already possess WMD, or which are determined to acquire WMD. States which are not potential regional adversaries, but which have the capability to produce WMD but have not done so, as well as those which may already have WMD need not be listed. This second group should, however, be monitored. The criteria for such a list are admittedly subjective.

7. The President and his Cabinet must begin using counterproliferation terminology, and must reclaim ownership of the policy in future speeches and documents:

Thus far, Carter and Wallerstein are the only senior officials who actually use the terms and describe the policy. Officials above their level for some reason do not appear to be comfortable with the actual terminology, and seem to prefer talking in more vague terms. It may also be possible that they are blind to the fact that they do not use the right terms. The failure of senior leadership to use the right terms, regardless of its cause, makes the policy look like it is Carter's policy, not national policy. The President, Secretary of Defense, and National Security Advisor should look for opportunities to reclaim their ownership of the policy in future speeches and documents.

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