



# Nuclear Disarmament Briefing Paper

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## Trump's Nuclear Posture Review: A Call to Nuclear Arms

The U.S. [Nuclear Posture Review](#) (NPR) released February 2, 2018<sup>1</sup> views the world as a dangerous, lawless environment, marked by military competition among great powers.

As to nuclear disarmament, the most the Trump NPR offers is a grudging general acceptance of arms control measures for purposes of stability and predictability with perfunctory references to the “long-term goal of eliminating nuclear weapons” and to pursuit of “political and security conditions that could enable further nuclear reductions.”<sup>2</sup> It thus stands in marked contrast to the 2010 review conducted by the Obama administration,<sup>3</sup> which committed the United States to seek the eventual achievement of a world free of nuclear weapons and addressed how to succeed in that endeavor in some detail. Instead, it resembles the 2001 review done under the George W. Bush administration.<sup>4</sup>

### An aversion to arms control

The Trump NPR says vaguely that the United States remains open to “prudent,” “verifiable,” and “enforceable” measures and to dialogue, but nothing concrete is offered, nor is the term “enforceable” explained.<sup>5</sup> As to multilateral measures, the NPR says the United States will not ratify the Comprehensive Nuclear-Test-Ban Treaty;<sup>6</sup> negotiations on a Fissile Materials Cut-off Treaty are not mentioned; and no other plurilateral or multilateral measure is identified as worth pursuing. On the last point, the contrast with the Obama Nuclear Posture Review is glaring; it said that over the longer term, “Following substantial further nuclear force reductions with Russia, [the United States will] engage other states possessing nuclear weapons, over time, in a multilateral effort to limit, reduce, and eventually eliminate all nuclear weapons worldwide.”<sup>7</sup> Additionally, the Trump NPR does not take up innovative arms proposals, *e.g.* for a ban on testing hypersonic glide vehicles and for control or elimination of nuclear-armed cruise missiles.<sup>8</sup>

Concerning the U.S.-Russian relationship, the NPR notes that New START can be extended for five years in 2021, but does not commit to pursuing its extension or to further bilateral measures to reduce the two countries’ nuclear arsenals.<sup>9</sup> The message conveyed is that nothing is possible until the dispute over compliance with the Intermediate Nuclear Forces Treaty is resolved, and more broadly until a more cooperative relationship with Russia is established.

It is true, as the NPR says,<sup>10</sup> and deplorable that following conclusion of New START negotiations in 2010, Russia refused engagement on the ambitious program of bilateral nuclear arms reductions – to include non-strategic nuclear arms and, for the first time, verified dismantlement of warheads – proposed by the Obama administration. The NPR does not seriously address, however, the Russian concerns motivating its position, among them U.S. missile defense programs, to which Russia objects strenuously; development of U.S. conventional long-range strike capabilities; and, not least, the continuing expansion of NATO (thus NATO membership for Georgia remains on the table). Similarly, the Obama administration was not willing to seriously engage with Russia on such matters. And, of course, the U.S.-Russian relationship was and is greatly strained by the Ukraine crisis and the Russian annexation of Crimea, and now by apparent Russian interference in the 2016 U.S. elections.

It is a daunting list of obstacles. But it must also be remembered that the United States and Soviet Union undertook nuclear arms control during the Cold War, and that the unspeakable risks posed by nuclear weapons – especially the U.S. and Russian arsenals with their capacity to end civilization – create an overwhelming imperative to overcome obstacles. Thus it is important, as the NPR rightly says, to “rebuild trust and communication.”<sup>11</sup> It is further true that even if the pursuit of bilateral arms control with Russia remains highly problematic, there are other measures that can be pursued, as indicated above. Indeed, in principle, deliberations or negotiations on a comprehensive agreement on the elimination of nuclear arms could be commenced, with reluctant states brought in later.

Above all, regardless of geopolitical circumstances, the United States is legally obligated under Article VI of the Nuclear Non-Proliferation Treaty (NPT) “to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament.” According to a unanimous conclusion of the International Court of Justice in 1996, the obligation requires states “to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects.” The obligation was reinforced by an NPT review conference “unequivocal undertaking … to accomplish the total elimination” of nuclear arsenals. It was to be implemented in part through fulfillment of another review conference commitment, diminishing the role of nuclear weapons in order to minimize the risk of their use and to facilitate disarmament.

The Obama NPR repeatedly referred to an NPT commitment to reduce the number and role of nuclear weapons. However, nothing of the kind is found in the Trump NPR; the only gesture is a brief mention of the “goals” of the NPT.<sup>12</sup> Moreover, the Trump NPR explicitly rejects a commitment in that vein made by the Obama administration, stating that the “need for flexibility to tailor U.S. capabilities and strategies to meet future requirements and unanticipated developments runs contrary to a rigid, continuing policy of ‘no new nuclear capabilities’.”<sup>13</sup>

### **The U.S. nuclear arsenal: status quo and more**

In contrast to its virtual silence on the pursuit of nuclear arms control and disarmament, the NPR sets forth in some details plans to maintain, upgrade, and diversify the U.S. nuclear arsenal. It carries forward existing plans for the replacement and upgrading of submarine-based, land-based, and air-based (gravity bombs and cruise missile) nuclear forces, while adding a new element, a sea-based cruise missile, a previous version of which had been eliminated by the Obama administration. It also calls for near-term deployment of some low-yield warheads on currently deployed submarine-launched ballistic missiles. In attempting to sell this exorbitantly expensive program, the NPR presents a false comparison of modernization and upgrading of nuclear forces by China, Russia, and the United States.<sup>14</sup> It portrays Russia and China as outstripping the United States by failing to include U.S. efforts in a chart that earned “three Pinocchios” from fact checkers at the Washington Post.<sup>15</sup>

In its entirety this program, which envisions U.S. reliance on extensive and diversified nuclear forces for decades to come, is an anti-disarmament program. It betrays a lack of good faith in relation to the legal obligation to negotiate nuclear disarmament, and in certain respects violates the commitment made in NPT Review Conferences to diminish the role of nuclear weapons. It foregoes the opportunity to move the current paradigm in a better direction, notably by eliminating ground-based intercontinental ballistic missiles and/or nuclear-armed cruise missiles. Instead it proceeds on the assumption that the United States must maintain forces comparable to those deployed during the Cold War and even add new wrinkles.

One of the most provocative and destabilizing elements of the program is the Long Range Stand-Off Air Launched Cruise Missile (LRSO ALCM). It was in development during the Obama administration and is endorsed by the Trump NPR. Proponents of the LRSO ALCM argue that it will not increase instability because it would merely replace the existing ALCM. That argument, however, is not supported by the facts, since the LRSO ALCM would introduce new capabilities, including additional stealth features.<sup>16</sup> Further, the existing ALCM is carried only by B-52s, whereas the LRSO ALCM would be deployed on a new stealth bomber, the B-21 Raider, increasing the risk that it could be seen as a potential first strike weapon.

Similar issues are presented by the proposed new submarine-launched cruise missile. The NPR indicates that it could be used as a bargaining chip with Russia in relation to its development of a ground-based cruise missile in violation, the United States says, of the INF Treaty.<sup>17</sup> Perhaps too it is a bargaining chip in the Congressional budgetary process, which will have to address the extravagant and unaffordable NPR plan for the U.S. arsenal.

As to the proposed low-yield warheads for submarine-launched missiles, while probably not among the most important elements of the NPR plans, it certainly wins the prize for being the most nonsensical. Supposedly Russia would not be deterred from initiating use of nuclear weapons to “de-escalate” a conflict unless the United States has such a capability. Such scenarios rest on the dangerous assumption that nuclear escalation can be controlled. Further, the United States already has deployed low-yield nuclear weapons. The proposal would seem to serve the counterproductive purpose of signaling the Russians that the alleged strategy of de-escalating a conflict with limited use of nuclear weapons is potentially an effective one.<sup>18</sup> It also might very well cause Russia to take counter-measures, *i.e.* spur nuclear arms racing.<sup>19</sup>

U.S. conventional capabilities mean that in most or all cases the use of low-yield nuclear weapons would not be necessary – and necessity is a bedrock requirement for compliance with the international law of armed conflict. Also, further development and deployment of low-yield nuclear weapons could lower the threshold of use and give more legitimacy to the use of nuclear weapons by other states and the United States. In most scenarios, certainly one involving the United States and Russia, use of low-yield nuclear weapons would carry an unacceptable risk of escalation. In general, breaking the norm against the use of nuclear weapons that has held since 1945 could lead to many extremely dangerous consequences.

The proposal reflects the influence in preparation of the NPR of a coterie of nuclear ‘strategists’ who have been obsessed for decades with theoretical scenarios for nuclear war-fighting. Such scenarios have always been far removed from the realities of how decision-makers think or would think about use of nuclear weapons – but making it a visible element of U.S. plans decreases the gap between theoretical and actual war-fighting. It also directly violates the commitment made by the United States in the NPT context to reduce the role of nuclear weapons, as do the proposals for a submarine-launched cruise missile and a more capable air-launched cruise missile.

### **Expansive doctrine regarding use of nuclear weapons**

While the Obama administration did not adopt a doctrine of no first use of nuclear weapons or a doctrine that their sole purpose is to deter nuclear attacks, such an approach was seriously considered, and its Nuclear Posture Review was quite reserved on use of nuclear weapons in response to non-nuclear attacks. It stated that “the role of U.S. nuclear weapons to deter and respond to non-nuclear attacks—conventional, biological, or chemical—has declined significantly,” adding, however, that “there remains a narrow range of contingencies in which U.S. nuclear weapons *may* still play a role in deterring a conventional or CBW [chemical or biological weapon] attack against the United States or its allies and partners.”<sup>20</sup>

The Trump NPR displays no such reticence. It states: “There now exists an unprecedented range and mix of threat, including major conventional, chemical, biological, nuclear, space, and *cyber* threats, and violent non-state actors.”<sup>21</sup> And it says: “Potential adversaries must recognize that across the emerging range of threats and contexts: 1) the United States is able to identify them and hold them accountable for acts of aggression, *including new forms of aggression*; 2) we will defeat *non-nuclear strategic attacks* ... [T]he United States will maintain the range of flexible nuclear capabilities needed to ensure that nuclear or *non-nuclear* aggression ... will fail to achieve its objectives ....”<sup>22</sup>

The Trump NPR thus expands the role of nuclear weapons by affirmatively identifying circumstances in which they could be used, namely in response to “non-nuclear strategic attacks”, notably including cyber attacks. While the Obama NPR did not explicitly rule out such contingencies, the Trump NPR, with its alarmist threat assessment and repeated references to a possible nuclear response to non-nuclear attacks, conveys much more reliance on nuclear weapons outside the sphere of deterring nuclear attack.

This change increases the risks of nuclear war. In particular, hard-to-attribute apparent cyber attacks will be considered a possible reason to resort to nuclear weapons, a change that will be all the more risky if other nuclear powers emulate the US policy. As Bruce Blair has explained, this approach would support responding with nuclear weapons to Russian cyber and other non-nuclear attacks on civilian infrastructure in a war in Europe.<sup>23</sup> It has similar consequences with respect to a conflict with North Korea.

Hopefully but not certainly, in the near-term actual conflict that would give rise to such contingencies will not break out. But increased doctrinal emphasis on possible resort to nuclear weapons, and steps like further deployment of low-yield weapons, have consequences. They make progress on reduction and elimination of nuclear arms much more difficult, reversing the dynamic expressed in the NPT commitment to reduce the role of nuclear weapons in security policies in order to facilitate disarmament.

The NPR asserts in passing that the “conduct of nuclear operations would adhere to the law of armed conflict.”<sup>24</sup> A 2013 Pentagon Report on Nuclear Employment Strategy had stated that all plans for use of nuclear weapons must “for instance, apply the principles of distinction and proportionality and seek to minimize the collateral damage to civilian populations and civilian objects.”<sup>25</sup> In public appearances in November 2017, the present and preceding commanders of Strategic Command stated that orders to use nuclear weapons in violation of the law of armed conflict would be refused.<sup>26</sup> The truth is that nuclear weapons cannot be used in compliance with that law, above all because their massive indiscriminate effects make it impossible to distinguish between military targets and civilian populations and infrastructure.

That truth was recognized by the Treaty on the Prohibition of Nuclear Weapons adopted at the United Nations by 122 states on July 7, 2017. The treaty’s preamble reaffirms the need for all states to comply with applicable international law, including international humanitarian law and international human rights law, recites rules and principles of international humanitarian law, and states: “*Considering* that any use of nuclear weapons would be contrary to the rules of international law applicable in armed conflict, in particular the principles and rules of international humanitarian law.” The preamble also reaffirms that “any use of nuclear weapons would also be abhorrent to the principles of humanity and the dictates of public conscience” – factors with legal as well as moral value.

## Conclusion

The Trump NPR is a highly retrograde document. Canada and other U.S. allies, as well as non-governmental organizations committed to arms control and disarmament, must act effectively to prevent its implementation and to change the paradigm it embodies.

**NOTES:**

<sup>1</sup> Office of the Secretary of Defense, Nuclear Posture Review, February 2018 ("Trump NPR"), accessible at <https://www.defense.gov/News/SpecialReports/2018NuclearPostureReview.aspx>.

<sup>2</sup> Trump NPR, pp. 2, 71-74.

<sup>3</sup> Department of Defense, Nuclear Posture Review Report, April 2010 ("Obama NPR"), at [https://www.defense.gov/Portals/1/features/defenseReviews/NPR/2010\\_Nuclear\\_Posture\\_Review\\_Report.pdf](https://www.defense.gov/Portals/1/features/defenseReviews/NPR/2010_Nuclear_Posture_Review_Report.pdf).

<sup>4</sup> Nuclear Posture Review Report [Excerpts], 8 January 2002, at <https://web.stanford.edu/class/polisci211z/2.6/NPR2001leaked.pdf>.

<sup>5</sup> Trump NPR, pp. 72-74.

<sup>6</sup> *Id.* at p. 72.

<sup>7</sup> Obama NPR, p. 47.

<sup>8</sup> See Guy Quinlan and John Burroughs, Policies Regarding Nuclear Arms Control and Disarmament in the Trump Administration, December 19, 2016, at

<http://lcnp.org/pubs/memos/LCNPmemonucleararmscontrol.pdf> pp. 4, 8-9.

<sup>9</sup> Trump NPR, p. 73.

<sup>10</sup> *Id.* at p. 74.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.* at pp. III, 2.

<sup>13</sup> *Id.* at p. 27.

<sup>14</sup> *Id.* at p. 8.

<sup>15</sup> Glenn Kessler, "A Pentagon chart misleadingly suggests the U.S. is falling behind in a nuclear arms race," February 12, 2018, at [https://www.washingtonpost.com/news/fact-checker/wp/2018/02/12/a-pentagon-chart-misleadingly-suggests-the-u-s-is-falling-behind-in-a-nuclear-arms-race/?utm\\_term=f87f6c502806](https://www.washingtonpost.com/news/fact-checker/wp/2018/02/12/a-pentagon-chart-misleadingly-suggests-the-u-s-is-falling-behind-in-a-nuclear-arms-race/?utm_term=f87f6c502806).

<sup>16</sup> Stephen Young, "Just How New Is the New Nuclear-armed Cruise Missile?", January 13, 2016, Union of Concerned Scientists blog at <http://allthingsnuclear.org/syoung/the-new-cruise-missile>.

<sup>17</sup> Trump NPR, p. 55.

<sup>18</sup> It appears that this strategy is invoked by Russia only in relation to the highly implausible scenario of a large-scale conventional invasion of Russia. See, e.g., "Russian Expert Suslov: The New U.S Nuclear Doctrine Could Lead To A Military Crisis Fraught With A Direct Military Clash Between The U.S. And Russia," MEMRI, February 11, 2018, at <https://www.memri.org/reports/russian-expert-suslov-new-us-nuclear-doctrine-could-lead-military-crisis-fraught-direct>.

<sup>19</sup> Cf. *id.*

<sup>20</sup> Obama NPR, p. viii (emphasis added).

<sup>21</sup> Trump NPR, p. V (emphasis added).

<sup>22</sup> *Id.* at pp. VII-VIII (emphasis added).

<sup>23</sup> Bruce Blair, "A new Trump administration plan makes nuclear war likelier," Washington Post, January 13, 2018, at [https://www.washingtonpost.com/news/posteverything/wp/2018/01/13/the-trump-administrations-new-nuclear-plan-makes-nuclear-war-likelier/?utm\\_term=.2a55bd561ec0](https://www.washingtonpost.com/news/posteverything/wp/2018/01/13/the-trump-administrations-new-nuclear-plan-makes-nuclear-war-likelier/?utm_term=.2a55bd561ec0).

<sup>24</sup> Trump NPR, p. 23.

<sup>25</sup> Secretary of Defense, "Report on Nuclear Employment Strategy," June 12, 2013, at <http://www.dtic.mil/dtic/tr/fulltext/u2/a590745.pdf>.

<sup>26</sup> "Top general says he'd push back against 'illegal' nuclear strike order," CNN, November 20, 2017 at <https://www.cnn.com/2017/11/18/politics/air-force-general-john-hyten-nuclear-strike-donald-trump/index.html>; Gen. (ret'd) Robert Kehler, Testimony at Senate Foreign Relations Committee Hearing on Authority to Order the Use of Nuclear Weapons, November 14, 2017, at <https://www.foreign.senate.gov/download/kehler-testimony-111417>.