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Nuclear Non-Proliferation Treaty Compliance

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I wrote the chapter on the Nuclear Non-Proliferation Treaty (NPT) that is in the report, *Rule of Power or the Rule of Law? An Assessment of U.S. Polices and Actions Regarding Security-Related Treaties*. Also contributing to that chapter was Elizabeth Shafer. There is quite a bit of detailed discussion in this chapter about the question of present U.S. compliance with the Thirteen Steps for practical nuclear disarmament agreed at the 2000 NPT Review Conference, and I will touch on that. But I thought it might be useful to go back and look at the NPT first of all from a historical perspective.

When the NPT was negotiated in the late 1960s, the non-nuclear weapons states saw three main benefits to entering the treaty. One was to enhance their own security by preventing the further spread of nuclear weapons, including in their own region. This has remained fundamental to most states and accounts for the continuing strong support for the NPT by countries bitterly disappointed by the lack of compliance with the Article VI disarmament obligation. A second benefit for many was the promise of assistance with the development of nuclear power. The third was the nuclear-weapons states' promise to engage in good-faith negotiations on nuclear disarmament, contained in Article VI.

The negotiating history for Article VI is illuminating as we look at the present situation. The United States and the Soviet Union, who were the two main parties dealing on behalf of nuclear weapon countries at the time, wanted to make no linkages to nuclear disarmament in the treaty other than in the treaty's preambular provisions. Non-nuclear weapon countries, on the other hand, had sought such linkages in the text of the treaty. Sweden and India advocated a package solution: linkage of an agreement on non-proliferation with a variety of measures, including security assurances against the use of nuclear weapons, a freeze on the production of nuclear weapons, a comprehensive test ban, and a cut off of production of fissile materials for nuclear weapons. Any of those measures sound familiar to you? We are still dealing with them 30 years later.

India proposed an article for the text of the treaty that would prohibit the manufacture of nuclear weapons. Many countries sought within the treaty guarantees of non-use of nuclear weapons against states that had agreed not to acquire such weapons. Rather a reasonable request, wouldn't you say? But the United States opposed that particular request. It was actually supported by certain elements - the arms control elements - within the U.S. government, but the Joint Chiefs of Staff rejected it. Finally, Mexico made the compromise proposal that there would be negotiations in good faith on a test ban, cessation of manufacture of nuclear weapons, and elimination of nuclear weapons and the means of their delivery. In the end, the United States and Soviet Union accepted the obligation of good-faith negotiation on cessation of the nuclear arms race and nuclear disarmament, without reference to any specific measures.

Here we are 30 years later. What has happened?

As you can see from history, the nuclear weapons states have long understood the NPT as an asymmetrical bargain imposing specific, enforceable obligations in the present on other states not to acquire nuclear weapons, while requiring of the nuclear weapon states only a general and vague commitment to good-faith negotiation of nuclear disarmament to be brought to fruition in the distant future, if ever. What is significant about the last decade is that this view of Article VI has been decisively rejected. The 1995 and 2000 Review Conferences, reinforced by the 1996 International Court of Justice (ICJ) opinion, have established that the NPT has a symmetry of obligations. Article VI is an obligation to be met in accordance with criteria of transparency, verification, and irreversibility, with specific measures imbedded in legally binding agreements so as to bring to a conclusion, in the words of the ICJ, "nuclear disarmament in all its aspects under strict and effective international control."

Many of you, perhaps most of you, followed the NPT Review Conference, and you know some of the specific issues about compliance with the NPT Thirteen Steps. But let me highlight a few points. What is most important to understand is that the nuclear weapon states have not made disarmament the driving force in their national planning and policy. NGOs have gotten quite good over the last decade or so at drawing up plans for nuclear disarmament. And it is a good thing that we did that. But really what needs to happen is that the governments must put disarmament at the center of their national policy. Once they have that as their national policy, they will do a fine job of making plans for nuclear disarmament. But instead, John Gordon, the director of the U.S. nuclear weapons complex for the Department of Energy, has said that nuclear weapons will remain a central element of the U.S. military strategy for the "foreseeable future." The Nuclear Posture Review refers to plans for modernization of warheads and delivery systems over the next 50 years.

Let's look at the reductions in what the Bush Administration is now calling "operational strategic deployed nuclear weapons": 3,800 by the year 2007 and 1,700 to 2,200 by 2012. Russia, apparently will make a similar reduction. A force of 2,000 strategic arms in the possession of each side leaves in place the capability of destroying the entire opposing society and indeed ending life on this planet as we now know it.

There is also the question of the expansion of nuclear use options referred to in the Nuclear Posture Review. The disclosure of a variety of options for use of nuclear weapons, including by

preemptive attack against non-nuclear weapons states, is contrary to the 2000 commitment to a diminishing role for nuclear weapons in security policy. For those of you who are advocates of the 13 Steps, there are some really good commitments in there and this is one of them, but it is being ignored. The expansion of options against non-nuclear weapons states also undermines the long-standing U.S. NPT declaration that it will not use nuclear arms against non-nuclear states.

The principle of irreversibility - a great principle - began, as I understand it, in the context of U.S.-Russian dealings concerning fissile materials. The United States was advocating the need to irreversibly dispose of the fissile material from dismantled warheads - to process the material in ways that will render it very difficult to turn it again into weapons-useable material. However, the NGOs, the New Agenda countries, and the non-nuclear weapons countries very smartly expanded the principle of irreversibility to cover all of arms control and disarmament. There is a lot that can be said about irreversibility but let me just focus on a very simple point. Under START I, delivery systems were destroyed - missiles were sawed up. The current U.S. plan does not call for the destruction of delivery systems. Dismantlement of warheads was contemplated under START III, which of course was never really negotiated, but there was a commitment to it made in 1997. The current U.S. plan does not call for verified, accountable disamantlement of warheads. Hopefully, the Russians are pressing hard on these fronts in the current talks between the United States and Russia.

Another important NPT commitment was the reduction of the operational status of nuclear weapons. This is diplomatese, but what it means is reducing the readiness to use nuclear weapons through de-alerting measures, such as removing warheads from delivery systems. There is a slow motion de-alerting built into the Nuclear Posture Review, because weapons that are reduced will be retained in a responsive force. Several thousand warheads will still be in a responsive force of the United States over the next decade. That means they can be re-deployed within days, weeks or months. This, of course, is contrary to the principle of irreversibility, but it is a kind of slow motion de-alerting. However, there are no plans to subject the 2,000 warheads still operationally deployed in the year 2012 to de-alerting measures. Most of us know, but it bears repeating, right now as we sit here in this room, the United States and Russia are capable of launching all-out attacks on the opposing society within minutes of an order to do so. This is just unbelievable ten years after the Cold War has ended.

The September 2001 attacks on the United States point to the urgent need to marginalize nuclear weapons and intensify global cooperation on the control and non-proliferation of nuclear weapons and nuclear material. Instead the United States has adopted an irrational policy of elevating the role of nuclear weapons in its overall military strategy. This, to put it simply in the context of this report, will reduce U.S. and global security, not increase it.

Thank you.