

# **Press statement of John Burroughs on North Korea, the United States and Nonproliferation**

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The Nuclear Nonproliferation Treaty (NPT) is much in the news due to North Korea's announced withdrawal, steps towards resumption of production of plutonium, and apparent treaty-violating program for production of highly enriched uranium dating back several years. What has received no attention is that the United States is also undermining the NPT by ignoring recent political commitments made to implement the treaty's disarmament obligation.

It is unknown whether North Korea has produced any nuclear weapons with the unaccounted for plutonium from its early 1990s program, or (improbably) with recently enriched uranium (or whether it has enriched any as yet). If North Korea has done so, including through a program to enrich uranium for use in weapons, it is in violation of Article II of the NPT requiring non-nuclear weapon member states "not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices." If North Korea has received assistance from Pakistan or any other country in manufacture of nuclear weapons, it also has violated Article II.

An unsafeguarded North Korean program to produce enriched uranium also would be in violation of Article III of the NPT, which requires non-nuclear weapon states to accept safeguards monitored by the IAEA.

So far as U.S. compliance with the NPT is concerned, the underlying legal obligation is Article VI, requiring NPT member states 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, and on a treaty on general and complete disarmament under strict and effective international control." The legal obligation has been specified by political commitments made in 1995 and 2000, among other things, to achieve a Comprehensive Test Ban Treaty, to commence negotiations on a fissile materials treaty, to adhere to the ABM Treaty, to engage in verified and irreversible reductions of nuclear arsenals leading to their elimination, to reduce the operational status of nuclear weapons systems, and to diminish the role of nuclear weapons in security policies. Also important are assurances provided by NPT nuclear weapons states of non-use of nuclear arms against non-nuclear weapon state parties to the NPT. The 1995 U.S. declaration provides:

The United States reaffirms that it will not use nuclear weapons against non-nuclear-weapon states parties to the [NPT] except in the case of an invasion or any other attack on the United States, its territories, its armed forces or other troops, its allies, or on a state toward which it has a security commitment carried out or sustained by such a

non-nuclear-weapon State in association or alliance with a nuclear-weapon State.

While the assurances are not part of the treaty itself, they are viewed by non-nuclear weapon states as part of the NPT bargain, and arguably have become legally binding, especially in connection with the reaffirmation when the treaty was indefinitely extended in 1995.

The security assurances are of immediate relevance to the North Korean situation and are under cut by the Defense Department's Nuclear Posture Review submitted to Congress at the end of 2001. It reveals new trends towards making nuclear arms more usable in an enlarged range of circumstances, including in response to non-nuclear attacks or threats involving biological or chemical weapons or "surprising military developments." Among the possible "immediate contingencies" it identifies for possible U.S. nuclear use is "a North Korean attack on South Korea." Thus far from diminishing the role of nuclear weapons in security policies as promised in 2000, the Bush administration is moving towards expanding options for nuclear use, in the process undermining the longstanding assurances of non-use of nuclear arms made to non-nuclear NPT states.

Indeed, the reference to a U.S. nuclear use in response to a North Korean attack - not necessarily a nuclear attack - was one of a series of provocative Bush administration statements spurring North Korean nuclearization. Those statements included naming North Korea as a member of the "axis of evil"; strategy statements embracing "preemptive" military actions as a possible response to states' acquisition of nuclear, chemical, biological, and radiological weapons; and depiction of a potential future North Korean missile threat as a major basis for withdrawal from the ABM Treaty.

In general, measured against the standards set in 1995 and 2000, the nuclear powers, especially the United States, are failing to comply with the disarmament obligation. While negotiation of the CTBT was completed in 1996, the Senate failed to approve its ratification in 1999, and prospects for entry into force are presently dim due to the Bush administration's opposition and the uncertain attitude of India and Pakistan. Negotiations on a fissile materials treaty are stalled. The Bush administration withdrew from the ABM Treaty in June 2002.

The lack of compliance lies, however, not only in the lack of progress in particular areas, but above all, by reason of the failure to make disarmament the driving force in national planning and policy with respect to nuclear weapons. The Defense Department's Nuclear Posture Review submitted to Congress at the end of 2001 demonstrates this point in several ways.

First, it signals the end, or at least the suspension, of verified and irreversible arms control endorsed by the 2000 Review Conference. Following a schedule and approach announced by the Nuclear Posture Review, the short and starkly simple Moscow Treaty signed in May 2002 requires only that the United States and Russia each limit "strategic nuclear warheads" to 1700-2200 by the year 2012. Unlike existing and

planned START nuclear arms reduction agreements, it does not require destruction of any delivery systems or warheads, and contains no provisions for verification or transparency. According to the Bush administration, the Moscow Treaty limit refers in the U.S. case at least to what the Nuclear Posture Review labeled "operational" strategic deployed warheads. Under the Defense Department plan, the United States will retain many thousands of additional warheads, including large numbers - probably more than 1000 a decade from now - in a "responsive force" capable of redeployment within weeks or months. A more blatant rejection of the NPT principle of irreversible disarmament could hardly be imagined.

Second, there is no indication in the Nuclear Posture Review or elsewhere that the Bush administration will seek to reduce the readiness level of deployed strategic forces, for example by separating warheads from delivery systems. Today, both the United States and Russia each have about 2,000 warheads on high alert, ready to launch within minutes of an order to do so.

Overall, the Nuclear Posture Review's core assumption of indefinite U.S. reliance on nuclear forces is contrary to the thrust of commitments made in the post-Cold War era to implement the NPT disarmament obligation. If North Korea's present defiance of the NPT is to remain an aberration not imitated by other countries, the United States will have to learn that a viable nonproliferation regime depends crucially on implementation of the obligation to disarm nuclear weapons as well as the obligation not to acquire them.