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NATO CONSULTATION
ON FIRST-USE

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CONSULTATION ON FIRST USE: MUCH IN NATO AND NONE WITH CONGRESS

Through an article in *Foreign Policy* which members read in the September newsletter, the Federation released, on September 9, a promising and creative approach to the problem of no-first-use. This was the approach of no-first-use by one-decision-maker. Specifically, it charged that first-use by the President alone was wrong and indeed, in the absence of a declaration of war, was unlawful. FAS proposed that a special committee, composed of Congressmen, be required to give its approval before any such first-use would be permitted.

The press conference at which this issue was raised, organized by *Foreign Policy Magazine*, heard from FAS Director Jeremy J. Stone, who authored the article, and from 83-year-old constitutional law expert Raoul Berger, who warmly supported the legal arguments involved. FAS announced, at the press conference, that it was planning to organize a 12-month study of the legal issues with a view to a conference of legal scholars who would discuss the matter.

Partly as preparation for these legal scholars, and for members as well, we thought it useful to describe to members what consultation and vetoes over first-use would exist already in the NATO alliance. After all, few would endorse our proposal without some understanding of the practical realities—and the NATO case is a major case for us.

Moreover, as shown in a box on page 4, the Defense Department's reaction to this paper based its objection entirely on the (non-legal) argument that our proposal would "tend to undermine NATO's deterrence policy" and would have a "probable adverse effect" on the U.S. policy of flexible deterrence. Would it?

Beginning on page 2, we have described, in 16 points, the structure of the NATO alliance confrontation with the Warsaw Pact and the alliance consultation rules. They show clearly that the arguments of Mr. Chapman

Cox for the Defense Department are not decisive. (See also pg. 8)

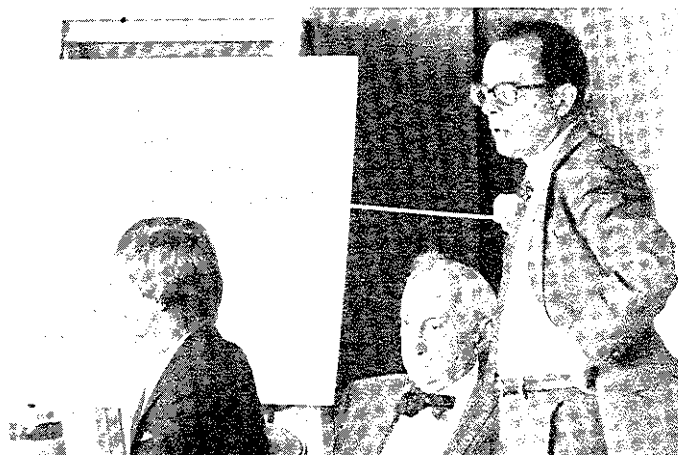
For example, it can also be argued by the Defense Department that the veto over firing nuclear weapons from Britain, which the British claim, undermines deterrence. And what about the effective veto over firing from or onto German territory which the FRG claims exist? The rules permitting Greece, Turkey, the Netherlands, Italy and Belgium special weight in any decision to use nuclear weapons specifically involving them also affect deterrence.

Similarly, President Kennedy's decision to put electronic locks on U.S. weapons, and to create an elaborate system for requiring permission to fire the weapons, certainly made their use less likely and the time required to unlock them greater.

Indeed, there is every indication that a U.S. Committee would have no difficulty holding its deliberations during the time used by the Alliance for its consultations abroad; there is, as we show, a minimum of a few days of warning and a few days of fighting before any decision to use nuclear weapons would be made.

What this survey shows is that, when fighting starts in Europe, everyone will be consulting *except* Congress; moreover, only the Congress will be incapable of consultation or decision-making because, absent the Committee proposed by FAS, only the Congress will be totally uninformed on the NATO contingencies and war-planning in existence.

Especially those who seek a stronger conventional defense in Europe should support the FAS proposal because it may be only after the Congressional leaders look closely into the nuclear abyss, by serving on the proposed committee, that Congress itself will come to support conventional alternatives to first-use. □



NO FIRST USE CAMPAIGN

Through the good offices of the Lawyer's Alliance for Nuclear Arms Control, Director Stone is being scheduled to speak to lawyers' groups in a number of cities on ways and means of spreading the responsibility for first-use of nuclear weapons. Members are invited to suggest relevant podiums of other kinds for drawing attention to this issue.

Stone wielding pointer; Raoul Berger in center and law professor Peter Raven-Hansen. The chart at left is explaining—behind Raven-Hansen's head—that three kinds of nuclear attacks are not at issue in the proposal for a Congressional veto: retaliatory nuclear attacks, launch-on-warning attacks and forestalling attacks.

CONSULTATION AND ESCALATION IN EUROPE

In order to introduce legal scholars and others unfamiliar with NATO to the structure of the confrontation that exists in Europe, we have divided the relevant issues into sixteen different principles.

a) *The Warsaw Pact is not believed to have an active interest in invading Western Europe;*

Thus General Bernard W. Rogers, who is the highest-ranking military officer in NATO, with the title of Supreme Allied Commander--Europe, has asserted:

"I do not believe that the Soviets want war. Rather, they want to use their military power to be able to blackmail and coerce us without ever having fired a shot."

b) *If war occurs, the Warsaw Pact would be attacking;*

War could arise in many ways and the catalyst for the conflict could involve deliberate actions by either side or by third parties such as, for example, revolutions in Eastern Europe or conflicts outside NATO that spread to NATO. War is sufficiently well deterred that very unusual and unexpected circumstances would certainly be involved. Once started, however, the Warsaw Pact would almost certainly be on the attack.

NATO is by doctrine a defensive alliance and, in addition, does not have the military capacity, or the training and plans, to launch invasions into the Warsaw Pact area.

By contrast, the Warsaw Pact, though portraying itself as defensive also, and although its major function is to maintain political domination of Eastern Europe, does practice offensive maneuvers. Thus a former East German intelligence officer, brought to the West, says:

"The first strike always began from our side. We are told that is because through our superior intelligence gathering we are able to read the enemy's intentions and attack before he can."

c) *The Warsaw Pact attack would almost certainly be conventional at the outset;*

For example, in an interview with General Rogers, this exchange with Stern Magazine is revealing:

"Stern: Doesn't Soviet military doctrine foresee early use of nuclear weapons?"

Rogers: No longer. They have changed that. They fear it would lead to a strategic nuclear exchange with the United States."

This Warsaw Pact fear is considered warranted; thus General Rogers asserts:

"The leaders of the Warsaw Pact are no more willing to escalate to theater nuclear weapons than we are because both sides are uncertain as to whether or not the first use of theater nuclear weapons would soon escalate to the strategic level."

d) *Immediately before the attack and thereafter, a race to mobilize forces and to disperse nuclear weapons would occur;*

The kinds of considerations involved are shown in the excerpt below, where M is the day on which mobilization is called:

"The...forces obviously require widely differing times to mobilize and then to travel to Central Europe. Units
(Continued on page 3)

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(Continued from page 2)

needing only individuals to fill out peacetime strengths and replace conscript trainees could reasonably be expected to be available by M+3 (three days after mobilization began). By extension, reserve battalion-level units might be available (that is, manned and ready to move) at M+5; this might also apply to cadred larger units if their brigade regimental structure is intact. To be conservative, Warsaw Pact Category II and III divisions will be assumed ready to move at M+7, and NATO reserve divisions at M+14. Naturally, active units with affiliated reserve units are mobilized, though with a corresponding decrease in capability." (Robert Lucas Fischer)

In this contest to mobilize, some experts believe that the Soviet forces

"...have developed a superior mechanism for waging the only type of conventional war they could expect to win against NATO—a short intensive campaign that forecloses NATO's ability to mobilize its superior overall resources over time....Essentially, the Soviet Union has no alternative to her plan for a blitzkrieg type of war, and this is the kind of attack that NATO must be prepared to repel." (Steven Canby)

e) Warning of at least a few days would precede the attack and the NATO forces would be capable of fighting conventionally for at least several days more;

Indeed, virtually all observers would anticipate a fairly lengthy period of tension and crisis underlying any Warsaw Pact decision to mobilize, and this period would be utilized. Thus General Rogers testified:

"We are betting that a number of things will happen. You see, should tension arise, the first thing I am going to do as SACEUR is request the United States return to Europe the Reforger forces package that we withdrew a number of years ago which are committed to me in peacetime."

In the worst case, we get two days of warning before the attack;

"Now, if you take the worst case scenario of 48 hours notice on our part before an attack, we will not get to the general defense position."

Amplifying on this kind of problem, the German publication *Der Spiegel* reports on classified documents asserting that NATO could hold off the first echelon of any Warsaw Pact attack for only seven days, which would not hold the front line for the 10 days needed to bring in American reinforcements.

This kind of problem is why General Rogers has said:

"Should the Soviets invade Western Europe, under today's conditions...I'd have to request fairly soon the release of theater (intermediate-range) nuclear weapons...I'm not talking about weeks, I'm talking about days...a few days."

f) If and when NATO conventional forces weaken, following long-standing threats to use nuclear weapons first if necessary, NATO would move to considering whether to turn the conventional hostilities into nuclear war by initiating the use of nuclear weapons;

Thus General Rogers testifies:

"I mentioned earlier that the strategy I can fulfill today

TWO QUESTIONS OFTEN ASKED

How Enforced? Would a President obey the law in the world-shaking crisis at issue or would he just do what he thought best?

The FAS proposal would physically prevent the President from breaking the law unless he persuaded both the Secretary of Defense and the Secretary of State to do so also. This is because the proposal would have the Secretary of Defense instructed not to implement the order without asking the Secretary of State whether the committee had voted affirmatively. Since all three men are sworn to uphold the Constitution and the law, and since all three would be acting in the expectation that the world would not be destroyed, they would have to violate their oaths in full anticipation of a subsequent inquiry into actions taken by them which risked the country unlawfully.

Would Congress Pass the Legislation? There are several different ways which, in principle, might lead to the result proposed, a committee with veto over first-use. They range from less likely possibilities such as constitutional amendments or litigation to more likely ones such as arise from Congressional legislation.

One possibility envisions a future Presidential candidate who vows that—while he cannot endorse no-first-use outright for diplomatic reasons—he would never want to engage in first use on his own authority anyway and that, if elected, he would himself offer the Congress legislation sharing this responsibility with the Congress. Such legislation would likely be approved, coming from the President, and it would be unlikely to be reviewed by the Supreme Court or opposed (were it reviewed) once it was adopted by the other two branches.

This method of adoption does imply a strong no-first-use movement in the country that would make the Congressional Committee proposal a halfway house in which the Presidential candidate would wish to shelter.

is a strategy of the delayed tripwire, and it is delayed by a number of days, as I mentioned. But the day comes when under the political guidance which I function I must go to the political authorities and ask for the release of nuclear weapons."

g) The decision to release the first nuclear weapons is to be made by the NATO Governments collectively, working through the NATO Council according to guidelines (summarized on page 8) and alerted in time to act deliberately if at all possible;

Thus General Rogers testified as follows:

"In the first place, on initial use it is such a major decision for the future of the world that I think that must be a decision taken by the civilian authorities of our nations who in fact, in peace and war, command NATO. I do not object to the fact that in every instance I must seek this release authority from the political authorities.

(Continued on page 4)

(Continued from page 3)

Now the system that is used, Senator, just very quickly, is that I go to the political authorities at NATO headquarters with the request. I go also to the Ministers of Defense of all the nations and I go also to the two nuclear powers simultaneously with my request for release. But prior to that time there would have been a warning message that I was probably coming to ask for release. And even prior to that, in order to get the political authorities thinking in terms of giving this permission, I would have sent what I would call an 'early notification' message to them. So there is a series of steps taken."

h) The Allies will be extremely reluctant to authorize the first-use of nuclear weapons when they get these various indications of SACEUR's interest in using nuclear weapons and even before;

In the first place, it is inconceivable that the Soviet Union, if indeed it is attacking conventionally, will not be simultaneously warning the NATO Allies collectively, and separately, not to use nuclear weapons first or to suffer the consequences.

And the Soviet position will be very credible. For example, General Rogers himself has asserted:

"Is it credible for us to say that we will resort to theater nuclear weapons to stop a conventional war, when the Soviets know that with an imbalance of 9 to 1 against us in theater nuclear warheads, they can devastate us so much more in response?"

General Rogers has also noted that the decision to use nuclear weapons would be "agonizing" ("If attacked conventionally NATO would face fairly quickly the agonizing decision of escalating to a nuclear response in order to try and convince the aggressor to halt his advance.")

The reluctance to order first-use would be enhanced by the inability of first-use proponents to show any likely military advantage to such action. For example, a well-known commentator on the European balance, Jeffrey Record, who had access to war game information as Legislative Assistant for Military Affairs to Senator Sam Nunn, wrote in 1977:

"I do not know of a single war game or exercise conducted in the West during the last decade which demonstrated that NATO reliance on tactical nuclear weapons to avoid conventional defeat conferred any lasting military advantages on the Alliance. If anything it simply hastened the progress of invading Soviet forces by provoking a massive and disproportionate Soviet nuclear response."

Moreover, no matter what were the real Soviet intentions, they would hardly be put forward as total invasion of all NATO nations. More likely than not, the issue would involve, or be portrayed by the Soviet Union as involving, only a limited action—in most cases it would involve seizing parts or all of West Germany. In any case, Canada, Iceland, and Britain, being separated from the mainland by water, would not feel as immediately threatened, nor would France with its nuclear force or Spain, which is reachable on the ground only through France; these nations would presumably stall for time, since first-use of nuclear weapons is likely to lead promptly to general

Dear Mr. Stone:

The Secretary has asked me to respond to your request for comments on your paper entitled "Only Congress Can Authorize the First Use of Nuclear Weapons."

Your paper deals with the President's authority to order the first use of nuclear weapons in the event of a Soviet conventional attack on NATO. You contend that the Constitution should be construed as requiring (in the absence of a declaration of war containing no limitation of first use) formal and specific authorization by the Congress before the President could order first use in such a situation.

We do not agree. The long-term success of NATO's deterrence policy is based upon the knowledge that the Alliance has both the capability and determination to respond effectively to any attack. The current deterrence policy rests upon the doctrine of flexible response, which would include the use, as required, of conventional weapons, non-strategic nuclear weapons, and strategic nuclear weapons. To ensure that the flexible response policy actually deters, a potential aggressor must be convinced that NATO is indeed ready to use any of the weapons it possesses, including, if necessary, nuclear weapons. Your call for an additional procedural requirement that would have to be met before a decision could be made for first use of nuclear weapons would threaten NATO's ability to deter Soviet aggression. Thus, it would tend to undermine NATO's deterrence policy.

As you suggest, your view as to what the Constitution requires is not the general view. Given the probable adverse effect of your approach on the long standing and successful NATO deterrence policy, we would not support it.

Sincerely,
Chapman B. Cox
General Counsel
Department of Defense

nuclear use that would or could involve them totally.

i) In particular, the Soviet strategists could hardly fail but to offer France—sincerely or falsely, but still credibly—immunity from nuclear attack so long as the French did not fire their nuclear force. In the face of such communications from the Soviet Union during the conventional fighting, France would have a most difficult decision;

j) Similar threats could be expected to be made to Great Britain, which not only controls a British deterrent but also houses American nuclear forces, including the cruise missiles. The British claim to have a veto over U.S. use of nuclear weapons and perhaps also physical means of enforcing it.

For example, on October 31, 1983 in debate in the House of Commons, the Secretary of Debate for Defense, Mr. Michael Heseltine, said that understandings on the

(Continued on page 5)

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matter had been "jointly reviewed by the British and American governments in the light of the planned deployments of cruise missiles" and that:

"No nuclear weapons will be fired or bases used without the agreement of both the Prime Minister and the President.

The House will realize that for 30 years every British Prime Minister has been convinced that those assurances were absolute."

Moreover, Mr. Heseltine observed that the cruise missiles, which would, in crises, be dispersed off their bases to make them less vulnerable "cannot be deployed unless they are accompanied by a contingent from the RAF regiment." And it was pointed out, also, by a conservative member (Mr. Eldon Griffiths) that "removal of cruise missiles from the steel canisters in which they are placed and from any of the United States air force bases where they may be for the purposes of deployment, will be subject to the inevitable physical control of the local Royal Air Force regiment and the police..."

Thus, although the opposition called for physical control over firing ("two-key" systems), it appears that the British Government believes that it does have the right to veto firings from Great Britain and even some physical capabilities to do so if it acts early enough.

k) *Over and above these rights of the independent nuclear powers, the agreed decision-making rules of the NATO council give "special weight" to the views of the NATO country most directly affected—that is, the country on, or from, whose territory nuclear weapons would be employed; the country or countries providing the nuclear warheads, and the country or countries providing or manning the contemplated means of delivery. (See pg. 8);*

Thus although the NATO Council has not endorsed, in its deliberations, a veto for any nation, the Federal Republic of Germany would have a special claim to objecting to nuclear weapons being used on German territory, or from it.

The FRG has taken the line that it does not want a formal veto lest it be subject to Soviet blackmail but that the existing consultations amount to an effective veto.

Other NATO nations with nuclear weapon depots on them would be under great pressure to avoid the use of nuclear weapons lest their own nuclear weapon sites be attacked, whether or not they were used in the first-use. These include: Italy, Belgium, Greece, Turkey and the Netherlands.

Especially because the nuclear weapons are, in peacetime, deployed in well-identified depots, the national armies of these host nations could probably prevent the dispersion and firing of many of these weapons if they were so inclined.

l) *Although consultation in the face of full-scale Soviet attacks with conventional forces, as opposed to lesser ones, are evidently formally subject to "time and circumstances permitting," it is evident, from the foregoing, that many NATO Governments will use the minimum few days of warning and the minimum few days of fighting to register their opposition to any nuclear use involving them*

Fig. 5.2. Nuclear-capable weapons systems in the possession of NATO European nations

	BRITAIN	NETHERLANDS	BELGIUM	W. GERMANY	TURKEY	GREECE	ITALY
MINES (ADMs)				X	X	X	X
ARTILLERY	X	X	X	X	X	X	X
LANCE	X	X	X	X			X
HONEST JOHN	X	X		X	X	X	
NIKE HERCULES		X	X	X	X	X	X
PERSHING I				X			
FIGHTER-BOMBERS	X	X	X	X	X	X	X

The Command and Control of Nuclear Forces by Paul Bracken, p. 139.

without their consent—and this there is plenty of time to do, since it need not await any particular NATO meeting but can be done through their Ambassadors in Washington;

m) The United States interest in firing nuclear weapons will be, at this point, quite limited and, as things are presently constituted, it will be left up to the President;

Deterrence of conventional war having failed, and first-use of nuclear weapons having such a high likelihood of escalating to the point where the United States would be destroyed, the U.S. will have an interest in considering losses of territory in Western Europe as fait accomplis to be dealt with later—as we dealt with two other such losses of Western European territory in this century.

Moreover, faced with less than eagerness among European allies to fire first—and, indeed, likely to be faced with the most adamant objections to such firing—the President will be under no obligation to insist on such a first-use.

n) The President's authority to fire nuclear weapons assigned to NATO without agreement from the NATO Council requires that he treat the SACEUR as an American commander (CINCEUR) and order him to fire American nuclear weapons independently of the desires of the Alliance as a whole. It is conceivable that the SACEUR might demur;

For example, General Rogers was asked: "Don't you have a hot line to the White House and isn't that in fact, in practice, the only reality?" His answer was:

"That's a myth. That's not true. The way I described it is so."

The notion, popular among some analysts, that, in the event of war, consultation with Allies will be out of the window, overlooks the fact that the United States has much greater risks than immediate gains in pushing forward over European objections. And it overlooks the fact that Alliance political cohesion is necessary to keep the conflict contained at whatever point it has reached. For example, were the Warsaw Pact forces to seize most or all of

(Continued on page 6)

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West Germany, it would be imperative, insofar as one had hopes of keeping the losses limited to that nation, to keep the Alliance together to hold subsequent lines.

For obvious reasons, this issue of ultimate disarray in the Alliance's decisionmaking on nuclear war is not much discussed. Marshall of the Royal Air Force Sir John Slessor once opined that while it was "fantastic" to imagine the British or French using nuclear weapons independently of the U.S., it was "almost if not quite equally unrealistic to imagine that any United States Administration could involve its allies in a nuclear war in Europe against their wishes."

o) The Allies will be looking for limited nuclear options;

In the early sixties, there was often talk of "demonstration" nuclear strikes to show "resolve" and readiness to breach the nuclear threshold.

In 1975 Secretary of Defense Schlesinger put it this way:

"First use should be clearly limited and defensive in nature, so as to reduce the risks of escalation. However, the attack should be delivered with sufficient shock and decisiveness to forcibly change the perceptions of WP [Warsaw Pact] leaders and create a situation conducive to negotiations."

p) The release of the nuclear weapons will not be a simple matter, will take hours, and may be overheard by the Warsaw Pact forces;

The Army Field Manual FM-105 gave, in 1976, the following chart of the request sequence; it shows, in particu-

lar, a 24-hour turnaround for orders coming from the Corps up to the National Command Authorities and back down to the delivery system. (The chart no longer appears in the Army Field Manual; but it was reprinted, without the time scale below, in 1980 in Signal Magazine by a retired DOD employee, John Morgenstern, quoted below, and so is presumably not itself inaccurate). But this is, in important parts, guess work. Thus the Director of Strategic and Theater Command and Control Systems of OSD said:

"For example, the NCA decision time is sometimes factored in at (deleted) and sometimes it's factored in at (deleted). It's a guess how long the President is going to take to do this."

He emphasized that the release times now depend almost entirely on decision-making time rather than on processing time.

House Armed Services staffer Battista commented that, while at the 1976 Reforger exercise:

"...the people in the field advised me of 12-, 13- or 14-hour turnaround times from when they had put in a request to use tactical nuclear weapons until the complete cycle had been completed. In fact, to embarrass us, the Soviets, who listen in on all our communications over there, announced 2 hours before we had, that is, before our troops had gotten approval, that NATO was going nuclear during that exercise."

Accordingly, the President would fear pre-emption if he
(Continued on page 7)

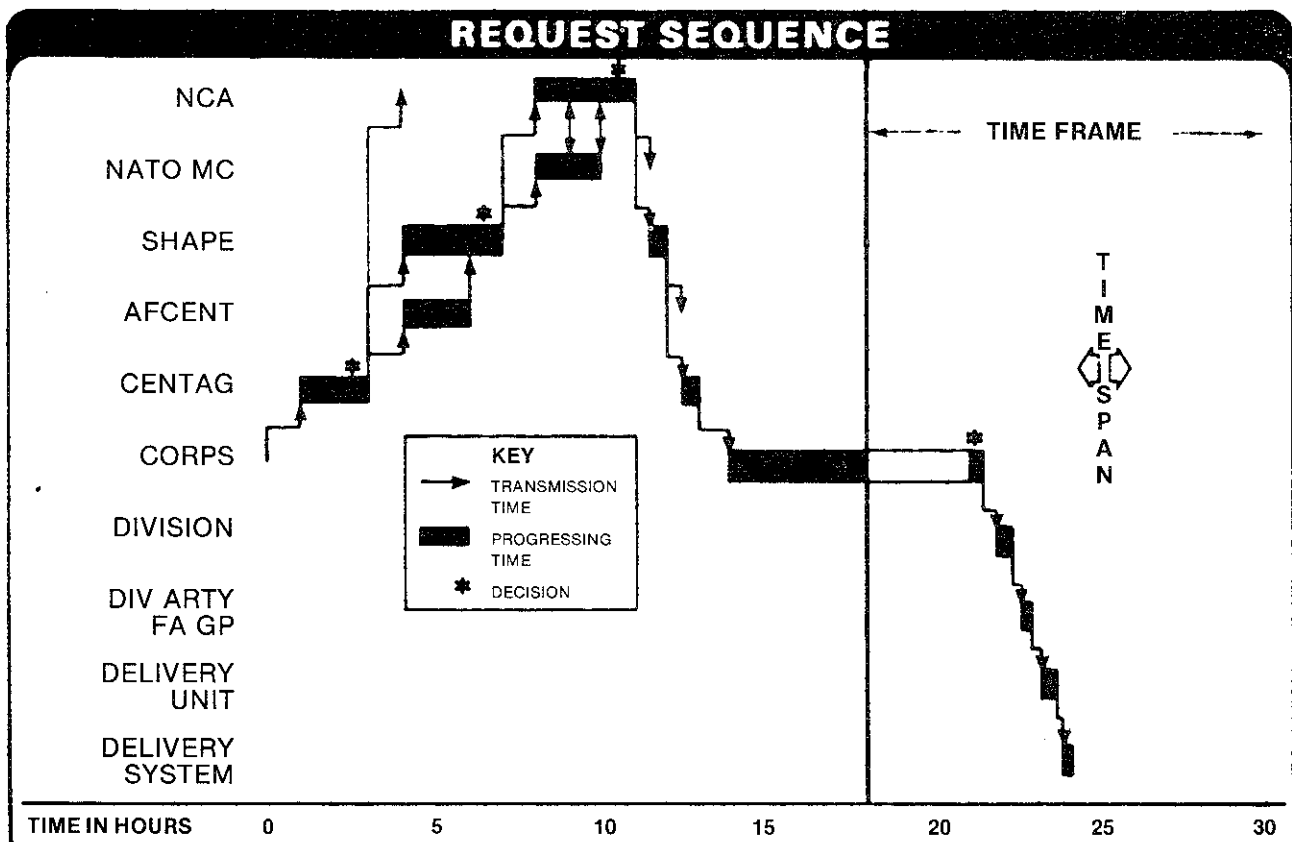


Diagram taken from U.S. Army Field Manual FM-105 in 1976 showing the directions in which requests for nuclear use would flow and estimates of the time required for such requests. There are "top-down" methods of ordering first-use without waiting for proposals from below.

(Continued from page 6)

gave an order to fire nuclear weapons first; unquestionably, the Soviet authorities would play on this fear with warnings of doing exactly that. □ JJS

(Daniel Charles provided research assistance on this survey.)



Foreign Policy Press Conference with Foreign Policy editor William Maynes at right. Center chart describes routes to effecting the change and lists: A) Grass Roots Campaign and Congressional Legislation; B) Legislation Offered on Presidential Initiative; C) Constitutional Amendment; D) Court Cases; E) Evolution (of veto) from Legislation for Consultation; and F) Legislation During Emergency.

SALT II COMPLIANCE

On October 4, at a press conference sponsored by FAS, Senator Dale Bumpers and Senator Patrick Leahy, FAS released the October newsletter on SALT II Compliance which members have received. The newsletter argued that the Soviet Union would secure important military advantages in the near and medium run if the treaty were breached.

Senators Bumper and Leahy had earlier co-sponsored a resolution that passed the Senate with over 80 votes that had called on the Administration to take all steps necessary to stay within the SALT II limits.

In releasing the FAS study, Senator Leahy called SALT II "militarily valuable to the United States" and Senator Bumpers said "the nuclear picture will be a lot darker in the years to come if the United States and the Soviet Union ignore existing SALT limits."

PSR STATEMENT IN SUPPORT OF FAS FIRST-USE INITIATIVE

As supporters of a "no-first-use" policy for the United States, we especially oppose the right claimed by recent Presidents to order first use of nuclear weapons in conventional hostilities abroad solely on their own authority, absent a declaration of war and without specific authorization from the Congress.

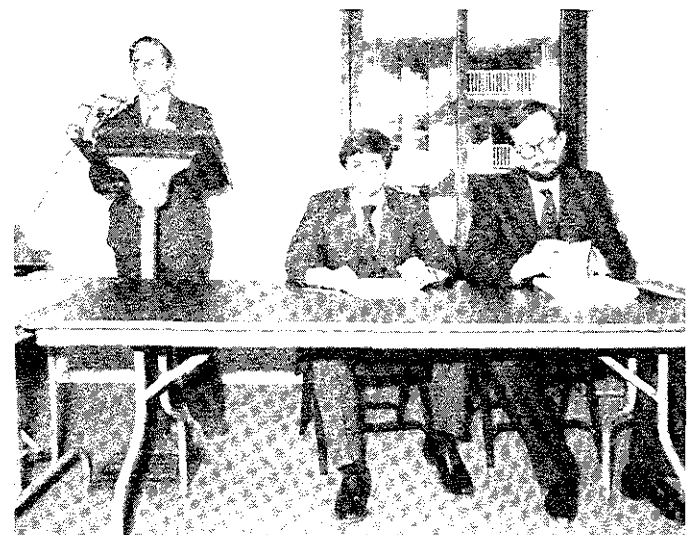
It is precisely because of our awareness, as physicians, of the global risks to health represented by nuclear weapons, and of the uncertainties of individual human behavior under conditions of extreme stress, that we believe a requirement for Congressional authorization is wise. It is the high-level analogue of the dual-key system used to control the firing of individual missiles.

Regardless of one's view concerning the ultimate risks and morality of a nuclear first-use posture, we believe that all American citizens can agree that at a minimum, no one decision-maker should have the authority to issue an order which risks the fate of the nation and possibly many other nations as well. Under our Constitution, actions which are likely to involve the Nation in general war must be authorized by the Legislative Branch of government.

Many Americans may feel that—in a war—a Commander-in-Chief's options should not be restricted by the requirement to share responsibility with Congress. But the initiation of a nuclear conflict is *not* a mere escalation of conventional war. It is the doorway to global suicide, and given the risks of stress, false alarms, erroneous or conflicting information, and personal instability, that door should not be opened by any single individual.

We call upon the Congress to reassert its inalienable Constitutional responsibility for taking the nation into war by passing legislation making any Executive Order or authorization to initiate the use of nuclear weapons subject to the immediate prior approval of the Congress.

—National Board of Directors
Physicians for Social Responsibility (PSR)
September 15, 1984



At left: Jonathan Rich, center, and John Pike being introduced at SALT II Compliance Press Conference, discussed at left.

GUIDELINES FOR NATO CONSULTATION ON NUCLEAR WEAPONS

We reprint this 1973 Congressional staff report because it appears to remain the best unclassified summary of the NATO consultation rules in existence.

“In 1969, NATO drew up agreed general guidelines for consultation procedures on the use of nuclear weapons. These guidelines proceeded from three decisions that had already been taken. The first decision was taken at the Athens meeting of the North Atlantic Council in 1962 and produced what were called the ‘Athens Guidelines.’ The second decision was taken at The Hague in April 1968 by members of NATO’s Nuclear Planning Group. The third was taken in London in May 1969 at a ministerial meeting of the Nuclear Planning Group.

“In brief, NATO doctrine is that in the event of a Soviet attack with nuclear weapons in the NATO area, the alliance would respond with nuclear weapons on the scale appropriate to the circumstances. Consultation would [deleted].

“In the event of a full scale Soviet attack with conventional forces, indicating the opening of general hostilities in any sector of the NATO area, the forces of the alliance would, if necessary, respond with nuclear weapons on the scale appropriate to the circumstances. Again consultation would [deleted]. In the event of a Soviet attack which did not fulfill the conditions described in the first two cases, but which nevertheless threatened the integrity of the forces and the territory attacked and which could not be successfully held with the existing conventional forces, the decision to use nuclear weapons would be subject to prior consultation in the North Atlantic Council. In all cases, special weight would be given to the views of the NATO country most directly affected—that is, the country on, or from, whose territory nuclear weapons would be employed; the country or countries providing the nuclear warheads; and the country or countries providing or manning the contemplated means of delivery.

“As far as consultation procedures are concerned, any request for the use of nuclear weapons in the defense of NATO either from a member government or from a major NATO Commander and any possibility for the use of nuclear weapons in defense of NATO by a nuclear power, would be communicated immediately to the NATO governments and to the Defense Planning Committee (composed of all NATO members except France). The normal forum for consultation would be the Defense Planning Committee where member governments would be able to express their views, in particular on the political and military objectives of the proposed use of nuclear weapons, the methods of use and the possible consequences either of use or non-use. These views would then be communicated to the nuclear power concerned, and the decision of the nuclear power would be conveyed to the allied governments, the North Atlantic Council and the major NATO commanders. U.S. officials estimate that this consultation procedure would be accomplished in [deleted].

“SACEUR would thus not be permitted to use nuclear

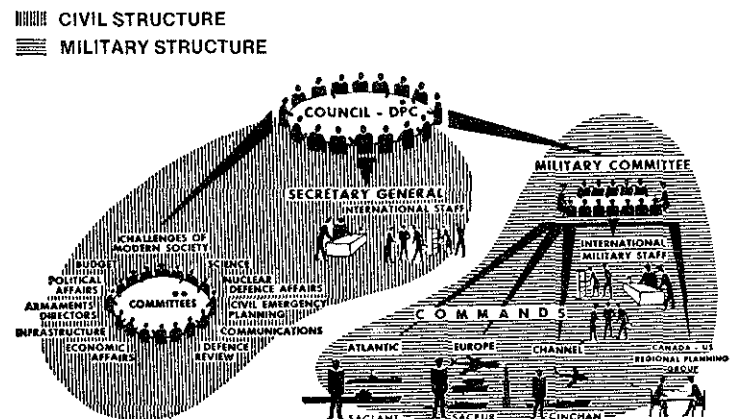
weapons unless there were consultations with NATO member governments directly and with NATO itself through the Defense Planning Committee. But the converse does not apply, because no NATO body has the authority to order SACEUR to use nuclear weapons. The release of nuclear weapons can only be authorized by the President of the United States (or, for British weapons, the British Prime Minister). Before releasing or ordering the use of nuclear weapons in Europe, the President is bound to consult if time and circumstances permit.

“In a technical sense, the President cannot order SACEUR (who is simultaneously the Allied Commander responsible to NATO’s Defense Planning Committee as well as the Commander, U.S. Forces in Europe) to fire a nuclear weapon; he can only release the weapon to him (although he can unilaterally direct the same commander, in his national capacity as commander of U.S. Forces in Europe, to employ nuclear weapons.) SACEUR would then regard the President’s decision to release a nuclear weapon to him as a valid reflection of NATO’s collective interest and will, although the release is not a command so that SACEUR would still retain discretion as to whether or not to fire the weapon. The NATO guidelines do not explicitly cover [deleted]. Nor do they provide guidance for situations in which [deleted].

“The agreed NATO guidelines state that in times of crisis the procedures for general consultation should be set in motion at the earliest possible stage in the crisis—[deleted]. We were told at SHAPE that in most NATO procedural exercises the decision to use nuclear weapons is usually reached [deleted].”

—Report of Senate Foreign Relation Committee Staffers James G. Lowenstein and Richard M. Moose
Nov. 26, 1973 to the Senate

NATO CIVIL AND MILITARY STRUCTURE



The Nuclear Planning Group reports to the Defense Planning Committee (DPC).

THE CONGRESS IS BICAMERAL

Kathleen Hancock

The arms control lobbyists pacing outside the door of the House Appropriations Committee were waiting to hear if there would be any changes to the Defense Appropriations bill for FY 85.

Representative Robert J. Mrazek (D-NY) emerged from the room, briefly consulted with the lobbyists, and returned to the committee mark-up where he proceeded to successfully reduce the Star Wars budget to \$1.09 billion.

Meanwhile, the Senate Appropriations Committee budgeted the Star Wars program at \$1.63 billion, 58% real growth over the FY 84 level.

The final outcome from both houses is \$1.4 billion.

The Star Wars budget is just one example of the dissimilar ways in which the two chambers of Congress have legislated arms control issues.

The anti-satellite weapons (ASATs) and MX missile, two other arms control issues on which FAS lobbied, also proved divisive for the two houses.

ASAT TESTING

The House passed the Brown (D-CA)—Coughlin (R-PA) amendment on the Defense Authorization bill, calling for a mutual moratorium on ASAT testing so long as the Soviets refrain from testing.

The more conservative Senate, however, adopted the Tsongas (D-MA)—Pressler (R-SD) amendment stating that no tests may be conducted unless the President certifies to the Congress that the U.S. is "endeavoring, in good faith, to negotiate with the Soviet Union a mutual and verifiable agreement with the strictest possible limitations" on ASATs. Congress would then have 30 days to review and act on the report from the President.

In the end, the House mutual moratorium language was compromised to a five-month moratorium after which, if the President meets the Senate certification requirements, no more than 3 tests are allowed. In addition, the time allowed for Congressional review and action was cut in half, allowing only 15 days.

MX

On the MX, the House passed an amendment calling for the money to be fenced off until April 1, at which time Congress would vote once again on whether or not to release the money. The Senate, on the other hand, voted to authorize money for the production of 21 missiles. The final outcome fences the money until late March and then requires both houses to vote favorably before the money could be released.

In two of the issues outlined above, the House led the way in making important strides in arms control, only to be compromised by the Senate. (In the case of the MX, this temporary victory came about only after years of debate in Congress and the grassroots, culminating in a "summit" meeting between House Speaker Thomas P. O'Neill and Senate majority leader Howard Baker.) Until the Senate's positions move in the direction of those in the House, our arms control victories in Congress will be minor and short-lived.

There are various reasons for the resistance in the Senate, some institutional, most political. In contrast to the members of the House, senators, as a result of longer terms in office, are less vulnerable to immediate constituency pressure. Members of the Senate and their legislative aides are apt to be older and more set in their opinions than their counterparts in the House. It is not unusual to encounter a defense aide with a dozen years of experience in national security issues. All of these factors dilute the potency of grassroots as well as professional lobbying.

Another barrier to the Senate is the relatively small size of the body. With less than one fourth the number of colleagues as congressmen, senators have more issues to cover with less time to devote to each one. The demands on the senator's time are vast, making it difficult to form a working relationship with any of them. In contrast, congressmen are much more accessible, as Mrazek demonstrated at the Appropriations mark-up.

The major difference between the two chambers in terms of results is the political make-up of the Administration and Congress. Ronald Reagan has led the Republican-controlled Senate in the fight for the MX, Star Wars, ASATs, etc. Likewise, the Democratic leadership is taking the House in a more liberal direction. There was a time when the Senate was the body that held the arms control champions: men like Birch Bayh, Frank Church and George McGovern. Even if the Democrats recapture the White House and/or Senate, without strong proponents the fight for arms control will remain an uphill battle.

In December, arms control lobbyists, including three from FAS, will convene to evaluate the effectiveness of their work in FY 84 and to develop strategy for the following year. Part of that evaluation includes an examination of the elusive Senate and how better to influence that body.



Representative Robert J. Mrazek (D-NY)

PAST CONGRESSIONAL STIRRINGS; A WAR POWERS COMMITTEE

The notion of a Joint Committee that would deal with war powers issues in general has been advanced before. In 1971, Congressman Frank Horton (D-NY) proposed adding to a Senate version of the War Powers Act the creation of a Joint Committee on National Security.

His Committee was composed of 24 members, with a core composition similar to that advocated in this newsletter. The President would have been required by his legislation to convene the Committee within 24 hours of any relevant hostilities and to report to it. It was to become "the officially designated body of the Congress to be consulted by the President and his national security and military advisers, and to receive and transmit information to other committees of the Congress concerning actions taken and reports received..."

This bill specified, among other things, an expedited procedure in which the sponsorship of one-third of the membership of either House for a bill to terminate military activity could have brought that bill to the floor of that House within 24 hours and set up a second vote, within a second 24 hours, in the other House of Congress.

FAS CONFRONTS GAC

On October 10, the General Advisory Committee of the Arms Control and Disarmament Agency (GAC) released a classified, and an unclassified, version of a report on "Soviet Compliance Practices Under Arms Control" during the last 25 years.

Typical of its effort to rake up every possible charge, it accused the Soviet Union of a "breach of a unilateral commitment to nuclear testing moratorium" in August, 1962 atmospheric testing. As readers will recall, President Eisenhower announced that the U.S. would no longer be bound by the U.S.-Soviet moratorium when it expired on December 31, 1959. Thus, while the Soviet Union was the first to test subsequently, it hardly violated a moratorium. And since the Soviet Union had talked of not testing unless the western nations tested, and since the French had tested in April, 1962, it is hard to accuse the Soviet Union even of withdrawing from a unilateral commitment in this case.

Not all of the many charges made are this easy to dispose of but this does give the flavor. Of modern arms control issues, the only one that FAS categorized as involving "actual or probable violations" involved encryption of telemetry in violation of SALT II.

The Administration distanced itself from the report by relaying it to Congress—as required by legislation enacted by arms control opponents—with a comment that it had not been reviewed by "any agency of the U.S. Government." FAS said the failure to review it showed the Administration was "not sincere" about seeking arms control and that the report was trying "to discredit arms control rather than to report on it." FAS Members can get a copy of the 6,000-word FAS analysis by sending \$5.00 to FAS.

MESSAGE FROM THE INCOMING CHAIRMAN

John P. Holdren

It is an honor, a delight, and a challenge to succeed Frank von Hippel as Chairman of the Federation of American Scientists.

The honor stems, of course, from the extraordinary stature the FAS has earned for itself in four decades of lobbying and public education on critical issues of science and society; from the backing of an informed and energetic membership of 5,000 natural and social scientists and engineers; and from association with the distinguished roster of 91 sponsors, 24 elected Council members, and 26 former chairmen, who together constitute an impressive "Who's Who" of science in the public interest.

My delight at assuming the chairmanship at this particular time derives from the sense that the FAS, as it approaches its fortieth birthday next year, is intellectually vigorous, administratively fit, and financially sound—a combination of characteristics that all too few public-interest organizations of any sort can claim these days. For this extraordinary good health of the organization, I have not only the membership, the past elected officials, and the dedicated staff at the Federation's Capitol Hill office to thank, but above all the full-time Director of the FAS, Jeremy J. Stone. Since he assumed his post in 1970, Jeremy has quintupled the organization's membership, increased the budget about 60-fold in current dollars (nearly 25-fold in real terms), expanded the analytical and lobbying staff from a fraction of a person to about six full-time equivalents, and orchestrated countless productive meetings and hearings bringing together public-interest scientists and policy-makers. All the while, moreover, he has maintained a remarkable personal rate of output of thoughtful analyses and ingenious ideas in arms control, international security, and other dimensions of science and public policy. He is a unique asset for the Federation and for the field.

New Challenge

The challenge facing me as incoming Chairman is first of all to try to fill the shoes of my predecessor in this position, the enormously capable and universally respected Frank von Hippel. Frank's combination of solid judgment, sharp analytical skills, keen instinct for identifying the key questions across fields from energy and environment to arms control, and his absolute integrity make him the epitome of the public-interest scientist—and made him an ideal Chairman of the FAS. He did a fine job of reinforcing and complementing the skills present in the Federation's central office, while avoiding the pitfall of dissipating his own energies or anyone else's on the sort of "management" debates that have sometimes sapped the effectiveness of other public-interest organizations. Like Frank, I am an adherent of the old dictum, "If it ain't broken, don't fix it." I expect this philosophy to be helpful as I follow in his footsteps as Chairman.

Much of the rest of the challenge I sense on assuming this office has to do with the present status of the par-

(Continued on page 11)

(Continued from page 10)

ticular science-and-society problem that led to the founding of the FAS some 39 years ago: nuclear weapons and the means and prospects of avoiding their use. In late 1984, the state of this problem is, alas, far less satisfactory than the state of our organization.

Indeed, it probably is no overstatement to say that the condition of official U.S.-Soviet relations has not been worse, nor the prospects for controlling the nuclear arms race poorer, since the Cuban missile crisis of 1962. Today, moreover, we face more than a temporary crisis. The United States is engaged in the early stages of an enormously expensive and wholly unnecessary build-up of nuclear forces, justified to the public by an ostensible need to "restore" a nuclear parity that in fact we never lost. (The justification for more sophisticated audiences is a purported need for "modernization," which seems to be a euphemism for upgrading those characteristics of our forces that most suit them for pre-emptive counterforce attacks and for fighting both "limited" and "prolonged" nuclear wars.) The Soviet Union, meanwhile, has resumed its build-up of SS-20 intermediate-range ballistic missiles—part of its own "modernization"—with counterforce characteristics about as unsettling to the Western Europeans and Chinese as those of the new U.S. weapons are to the Soviets. The Soviets also have just announced new deployments of air-launched, and ground-launched, cruise missiles to "match" U.S. innovations in weapons of these types. Presumably, the last eight years' slowdown in the growth of Soviet military spending (which commenced in 1976 but only recently was acknowledged in publicly available U.S. intelligence estimates) is well on the way to being reversed.

Resumption of Arms Race

At the same time as we are being treated, in the offensive-missile arena, to the resumption of an action-reaction arms-race dynamic that succeeds only in making all parties both poorer and less safe, it is being suggested that our salvation lies in the extension of the weapons competition into space. The likely results of doing that include the wasteful diversion of massive scientific and technological resources away from real needs, the loss of some of the most enduring and important arms-control agreements in existence, and the stimulation of just the sort of all-out, offense-defense nuclear arms race that was averted by the ABM Treaty in 1982.

That no new arms-control agreements have been achieved or even seriously attempted in the past four years is being excused—and the groundwork for withdrawing from the ABM Treaty and ceasing to observe the unratified SALT II limits is being laid—by means of a two-pronged campaign of assertions that the Soviets have been cheating and suggestions that the concept of arms control itself has outlived its usefulness. In the words of the March 1984 FAS Public Interest Report, however, the charges of Soviet treaty violations contain "much less than meets the eye." Indeed, no set of Soviet violations either yet alleged or easily imagined (assuming only a Soviet interest in avoiding actions sure to provoke an unrestrained U.S.

build-up) could threaten our security interests as much as would the complete collapse of the existing arms control regime. Those who assert that arms control has outlived its usefulness have yet to explain how the alternative of unlimited competition can be made either affordable or tolerably safe.

But there is nothing inevitable about the present dismal state of the nuclear arms race, and no need for things to get worse before they get better. Given a modicum of understanding of the benefits of restraint and a degree of political determination to achieve them, it would be seen that means to terminate the most adverse trends are within easy reach. For example:

- An early moratorium on testing of anti-satellite weapons could be established by independent, reciprocal initiatives on the two sides, buying time for negotiation of an enduring agreement and stopping in its tracks the most immediately threatening trend in the weaponization of space.

- The most destabilizing developments in offensive missile technology (including, for example, the impending placement of thousands of highly accurate "silo buster" warheads on ballistic-missile submarines) could be stopped by a flight-test ban on new land-based and sea-based missiles. This, too, could be accomplished by reciprocal initiatives rather than by a time-consuming formal negotiating process.

- A comprehensive ban on the testing of nuclear explosives (CTB)—within reach when negotiations on this topic were broken off for other reasons in 1980—probably could be achieved quickly if those negotiations were resumed. A CTB would stop the present dangerous pursuit of more "usable types of nuclear weapons, would help dispose of the illusion that existing arsenals are somehow inadequate, and would increase the chance of the Non-Proliferation Treaty surviving the 1985 NPT Review Conference.

In all of these cases, clandestine testing on a scale big enough to make a difference could not escape detection. The risks arising from undetected violations would be tiny compared to the risks of continued unrestrained competition in these technologies.

Why No Outcry?

Perhaps most remarkable about the present combination of dangerous developments and ignored opportunities is the failure of these circumstances to provoke a major public outcry or even a serious and sustained debate in the 1984 Presidential campaign. Notwithstanding some recent increases in public pre-occupation with the catastrophic *consequences* of large-scale use of nuclear weapons, in fact, most of the public seems placidly unaware of the relationship between present trends in the arms race and the *probability* of such use. This situation must be viewed, I believe, as a serious failure of the educational efforts of the FAS and of the many other groups with similar goals.

The primary challenge that will face the Federation as it reaches its fortieth birthday next year, then, is to communicate more effectively to decision makers and public

(Continued on page 12)

(Continued from page 11)

alike a clear sense of the present dangers and the opportunities for ameliorating them. I would like to solicit the ideas of all FAS members on how we can better exploit the resources of the membership, the Sponsors and officials, and our Capitol Hill staff to accomplish this goal. Please send your ideas to me, to Vice Chairman Matt Meselson, to any member of the Council, or to Jeremy Stone—and do it soon. All ideas received will be reviewed at the December meeting of the Council.

Although current circumstances justify a high priority for Federation work on abating the nuclear arms race and associated East-West tensions, that priority should not entail neglect of our other long-standing interests in energy, environment, science policy, development and other North-South issues, and human rights. In fact, improving the long-run prospects for a stable peace will require increasing attention to the linkages among resources, environment, technology transfer, development, and more traditional international security concerns, and that the actual and potential strengths of the FAS in several of the relevant subject areas put us in a strong position to illuminate these linkages and to pursue their policy implications. On this issue, too, we would be delighted to receive guidance and suggestions from the members. □

HERBERT F. YORK BECOMES CHAIRMAN FAS FUND

The Federation of American Scientists Fund Chairman, Martin Stone, having served two terms as Chairman, is retiring in favor of Herbert F. York.

Martin Stone, former President of Monogram Industries, the publisher of California Business and a key investor in "World Paper," presided over the FAS Fund during a period in which its revenues increased substantially. And, in particular, he contributed to the FAS Fund the Martin and Connie Stone Fellowship in Defense Analysis. We are obligated to him and delighted to report that he will remain on the Board.



Herbert F. York, FAS Fund Chairman

Herbert F. York, his successor, is well known to FAS members. He was the first Chairman of FAS during its period of renewal in 1970. At that time, he had already been a young member of the Manhattan Project, the director of the Lawrence Livermore Weapons Laboratory, the third highest official in the Defense Department (Director of Defense Research and Engineering) and a key adviser to President Dwight Eisenhower on science and arms issues.

A former Chancellor at the University of California at San Diego, he is now the Director of the University-wide Institute on Global Conflict and Cooperation (IGCC). In between these assignments, he was President Carter's Ambassador to the Comprehensive Test Ban Negotiations.

York's two books, "Race to Oblivion" and "The Advisers," have made him, probably, the most eloquent commentator on the course of the arms race.

Thus, complementing Holdren's election to the Federation chairmanship, FAS members have a truly unique figure of superb judgment and long experience functioning as Chairman of the FAS Fund.

Meanwhile, Frank von Hippel, retiring FAS Chairman, has agreed to serve as Vice Chairman of the FAS Fund.

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