

CHAPTER 2

How We've Come to View the NPT: Three Pillars

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For more than 45 years, international cooperation to prevent the spread of nuclear weapons has centered on the Nuclear Nonproliferation Treaty (NPT). The NPT was opened for signature on July 1, 1968, and entered into force on March 5, 1970. Momentum for the treaty stemmed from fears that the risk of nuclear war would increase as more countries acquired nuclear weapons. By the mid-1960s, five countries had conducted nuclear explosive tests and had incorporated nuclear weapons into their military forces.

The goal of the NPT was to “draw a line in the sand” at five nuclear countries. The treaty created two groups of states: Nuclear weapon states were those that had exploded a nuclear explosive device prior to January 1, 1967, (The United States, Soviet Union (USSR), United Kingdom (UK), France, and China); all others were non-nuclear weapon states. Non-nuclear states that join the treaty are prohibited from the manufacture or acquisition of nuclear weapons (Article II) and required to accept international verification of that undertaking (Article III). The weapon states that join are barred from assisting any non-weapon state to acquire nuclear weapons and from transferring weapons to others (Article I). In addition to these core nonproliferation obligations, the non-nuclear powers insisted the final version of the treaty preserve the right of all parties to a peaceful nuclear program (Article IV.1), facilitate peaceful

nuclear cooperation among the parties (Article IV.2), and obligate all parties to pursue good faith negotiations on effective measures relating to nuclear disarmament and general and complete disarmament (Article VI). Throughout most of its history, the NPT has been defined by these three sets of obligations, which in shorthand are referred to as: Nonproliferation, peaceful nuclear uses, and disarmament.

Despite its imperfections and the tumultuous events of the past 45 years, the NPT has flourished and its membership stands at 189 parties (as of March 2016).¹ The treaty codified and has largely sustained the 1960s consensus against the spread of nuclear weapons. The norm it established led to the formation of other international tools which, along with the NPT, constitute the totality of the nuclear nonproliferation regime. Only four additional countries are credited with nuclear weapons over this period—India, Pakistan, North Korea, and Israel (although Israel has never declared the possession of nuclear weapons). This rate of proliferation is far less than many predicted in the 1960s, and the regime and standards fostered by the NPT deserve a major share of the credit. However, events of the last 25 years have led to unprecedented challenges to the treaty, including violations of its nonproliferation undertakings, the possible global expansion of civil nuclear energy, and post-Cold War expectations for credible progress toward nuclear disarmament. These difficulties are not entirely unexpected for this now 45 year old treaty, but how they play out in the coming years will have a major impact on the NPT's effectiveness and sustainability.

In 2010, the eighth conference of NPT parties (held every five years since 1970) was convened to review treaty implementation. While the parties expressed concerns about a range of issues, the treaty received a vote of confidence and an action plan to improve its operation was approved. The administration's approach to the NPT was laid out by U.S. President Barack Obama in an April 5, 2009,

1. This number does not include North Korea and Palestine, which are counted on some other lists.

speech in Prague: *“The basic bargain is sound: Countries with nuclear weapons will move towards disarmament, countries without nuclear weapons will not acquire them, and all countries can access peaceful nuclear energy.”*² In subsequent documents and speeches, the administration embraced the term “three pillars” to describe these elements of the “bargain” and portrayed them as “mutually reinforcing and interrelated.” Moreover, disarmament was frequently cited first. The aggregate of these factors (in italics for emphasis) constitutes the “three pillars strategy/approach” that is the subject of this chapter.

Describing the NPT in this manner has increased in recent years and chairs of NPT meetings have embraced it in their summaries as early as 2004. However, this approach by the Obama Administration represented a departure for the United States. Never before had the United States accorded disarmament this degree of emphasis at a Review Conference nor appeared to elevate its status equal to that of nonproliferation in terms of the treaty’s viability. Given the positive outcome of the 2010 Conference, the administration can argue that the three pillars approach worked and that it was appropriate given the challenges to the treaty. But this approach also raises a number of questions.

Referring to the NPT as comprising pillars of nonproliferation, disarmament, and peaceful use conjures the image of three vertical structures of equal strength holding up the NPT, thus implying that weakness or failure of any one of the pillars would cause the treaty to topple. While such a literal meaning need not be presumed, the unqualified U.S. acceptance of the NPT as a bargain between the nuclear and non-nuclear powers and of the pillars as mutually reinforcing is consistent with such an image.

So why was this approach adopted? Does it alter the legal interpretation of the NPT? If not a different legal interpretation, then what

2. “Remarks by President Barack Obama,” Hradcany Square, Prague, Czech Republic, April 5, 2009, available from <https://www.gpo.gov/fdsys/pkg/DCPD-200900228/pdf/DCPD-200900228.pdf>.

are the consequences of granting disarmament and peaceful uses a status equivalent to nonproliferation under the NPT? Are we bowing to the wishes of NPT nonaligned states that have long chafed at the preeminence given to nonproliferation? Is the degree of interdependence among the pillars suggested by this approach consistent with the treaty's structure or its history? Is it good or bad for the treaty in the long run? Or is it no big deal?

To frame the issue, this chapter offers a brief look at the NPT's negotiating history, its entry into force, and implementation up to the 2010 Conference. It shows how support developed in the 1960s for a treaty to prevent the spread of nuclear weapons to additional countries, and how disarmament and peaceful uses came to be included in the final version. It highlights the first 25 years of implementation (1970-1995) as a period of steady growth in NPT membership and acceptance of its nonproliferation obligations, but of scant progress on disarmament. Yet, despite this lag in Article VI implementation, the parties overwhelmingly consented to indefinite extension of the treaty in 1995—a clear endorsement of nonproliferation as the treaty's central purpose as intended by its founders.

The chapter then looks at NPT implement from 1995 to 2015, noting that pressure grew sharply for progress on Article VI—buttressed by arguments that the nonproliferation goals of the NPT had been largely fulfilled and that it was time for the nuclear powers to meet their side of the NPT “bargain,” particularly given the end of the Cold War. At the same time, violations of the NPT's nonproliferation obligations were emerging. Serious differences developed among NPT parties over the relative importance of these disarmament and nonproliferation challenges, exacerbating tensions among the parties and contributing to the most dysfunctional review conference in the NPT's history in 2005. The Obama administration's embrace of the three pillars strategy can be seen as an attempt to restore a degree of consensus behind NPT implementation.

This history is then followed by an analysis. The author concludes that the three pillars strategy is not a reinterpretation of the NPT and

that it was not an unreasonable choice for the Obama administration given what it perceived as the stakes in 2010. However, there are risks to this notion of the treaty; only time will tell whether they are serious and/or manageable. The NPT was conceived as a nonproliferation security pact among its parties, not as a means to achieve nuclear disarmament or to guarantee peaceful uses. The obligations in the treaty for each of the three undertakings are different—deliberately so. Perhaps the relative success of the NPT's nonproliferation mission has shifted expectations, but the United States must be careful that the three pillars strategy does not lead parties to demand more from the treaty on disarmament and peaceful uses than it can deliver. The pillars are not as interrelated as commonly assumed, and insisting on equal and balanced progress on each could weaken support for the treaty as a whole.

To mitigate these risks, the United States should ensure that its future NPT diplomacy fosters a greater appreciation of nonproliferation as the treaty's central purpose. There is ample evidence that proliferation abets insecurity (e.g. North Korea and Iran) and that the NPT is foremost a global barrier to contain these dangers short of war. While efforts with North Korea have failed to date, the NPT proved essential in finding a negotiated settlement to Iran's violations. At the same time, the United States should not relax its commitments under the treaty to peaceful uses and nuclear disarmament. Without credible U.S. policies to advance these objectives, support for the NPT nonproliferation undertakings could atrophy over time.

Negotiating History/Entry into Force

This section focuses briefly on the history, negotiation, and U.S. ratification of the NPT in relation to nonproliferation, disarmament, and peaceful uses.

1945 to 1965

The devastating consequences of World War II, including the destruction of Hiroshima and Nagasaki, defined early efforts “to save succeeding generations from the scourges of war, which in our lifetime has brought untold sorrow to mankind.”³ The first resolution adopted by the United Nations (UN) General Assembly on January 24, 1946, established an Atomic Energy Commission to make proposals “for control of atomic energy ...to ensure its use only for peaceful purposes” and “for the elimination from national armaments of atomic weapons...”⁴ The U.S. Acheson-Lilienthal and Baruch plans, which became the basis of negotiation at the UN Commission during 1946-1948, sought to ban nuclear weapons and to preserve for all nations the use of atomic energy for peaceful purposes under international control.⁵ Thus, the early reaction to the invention of nuclear weapons was to outlaw them; they were viewed as incompatible with global security as that goal was defined in the aftermath of World War II. The Cold War dealt a predictable death to the Baruch Plan and its failure has resonated through the decades.

Preventing arms races of all kinds dominated the international disarmament agenda in the 1950s and up through 1962 as East-West

3. *Charter of the United Nations*, first preambular paragraph, entered into force October 24, 1945, available from <http://www.un.org/en/sections/un-charter/preamble/index.html>.

4. United Nations General Assembly, Resolution 1 (1), “Establishment of a Commission to Deal with the Problems Raised by the Discovery of Atomic Energy,” January 24, 1946, available from [www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/1\(I\)](http://www.un.org/en/ga/search/view_doc.asp?symbol=A/RES/1(I)).

5. Among the multitude of sources describing these ill-fated negotiations are Henry D. Sokolski, *Best of Intentions: America's Campaign Against Strategic Weapons Proliferation*, Westport, CT: Praeger, 2001, Chapter 2; Joseph Cirincione, *Bomb Scare: The History and Future of Nuclear Weapons*, New York: Columbia University Press, 2007, pp. 14-20; William Walker, *A Perpetual Menace: Nuclear Weapons and International Order*, New York: Routledge, 2012, pp. 44-48; and George Bunn, *Arms Control by Committee: Managing Negotiations with the Russians*, Stanford, CA: Stanford University Press, 1992, pp. 59-61.

tensions led to ever increasing stockpiles of weapons. General and complete disarmament proposals were discussed at the UN and in groups created for that purpose (e.g. Eighteen Nation Disarmament Committee located in Geneva). These schemes, similar to proposals following World War I, called for a phased and verified approach to reductions of all weapons' types.⁶ States without nuclear weapons would pledge not to acquire them and states with nuclear weapons would gradually eliminate them. The disarmament proposals were generally well-conceived and allowed the United States and Soviet Union to nurture an image of sincerity, while the underlying tensions of the period meant the prospects for agreement were nil. Meanwhile, both countries were conducting aggressive programs to test and produce nuclear weapons.

U.S. President Dwight Eisenhower sought to channel the quest for peaceful uses of nuclear energy into a cooperative network to share these technologies in exchange for acceptance of international safeguards to guard against their use for nuclear explosives. This so-called "Atoms for Peace" proposal led to the establishment of the International Atomic Energy Agency (IAEA) in 1957 and to a flurry of U.S. exports of research reactors around the world. But IAEA safeguards applied only to these transfers; Atoms for Peace did not prevent countries from having indigenous facilities outside of safeguards or from pursuing a parallel nuclear weapons program.

By the end of the 1950s, it was clear that a comprehensive treaty that banned nuclear weapons proliferation and established a timetable for nuclear disarmament (by states then having nuclear weapons, i.e. the United States, USSR, and UK) was unachievable. Discussion of a separate nonproliferation agreement began to increase.

6. U.S. Arms Control and Disarmament Agency, *1962 Annual Report to Congress*, pp. 8-17, 54-83; also see *Documents on Disarmament 1946-1959* for UN resolutions calling for a phased program of disarmament, U.S. Department of State, *Documents on Disarmament 1945-1959*, Volume I, Department of State Publication 7008, Washington, DC: U.S. Government Printing Office, August 1960, pp. 383-384, 645-646, available from <https://www.un.org/disarmament/publications/documents-on-disarmament/1945-1956-dod/>.

There was virtual consensus that further nuclear proliferation would irreparably harm the security of all nations by increasing the risk of nuclear war, whether by accident or otherwise. Regional security would be undermined if competitors or adversaries sought to acquire nuclear weapons. Finally, it was clear that the goal of nuclear disarmament would become even more distant if the number of nuclear weapon states grew.

From 1958-1961 Ireland took the lead at the United Nations in focusing attention on these risks. By the end of 1961 Ireland had achieved unanimous support for a resolution in which the UN General Assembly “believing in the necessity of an international agreement... calls upon all states, and in particular upon the States at present possessing nuclear weapons, to use their best endeavors to secure the conclusion of an international [nonproliferation] agreement.”⁷ The essence of the nonproliferation agreement would require (i) weapon states not to transfer control of nuclear weapons to others and (ii) non-weapon states not to acquire or manufacture nuclear weapons.

Despite the growing consensus for a nonproliferation agreement, there was a foreshadowing in 1961 that gaining support from non-nuclear powers to abstain from acquiring nuclear weapons would not be unconditional. A Swedish resolution passed in December of that year called “for an inquiry into the conditions under which countries not possessing nuclear weapons might be willing to enter into specific undertakings to refrain from manufacturing or otherwise acquiring such weapons...” The results of this inquiry suggested that among these conditions would be commitments from the nuclear powers.⁸

7. Bunn, pp. 64-66; “The Treaty on the Nonproliferation of Nuclear Weapons,” in Henry Sokolski, ed., *Reviewing the Nuclear Nonproliferation Treaty*, Carlisle, PA: Strategic Studies Institute, 2010, pp. 17-26, and Henry Sokolski, “What Does the History of the Nuclear Nonproliferation Treaty Tell Us About its Future?” in *Reviewing the Nuclear Nonproliferation Treaty*, pp. 31-38, available from www.npolicy.org/thebook.php?bid=2.

8. UN Department of Political and Security Council Affairs, *The United Nations*

Little of substance was accomplished over the next three years due to key Soviet concerns. Firstly, there were differences over whether a nonproliferation agreement should prohibit the stationing of nuclear weapons on the territories of non-nuclear powers—even if such weapons remained under the control of the nuclear power. Championed by the USSR, this ban on stationing was strongly opposed by the United States as undermining the North Atlantic Treaty Organization’s (NATO) collective defense arrangements. Subsequently, these differences focused on the idea, then being discussed, of creating a NATO multilateral nuclear force, which the USSR viewed as incompatible with the emerging nonproliferation agreement. Secondly, the Soviets pressed to ensure that the non-weapon state members of the European Atomic Energy Authority (then comprised of Belgium, the Netherlands, Luxembourg, West Germany, Italy and which had its own safeguards system), would be subject to independent verification by the IAEA. These two roadblocks were ultimately removed: the idea of a multilateral nuclear force died on its own by 1965-66 and a compromise on safeguards was reached that allowed the IAEA to draw its own independent conclusions about compliance by the European non-nuclear powers with their NPT obligations.

The End Game—Addressing Peaceful Uses and Nuclear Disarmament

Meanwhile, by 1965 more countries at the UN and the Geneva disarmament conference, including those in the non-aligned movement, became actively engaged in the concept of a nonproliferation agreement. Once the idea took hold on the international disarmament agenda, it drew strong support among all nations as a top priority. Even representatives of nonaligned states were making

and Disarmament 1945-1970, New York: United Nations, June 1970, pp. 263-266, available from <https://www.un.org/disarmament/publications/yearbook/volume-1945-1970/>; also see discussion of the Swedish resolution in Sokolski, *Best of Intentions*, pp. 45, 47.

statements, filing joint memoranda and supporting UN resolutions declaring that the proliferation of nuclear weapons would endanger the security of all nations and urging the early conclusion of a treaty to prevent such proliferation.⁹ The United States and Soviet Union each tabled the draft of a nonproliferation treaty in the summer of 1965.

This momentum culminated in the passage on November 19, 1965, of UN General Assembly resolution 2028 entitled “Non-proliferation of Nuclear Weapons” by a vote of 93-0 with five abstentions. It was sponsored by eight nonaligned nations and urged “all States to take all steps necessary for the early conclusion of a treaty to prevent the proliferation of nuclear weapons.” It also made clear that the treaty “should be a step toward the achievement of ... nuclear disarmament” and “should embody an acceptable balance of mutual responsibilities and obligations of both nuclear and non-nuclear powers.”¹⁰

In 1966, it became increasingly clear that any nonproliferation treaty would have to address nuclear disarmament in some manner. As has been well-documented elsewhere, concerns about proliferation that had motivated the 1958-1961 discussion about a nonproliferation treaty were matched from 1965 onward by concerns about the U.S.-USSR nuclear arms race, which had shown no signs of abating de-

9. “Statement by the U.A.R. Representative (Hassan) to the Eighteen Nation Disarmament Committee, August 17, 1965,” and “Eight Nation Joint Memorandum Submitted to the Eighteen Nation Disarmament Committee: Comprehensive Test Ban Treaty, September 15, 1965” in U.S. Arms Control and Disarmament Agency, *Documents on Disarmament – 1965*, ACDA Publication 34, Washington, DC: U.S. Government Printing Office, December 1966, pp. 345-346 and 424-426, both available from http://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/assets/publications/documents_on_disarmament/1965/DoD_1965.pdf.

10. “Statement by ACDA Director Foster to the First Committee of the General Assembly: World Disarmament Conference, November 18, 1965,” in *Documents on Disarmament – 1965*, pp. 532-534.

spite the 1963 treaty to ban nuclear testing in the atmosphere.¹¹ In March 1966, the United Arab Republic echoed the views of many by suggesting that the treaty contain a separate article in which the nuclear powers would accept a legal obligation to halt the nuclear arms race and reduce stockpiles.¹² Later that year, eight nonaligned members of the Eighteen Nation Disarmament Committee outlined their views in a joint memorandum, stating that steps toward nuclear disarmament could be embodied in the treaty or as a declaration of intention. Chief among these steps were a comprehensive nuclear test ban, a treaty to halt the production of fissile material for nuclear weapons, and limits on and reductions of existing weapon stockpiles and means of delivery.¹³ The United States and Soviet Union opposed the inclusion of specific steps, but suggested that general language related to nuclear disarmament could be included in the treaty's preamble.

The peaceful use issue had drawn little attention in the negotiations through 1966 for the obvious reason that the 1965 UN negotiating mandate for the NPT said nothing about peaceful uses. In 1967, however, West Germany, Mexico, the United Arab Republic, and Brazil began to stress that the treaty's prohibition on the acquisition of nuclear weapons should not impede the right of non-nuclear powers to realize the benefits of peaceful nuclear programs.¹⁴ West

11. Sokolski, *Best of Intentions*, pp. 39-56; Sokolski, "What Does the History of the Nuclear Nonproliferation Treaty Tell Us About its Future?"

12. "Statement by the U.A.R. Representative (Khallaf) to the Eighteen Nation Disarmament Committee: Nonproliferation of Nuclear Weapons, March 3, 1966," in U.S. Arms Control and Disarmament Agency, *Documents on Disarmament-1966*, ACDA Publication 46, Washington, DC: U.S. Government Printing Office, September 1967, pp. 74-77, available from http://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/assets/publications/documents_on_disarmament/1966/DoD_1966.pdf.

13. "Eight Nation Joint Memorandum Submitted to the Eighteen Nation Disarmament Committee: Nonproliferation of Nuclear Weapons, August 19, 1966," in *Documents on Disarmament-1966*, pp. 576-579.

14. See documents from: the Federal Republic of Germany on pp. 49, 51, 92,

Germany was particularly active in these discussions, including at the highest levels. Mexico made an impassioned plea for a treaty provision that would call for assistance to developing countries in this area.

The United States got the message; in a February 21, 1967, message President Johnson instructed U.S. negotiators “to exercise the greatest care that the treaty not hinder the non-nuclear powers in their development of nuclear energy for peaceful purposes”¹⁵ and the identical U.S. and Soviet drafts tabled on August 24, 1967, included a new Article IV that looked very similar to the final version.

Nothing in this treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination in conformity with Article I and II of this Treaty, as well as the right of the Parties to participate in the fullest possible exchange of information for, and to contribute alone or in cooperation with other States to, the further development of the applications of nuclear energy for peaceful purposes.¹⁶

In presenting the text, U.S. Arms Control Agency Director Foster noted that Article IV was in response to several suggestions from non-nuclear powers and pointed out that the idea was drawn in part from Article 17 of the Latin American Nuclear Weapons Free Zone

95, 181, 211-212; Brazil on pp. 138, 226-227; the United Arab Republic, pp. 159, 424; and Mexico on pp. 394-398 in U.S. Arms Control and Disarmament Agency, *Documents on Disarmament – 1967*, ACDA Publication 46, Washington, DC: U.S. Government Printing Office, July 1968, available from <https://www.un.org/disarmament/publications/documents-on-disarmament/1967-dod/>.

15. “Message From President Johnson to the Eighteen Nation Disarmament Committee, February 21, 1967, in *Documents on Disarmament – 1967*, p. 98.

16. “Draft Treaty on the Nonproliferation of Nuclear Weapons, August 24, 1967,” in *Documents on Disarmament – 1967*, p. 340.

Treaty that had been opened for signature in February of 1967.¹⁷ Article 17 of that treaty reads:

Nothing in the provisions of this Treaty shall prejudice the rights of the Contracting Parties, in conformity with this Treaty, to use nuclear energy for peaceful purposes, in particular for their economic development and social progress.¹⁸

In contrast to peaceful uses, language related to nuclear disarmament in the August 24, 1967, identical U.S. and USSR drafts remained in the preamble. While improving on such language in earlier drafts, it was still quite modest:

Declaring their intention to achieve at the earliest possible date the cessation of the nuclear arms race,

Urging the cooperation of all States in the attainment of this objective,

Desiring to further the easing of international tension and the strengthening of trust between States in order to facilitate the cessation of the manufacture of nuclear weapons, the liquidation of all their existing stockpiles, and the elimination from national arsenals of nuclear weapons and their means of delivery pursuant to a treaty on general and complete disarmament under strict and effective international control¹⁹

17. "Statement by ACDA Director Foster to the Eighteen Nation Disarmament Committee: Draft Nonproliferation Treaty, August 24, 1967," *Documents on Disarmament – 1967*, pp. 344-345.

18. "Treaty for the Prohibition of Nuclear Weapons in Latin America, February 14, 1967," in *Documents on Disarmament – 1967*, p.77.

19. "Draft Treaty on the Nonproliferation of Nuclear Weapons, August 24, 1967," in *Documents on Disarmament – 1967*, p. 339.

While this language gave clear priority to halting the nuclear arms race, it essentially consigned the goal of eliminating nuclear weapons to the realm of science fiction by stating that it would be achieved “pursuant to a treaty on general and complete disarmament” (emphasis added).

This formulation was criticized because it was not in the main body of the treaty and because it was tied to general and complete disarmament. On September 19, 1967, Mexico acknowledged that the treaty could not obligate the nuclear powers “to conclude future disarmament agreements” (general or specific); to do so “would be tantamount to opposing the very existence of a non-proliferation treaty.” However, the statement continued, the nuclear powers should be willing in the treaty to “pursue negotiations in good faith in order to conclude such agreements”²⁰ and to do so without linkage to general and complete disarmament. Mexico offered the following language for the operative part of the treaty:

Each nuclear-weapon State Party to this Treaty undertakes to pursue negotiations in good faith, with all speed and perseverance, to arrive at further agreements regarding the prohibition of nuclear weapon tests, the cessation of the manufacture of nuclear weapons, the liquidation of their existing stockpiles, the elimination from nation arsenals of nuclear weapons and the means of their delivery, as well as to reach agreement on a Treaty on General and Complete Disarmament under strict and effective international control.²¹

20. “Statement by the Mexican Representative (Castaneda) to the Eighteen Nation Disarmament Committee: Nonproliferation of Nuclear Weapons, September 19, 1967,” in *Documents on Disarmament – 1967*, p. 400.

21. “Mexican Working Paper Submitted to the Eighteen Nation Disarmament Committee: Suggested Additions to Draft Nonproliferation Treaty, September 19, 1967,” *Documents on Disarmament – 1967*, p. 395.

On January 18, 1968, a new joint U.S.-Soviet draft of the treaty was tabled and it contained a paragraph on disarmament in the operative section that borrowed ideas from the Mexican draft.

Each of the Parties to this Treaty undertakes to pursue negotiations in good faith on effective measures regarding cessation of the nuclear arms race and disarmament, and on a treaty on general and complete disarmament under strict and effective international control.²²

Importantly, it made clear that the obligation to pursue these goals fell on all parties to the treaty, not just the nuclear powers. The draft omitted the specific measures from the Mexican draft. U.S. and Soviet negotiators agreed that an obligation to achieve any particular agreement was a step too far. However, in explaining the new text, Arms Control Agency Deputy Director Adrian Fisher conceded to an interpretation favored by many non-weapon states. First, he accepted that the purpose of the negotiations called for in the new operative paragraph is the *conclusion* (emphasis added) of disarmament agreements; and, second, he acknowledged that the draft article does not require the negotiation of nuclear arms control measures to occur within the framework of a treaty on general and complete disarmament. To quote Fisher:

As Mr. Castaneda [of Mexico] has pointed out, although the nuclear Powers cannot actually undertake to conclude particular future disarmament agreements among themselves at this stage, they can undertake to initiate and pursue negotiations in good faith in order to conclude such agreements. That is essentially the content which has been given

22. "Revised Draft Treaty on the Nonproliferation of Nuclear Weapons, January 18, 1968," in U.S. Arms Control and Disarmament Agency, *Documents on Disarmament – 1968*, ACDA Publication 52, Washington: DC, U.S. Government Printing Office, September 1969, p. 4, available from <https://www.un.org/disarmament/publications/documents-on-disarmament/1968-dod/>.

to the obligation which we are recommending be incorporated into the body of the Treaty. The new draft article constitutes a solemn affirmation of the responsibility of nuclear-weapon State to strive for effective measures regarding cessation of the nuclear arms race and disarmament. Moreover, the article does not make the negotiation of these measures conditional upon their inclusion within the framework of a treaty on general and complete disarmament.²³

Before leaving Article VI, it is important to understand the context of how it came to be included in the treaty. Since the 1950s the nuclear weapon states had agreed in principle on the need for measures to control nuclear weapons. While these efforts did not succeed in the context of broader disarmament schemes, after the 1962 Cuban Missile Crisis the United States and Soviet Union began to focus on separate issues where agreement seemed possible and to begin a step-by-step approach. In 1963, the hot line agreement and limited test ban treaty were concluded. And through the rest of the decade the two sides, with the United States in the lead, increased their efforts to find ways to limit both offensive and defensive strategic forces.

This U.S.-Soviet discussion was happening at the same time as momentum built for the NPT. So a general undertaking by the nuclear powers along the lines of Article VI was compatible with what the United States and Soviet Union were already doing. The point is that the United States did not view Article VI as creating a new obligation or as something it would undertake as a “favor” for the non-nuclear powers. As the first nuclear weapon state, the United States had long ago accepted the responsibility to find ways to avoid nuclear war and to pursue negotiations to that end.

This view was stressed by a U.S. official in a statement to the Ge-

23. “Statement by ACDA Deputy Director Fisher to the Eighteen Nation Disarmament Committee: Draft Nonproliferation Treaty, January 18, 1968,” *Documents on Disarmament—1968*, p. 15.

neva conference on February 6, 1968. It is quoted below at length to reinforce the point, but also as a rejoinder to the idea that the United States viewed Article VI as a quid-pro-quo for non-weapon states abjuring nuclear weapons.

The United States shares the prevailing view of the importance of provisions in this treaty dealing with a cessation of the nuclear arms race. However, this is not a question of making some compensating sacrifice; we believe it is in our national interests to halt the nuclear arms race and to begin reducing existing nuclear arsenals...

The tendency to view a commitment to nuclear disarmament by the nuclear weapon states as a quid pro quo for the renunciation of nuclear weapons by other states fails to take into account the actual intention and situation of the overwhelming majority of non-nuclear-weapon states...the vast majority of such states have no intention, desire or indeed any early prospect of producing or acquiring nuclear weapons or other nuclear explosive devices. Moreover, those who look for a quid pro quo seem to consider this treaty as if it were a commercial contract in which each party seeks to trade off concessions in order to gain equal financial or trade benefits. However, the nonproliferation treaty is not that kind of agreement; its primary benefit accrues to all of us directly in the form of enhanced security and not as a result of balanced concessions....

It seems quite evident that the primary benefit conferred by this treaty is the assurance it provides, in the first instance, to the non-nuclear-weapon states

that their non-nuclear neighbors or rivals will not have to assume the enormous expenditures, and the serious security risk, of acquiring nuclear weapons.²⁴

Both Articles IV and VI were tweaked slightly over the next four months; notably the word “nuclear” was inserted before “disarmament” in Article VI’s first clause. A preambular paragraph was added that recalled past expressions of support for a treaty to ban the testing of nuclear weapons.

On Article IV, it is important to note that a Nigerian official complained on May 8, 1968, that the final version of Article IV.2 created no obligation on NPT parties to provide “full scientific and technological information” to non-weapon states in peaceful uses. This admission demonstrates that nonaligned countries, despite frequent charges against nuclear supplier countries over the last 40 years of violating Article IV.2, were fully aware that it did not mandate unconditional peaceful nuclear assistance. The relevant quote from the Nigerian official:

nuclear-weapon Powers do not accept any obligation to furnish non-nuclear States with full scientific and technological information in their possession on the peaceful uses of nuclear energy...this article does not deal adequately with the problem of bridging the intellectual gap which would be created by the restrictions imposed by Articles I and II on development of nuclear energy for peaceful purposes.²⁵

The final version of the NPT was presented to the General Assembly on May 31, 1968. General Assembly resolution 2373, approved on

24. “Statement by the United States Representative (De Palma) to the Eighteen Nation Disarmament Committee: Nonproliferation of Nuclear Weapons, February 6, 1968,” in *Documents on Disarmament–1968*, pp. 36-38.

25. “Statement by the Nigerian Representative (Ogbu) to the First Committee of the General Assembly: Nonproliferation of Nuclear Weapons, May 8, 1968,” in *Documents on Disarmament–1968*, p. 300.

June 12, 1968, by a vote of 95-4-21 (abstentions), commended the NPT and expressed “the hope for the widest possible adherence... by both nuclear-weapon and non-nuclear-weapon states.”²⁶

Review, Extension, and Withdrawal

Before leaving the negotiating phase, it is useful to highlight other provisions of the NPT that were viewed as a means to ensure weapon state accountability under Article VI. The requirement to hold a conference after five years (Article VIII.3) to review implementation of the treaty was clearly viewed in part as a means to take stock of efforts toward ending the nuclear arms race and achieving nuclear disarmament.

Italy proposed during negotiations that the nonproliferation treaty be of definite duration with periodic renewals, while allowing any party the right not to renew with six months advance notification (the U.S.-Soviet draft had called for an NPT of unlimited duration).²⁷ This approach would have offered non-nuclear powers an easy “out” should the nuclear powers not fulfill their Article VI obligations. This proposal was not accepted, although it was a factor in creating Article X.2 which set an initial 25 year duration for the NPT, after which a vote would be taken on whether to extend the treaty indefinitely or for a fixed period(s).²⁸

There is some mention in the negotiating history of efforts to make

26. “General Assembly Resolution 2373 (XXII): Treaty on the Nonproliferation of Nuclear Weapons, June 12, 1968,” in *Documents on Disarmament-1968*, p. 431.

27. “Statement by the Italian Representative (Caracciolo) to the Eighteen Nation Disarmament Committee: Draft Nonproliferation Treaty, October 24, 1967,” in *Documents on Disarmament-1967*, pp. 527-529.

28. George Bunn, “The NPT and Options for its Extension,” *Nonproliferation Review*, Vol. 1, No. 2, Winter 1994, pp. 53-54.

withdrawal “easier,” but nothing substantive came of them.²⁹ Sweden said in early 1968 that it seemed “reasonable” that if the treaty review process led to a conclusion that the nuclear powers had “blatantly disregarded” their Article VI undertakings, then non-nuclear parties might be justified in withdrawing.³⁰ However, this linkage did not appear to generate much support before the treaty was presented in its final form to the UN General Assembly in May 1968.

George Bunn and Roland Timerbaev—members of the U.S. and Soviet delegations that negotiated the NPT—have written about the negotiating history of the withdrawal provision (Article X.1) which reads as follows:

Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

In brief, they argue that the negotiators attempted to set a high standard, requiring the party intending to withdraw to provide a statement to all other NPT parties and to the Security Council describing

29. “Statement by the Nigerian Representative (Sule Kolo) to the Eighteen Nation Disarmament Committee: Draft Nonproliferation Treaty (Extract), November 2, 1967,” and “Nigerian Working Paper Submitted to the Eighteen Nation Disarmament Committee: Additions and Amendments to the Draft Nonproliferation Treaty, November 2, 1967” in *Documents on Disarmament-1967*, on pp. 557-558; and “Brazilian Amendments to the Draft Treaty on Nonproliferation of Nuclear Weapons, February 13, 1968,” on p. 65, in *Documents on Disarmament-1968*, pp. 557-558.

30. See “Statements by Swedish Representative Alva Myrdal on February 8 and March 5, 1968,” in *Documents on Disarmament-1968*, pp. 45,151-152.

the “extraordinary events” that had “jeopardized [its] supreme interests.” The drafters believed that events leading an NPT party to withdraw could be so grave as to constitute a threat to international peace and security, including that of its neighbors, and thus within the jurisdiction of the Security Council.³¹ Implied in this reasoning is that frustration with Article VI implementation would not by itself meet that standard. While some may question this conclusion today based on the history of Article VI implementation, from the negotiating history it is clear that the periodic five year review and 25 year duration (with extension options) were viewed as the principal means for holding the nuclear powers accountable.

U.S. Ratification and Entry into Force

On July 1, 1968, the treaty was opened for signature in the capitals of the three depositary governments—Washington, Moscow, London—and 66 countries signed on that day. As stated in Article IX.3, the NPT would enter into force once 43 signatory states had deposited an instrument of ratification, including the three depositary governments. As a prime supporter of the treaty, the United States moved quickly. The treaty was sent to the U.S. Senate for advice and consent to ratification on July 9, 1968, and the Foreign Relations Committee held hearings on July 10, 11, 12, and 17. The Committee reported the treaty favorably in September (13-3 with 3 abstentions), but the political crisis stemming from the Soviet

31. See George Bunn, Roland Timerbaev, James Leonard, “Nuclear Disarmament: How Much Have the Five Nuclear Powers Promised in the Non-Proliferation Treaty?” *Lawyers Alliance for World Security*, June 1994, pp.19-22, available from cisac.fsi.stanford.edu/sites/default/files/Bunn_Nuclear_Disarmament.pdf; George Bunn and Roland Timerbaev, “The Right to Withdraw from the Nuclear Non-Proliferation Treaty (NPT): The Views of Two NPT Negotiators,” *Yaderny Kontrol Digest*, Vol. 10, No. 1 and 2, Winter/Spring 2005, pp. 22-25, available from fsi.stanford.edu/sites/default/files/Bunn_Timerbaev.pdf; and George Bunn and John Rhineland, “The Right to Withdraw from the NPT: Article X is Not Unconditional,” *Disarmament Diplomacy*, Issue 79, April/May 2005, pp. 2-3, available from www.acronym.org.uk/dd/dd79/79gbjr.htm.

invasion of Czechoslovakia in August 1968 deferred floor action for the rest of the year.

In 1968, the Committee's formal consideration of the treaty focused very little on Article VI. One possible explanation is that the undertaking in Article VI "to negotiate in good faith on effective measures related to nuclear disarmament" was consistent with what the United States was planning to do in any event.

With regard to peaceful uses, most of the Senate's attention was directed to Article V, which called for international arrangements to share in the benefits of nuclear explosions for peaceful purposes. The idea of digging canals or stimulating underground gas reservoirs using nuclear explosives was topical in the 1960s, but interest soon faded and Article V became effectively inoperative following the 1996 test ban treaty that outlawed all nuclear explosions. The Senate's 1968 discussion of this issue is not currently relevant to the NPT peaceful uses debate. However, in regard to other peaceful uses, the hearing record addressed five issues that are of continuing interest.

First: Administration testimony, particularly on July 12, 1968, from Glenn Seaborg, the Chairman of the Atomic Energy Commission (AEC), provided a glimpse into how the NPT was viewed given the expectation of a substantial growth in civil nuclear power in the coming years.³² Seaborg painted the NPT as critical toward providing assurance that the many power reactors expected to come on line would be used only for peaceful purposes. Without the NPT, the only way these reactors would become subject to international non-proliferation commitments would be if a country invited the IAEA to apply safeguards or if safeguards were required by the government supplying the reactor or fuel.

Second: Seaborg said the United States already had a strong record

32. "Statement by A.E.C. Chairman Seaborg to the Senate Foreign Relations Committee: Nonproliferation Treaty, July 12, 1968," in *Documents on Disarmament-1968*, on p. 516.

of sharing the peaceful uses of nuclear energy. In a subsequent submission for the record on September 5, 1968, the administration listed 33 bilateral U.S. civil nuclear agreements then in force (many dating from the mid-1950s), and two multilateral agreements (with the IAEA and European Atomic Energy Agency).

Third: In response to a question during testimony about what constitutes the “manufacture of a nuclear explosive device,” which is prohibited in Article II, Arms Control Agency Director William Foster provided an extension of his remarks including the following: “Neither uranium enrichment nor the stockpiling of fissionable material in connection with a peaceful program would violate Article II as long as these activities were safeguarded under Article III.” However, the Foster statement also noted that placing an activity under safeguards “would not, in and of itself, settle the question of whether that activity was in compliance with the Treaty.”³³

Clearly, the United States was not prepared to “green light” any activity undertaken pursuant to the rights affirmed in Article IV.1 of the treaty even if subject to IAEA safeguards. The hearing record states that this position had also been affirmed by the United States during the negotiation of the treaty.

Fourth: AEC Chairman Seaborg, in response to a series of questions from the Committee, made clear on September 12, 1968, that Article IV.2, which calls for the “fullest possible exchange” of equipment, material and information for the peaceful uses of nuclear energy, does not compel the United States

to embark on any costly new programs or as obliging the U.S. to meet all requests and demands...nor will it remove the discretion we have in determining the nature of our cooperative relationships with other countries, on a case by case basis. The words

33. U.S. Congress, “Nonproliferation Treaty,” hearings before the Committee on Foreign Relations, United States Senate, 90th Cong., 2nd Sess., July 10, 11, 12, and 17, 1968, Washington, DC: U.S. Government Printing Office, 1968, p. 39.

“fullest possible exchange” in Article IV clearly imply that the Parties will be expected to cooperate only to the extent that they are able to do so...³⁴

Finally, IAEA safeguards on peaceful nuclear programs were in their infancy in 1968 and the Committee made clear in its report that their effectiveness under the NPT remained to be determined.

The reliability and thereby the credibility of international safeguards systems is still to be determined. No completely satisfactory answer was given the committee on the effectiveness of the safeguards systems envisioned under the treaty...The committee is fully aware of the potential problems in the safeguards field. But it is equally convinced that when the possible problems in reaching satisfactory safeguards agreements are carefully weighed against the potential for a worldwide mandatory safeguards system, the comparison argues strongly in favor of the present language of the treaty.³⁵

Following the November 1968 election, the new administration under U.S. President Richard Nixon endorsed the treaty and urged Senate action. Hearings were held February 1969 and the previous administration's views on NPT matters were reaffirmed. There were no new substantive disclosures, although more attention was paid to Article VI. One Article VI highlight came from a question and answer for the record provided to the Senate by the new Arms Control Agency Director Gerard Smith: “Article VI of the NPT merely requires us to ‘pursue negotiations in good faith.’ It does not require us to achieve any disarmament agreement, since it is obvi-

34. “Letter From AEC Chairman Seaborg to Senator Cooper on the Nonproliferation Treaty, September 11, 1968,” in *Documents on Disarmament-1968*, p. 636.

35. “Report by the Senate Foreign Relations Committee on the Treaty on the Nonproliferation of Nuclear Weapons, September 26, 1968,” in *Documents on Disarmament-1968*, p. 656.

ously impossible to predict the exact nature and results of any such negotiations.”³⁶

This assertion tracks with the letter of the treaty, but the previous administration (see above) had publicly stated during the negotiations that the purpose of Article VI would be to “conclude” agreements. These two lines of interpretation were not necessarily inconsistent and the different emphasis is not surprising given the different contexts.

The Committee reported favorably on the NPT by a vote of 14-0-1 (present).

The Senate gave its advice and consent to ratification on March 13, 1969, with a vote of 83-15. The Committee report acknowledged the U.S. commitment in the treaty “to move to negotiate the means of limiting, if not ending, the nuclear arms race” and declared that “decisions facing both countries [United States and USSR] in the area of strategic offensive and defensive missiles are of vital importance not only to the peace and security of the world but to the successful implementation of the Nonproliferation Treaty.”³⁷

There was uncertainty about the future of the NPT despite the strong support it elicited. While nearly 100 countries signed the treaty between July 1, 1968, and early 1970, many had indicated there would be delays in ratification. It was not until March 5, 1970, that 43 ratifications were obtained and the NPT entered into force. Key U.S. allies such as West Germany and Japan were not among this group, as the details of IAEA safeguards application in their countries were still being negotiated. Others were waiting to see how much support the NPT would gain over time before committing.

36. “Answers to Questions by Senator Thurmond to ACDA Director Smith on the Nonproliferation Treaty, February 28, 1969,” in *Documents on Disarmament-1969*, p. 53, available from <https://www.un.org/disarmament/publications/documents-on-disarmament/1969-dod/>.

37. “Report by the Senate Foreign Relations Committee on the Nonproliferation Treaty, March 6, 1969,” in *Documents on Disarmament-1969*, p. 95.

Comments

Since 1945 world leaders had focused on ways to prevent a recurrence of Hiroshima and Nagasaki. The initial approach dealt with elimination and nonproliferation. But by the late 1950s, it seemed clear that East-West tensions would continue to thwart elimination by those already in possession of nuclear weapons; and the wiser course was to focus on keeping the nuclear club from growing. There was little dispute that the core provisions of such a nonproliferation agreement would obligate non-weapon states not to acquire nuclear weapons and weapon states not to transfer weapons to others. To obtain broader support, particularly from nonaligned states, the final version included articles on peaceful uses and disarmament, although each undertaking was general in nature.

The literal meaning of Article VI does not require the conclusion of agreements, but there was an expectation that the pursuit of “negotiations in good faith” would lead to concrete agreements and progress toward the goals of ending the nuclear arms race and of nuclear disarmament. The United States did not discourage such an expectation. The nonaligned states were explicit about the types of measures that should be pursued, although the United States and Soviet Union were careful not to endorse the idea that Article VI required the conclusion of any particular agreement.

While the NPT established no specific measures or deadlines in regard to Article VI, it was clear that the 5-year treaty review process and the 25-year duration provision were aimed partly at holding the nuclear powers accountable to their undertakings in this Article. The record makes clear that the United States and UK were fully aware that their Article VI undertaking would be extremely important to the viability of the treaty. Yet, the undertaking did not seem onerous at the time as the United States was already committed to engagement with the Soviet Union on strategic nuclear issues and Article VI promised nothing more than “to pursue negotiations in good faith.” Moreover, no one could predict in 1968 how long the NPT would survive, let alone how salient Article VI would grow

over the years.

On peaceful uses (apart from nuclear explosions for peaceful purposes), the negotiations led to the inclusion of a so-called savings clause, i.e. to reassure non-weapon states that by giving up the right to acquire nuclear weapons they were not also forfeiting their right to peaceful nuclear energy (Article IV.1). Clearly, however, the exercise of this right had to conform with the nonproliferation undertakings in Articles I, II, and by extension Article III. In general, the negotiators did not intend to prohibit any legitimate peaceful nuclear activity as long as it was accounted for under an IAEA safeguards agreement. However, the tension between the NPT's nonproliferation goals and certain peaceful applications, such as the use of plutonium as reactor fuel, was already evident. Countries such as Germany wanted reassurance that the NPT would not hinder its ambitious civil nuclear energy plans, and the United States reassured them—up to a point. No clear line was drawn between prohibited and permitted activities, which should not be surprising given the inherent duality of nuclear energy.

To compound this ambiguity, the IAEA safeguards system was in its infancy and it was not clear how effective it would be in detecting secret nuclear activities or the diversion of nuclear material from a declared peaceful nuclear program. The nonproliferation mission of the NPT faced a very uncertain future. In addition to questions about safeguards, it was impossible to know whether technologies relevant to nuclear proliferation could be effectively controlled, or how quickly these technologies would diffuse to others, or how the inevitable expansion of peaceful nuclear uses to other countries would influence proliferation risks.

The undertaking “to facilitate” cooperation among countries in the peaceful uses of nuclear energy (Article IV.2) under IAEA safeguards represented nothing more than what had already become routine under Atoms for Peace—at least for the United States. It was placed in the treaty because developing countries wanted to ensure that the NPT would not result in new obstacles to this co-

operation. In the 1960s, the potential benefits of the then-growing field of civil nuclear applications seemed limitless and the developing countries did not want to lose out. This attitude was consistent with the prevailing view in the post-colonial era where the growing number of independent states argued that advanced countries had an obligation to share technology across the board to aid in economic development. That said, the language of Article IV.2 was crafted to give advanced nuclear nations flexibility on the scope and conditions of such cooperation.

The clear purpose of the NPT upon its entry into force was to prevent further proliferation. The negotiating history and the treaty's provisions clearly reflect that reality. Most non-weapon states, despite the inherent inequality of such an agreement, were on board. They believed it was in their self-interest to prevent proliferation; a world of increasing numbers of nuclear weapon states was viewed as making all nations less secure. Yet, they thought it only fair that a nonproliferation treaty should also include provisions to require those already with nuclear weapons to negotiate limits on their nuclear arsenals and to ensure no curtailment of the right to benefit from the peaceful uses of nuclear energy.

Treaty Implementation

We turn to the history of the treaty's implementation to draw lessons about how the parties in practice have viewed operation of the non-proliferation, nuclear disarmament, and peaceful use undertakings. The narrative through 1995 will be brief and provide an overview of the decision that year on extending the treaty. For 1995 onward, more detail is offered to provide context leading to the 2010 Conference and the "three pillars" strategy.

The First Twenty-Five Years: 1970-1995

While entry into force of the NPT in 1970 was accomplished with strong support from the international community, no one could predict how effective the treaty would be in halting proliferation beyond the five countries in possession of nuclear weapon to that point.

India's 1974 detonation of a so-called peaceful nuclear explosive was the first major blow to NPT goals. India had opposed the NPT and with this nuclear detonation made clear that it would not allow a discriminatory treaty such as the NPT to deny it entry into the exclusive nuclear club. India's explosion also revealed a major problem with the conditions nuclear suppliers had attached to their exports—India had used assistance from Canada and the United States in the manufacture of its nuclear explosive under the guise that it was for “peaceful purposes.” However, if India intended to stall the global nonproliferation movement, it failed. Support for the NPT continued to grow and the Nuclear Suppliers Group was formed in 1975 to address weaknesses in nuclear export controls that India had exploited. This suppliers' initiative also led to the first instance of multilateral cooperation in reducing the spread of enrichment and reprocessing plants, nuclear facilities with civilian uses but which also can produce high enriched uranium and plutonium usable in nuclear weapons. While formed in response to India's test, this supplier group soon found itself also battling a secret Pakistani nuclear procurement program set up to match India's acquisition of a nuclear explosive.

Iraq's nuclear procurement activities in the 1970s suggested that it would be the first to challenge the NPT from within the ranks of treaty parties. Israel did not wait for any “smoking gun,” deciding in 1981 to destroy two Iraqi research reactors supplied by France before they became operational. Despite this military action, Iraq continued to pursue an underground nuclear weapons program, including enrichment technologies, which went undiscovered until the IAEA was given enhanced inspection authority after Iraq's

defeat in the 1991 Gulf War. Multiple NPT violations were soon exposed and remedial actions were approved by the UN Security Council.

North Korea got into the act less than two years later when it refused an IAEA inspection to investigate its declaration of nuclear material. Rather than address the violation, North Korea provided notification of its intention to withdraw from the NPT—an action that North Korea later suspended in June 1993 following talks with the United States. In November 1994, the two sides concluded a phased agreement that froze reprocessing and the production of plutonium, but deferred actions to bring North Korea into NPT compliance until a later date.

As with India's 1974 nuclear explosive test, the discovery of Iraq's nuclear weapons program in 1991 prompted strong nonproliferation countermeasures. The IAEA launched a multi-year program in 1993 to improve its safeguards system. Previously, the IAEA had focused primarily on deterring diversion from declared facilities rather than detecting secret ones. In 1992, the Nuclear Suppliers Group concluded a major upgrade of its nuclear export guidelines, including the addition of controls on nuclear dual-use items of the type Iraq had secretly acquired for its nuclear weapons program. Controls on enrichment and reprocessing items were expanded.

Global attention to Iraq's proliferation programs seemed to galvanize other emerging nonproliferation trends. In 1992, China and France joined the NPT—reversing more than 20 years of shunning the treaty. In 1993, political leaders in Argentina and Brazil decided to end the ambiguous status of their nuclear programs by bringing into force a comprehensive IAEA safeguards agreement. They acceded to the NPT later in the decade. An altered political landscape led South Africa to join in 1991 and to reveal in 1993 that it had manufactured six nuclear weapons, which had been dismantled prior to joining the treaty—the first known case of a country eliminating its nuclear weapons prior to joining the NPT.

Turning to key nuclear disarmament events during the NPT's first 25 years, the first major step was in 1972 when the United States and Soviet Union concluded agreements limiting offensive and defensive systems. Despite intensive efforts and a threshold test ban treaty in 1974, follow on efforts to further limit strategic offensive nuclear forces stalled for nearly two decades. A treaty was signed in 1979, but never entered into force. U.S.-Soviet relations were disrupted by the 1979 Soviet invasion of Afghanistan and by frequent changes in USSR leadership in the early 1980s. As the U.S. delegation to the 1985 Review Conference admitted, good faith was being exercised but the results were "disappointing."³⁸ This bleak record of Article VI implementation was finally broken in 1987 with a treaty banning U.S. and Soviet intermediate range nuclear forces. The end of the Cold War also led to major reductions in overseas deployments of tactical nuclear weapons in the early 1990s, and to unilateral steps by Russia and the United States to halt nuclear explosive testing. Negotiations on a nuclear test ban treaty, on and off since the 1950s, began in earnest in 1994. Also in 1994, the first treaty calling for reductions of U.S.-Russian strategic nuclear arms entered into force.

An underappreciated landmark during this period was the actions by the former republics of the Soviet Union to return nuclear weapons deployed on their territories to Russia and to join the NPT as non-nuclear powers. This outcome was particularly significant in the case of Belarus, Kazakhstan, and Ukraine, which had long-range nuclear missiles of the former USSR within their borders after independence. The fact that the 1991 breakup of the Soviet Union did not lead to the creation of new nuclear weapon states was a momentous contribution to global security. It was due in no small part to the existence of the NPT, which two decades prior

38. "Statement by ACDA Director Adelman to the Third Review Conference of the Parties to the NPT, August 28, 1985," in *Documents on Disarmament-1985*, p. 555, available from http://unoda-web.s3-accelerate.amazonaws.com/wp-content/uploads/assets/publications/documents_on_disarmament/1985/DoD_1985.pdf.

had declared nonproliferation a global norm and over the years had demonstrated its value as a treaty-based framework to codify and verify non-nuclear undertakings.

Article IV attracted attention periodically up to 1995 due to the tightening of nuclear export controls in response to the 1974 Indian nuclear test and to the 1991 discovery of Iraq's violations. These actions by the Nuclear Suppliers Group caused an uptick of concern over the NPT's Article IV.2 undertaking to cooperate in the peaceful uses of nuclear energy. However, despite the adoption of progressively stronger export controls, the United States and other nuclear suppliers were able to show credible implementation of Article IV.2, clearly demonstrating that NPT parties in compliance experienced few problems in obtaining assistance, whether bilaterally or through the IAEA. Moreover, the claim that supplier controls were a violation of Article IV.2 never gained serious traction.

In sum: Leading to the 1995 extension decision, the NPT's nonproliferation mission had gained a solid vote of confidence. NPT membership grew from 46 in 1970 to 175 in 1995. Proliferation in India and violations by Iraq and North Korea had led to concerted action by NPT parties to improve systemic barriers to proliferation. Several long-standing outliers had joined between 1990 and 1995. The NPT had provided a political and legal framework that helped to prevent new nuclear powers arising from the breakup of the Soviet Union. Moreover, the evident lack of progress on Article VI through 1991 appeared not to dampen the treaty's appeal. States continued to join the NPT and to stay in. The unsatisfactory outcomes of the 1980 and 1990 review conferences—due largely to Article VI concerns—did not lead any party to withdraw from the treaty. And the end of the Cold War offered the prospect of progress on Article VI that had been largely thwarted by East-West tensions during the NPT's first two decades.

Turning to the 1995 month-long NPT Review and Extension Conference, by the third week a clear majority of parties had publicly declared for indefinite extension. However, a few others favored a

series of 25 year extensions and were prepared to block consensus on indefinite extension and force a vote.³⁹ While the outcome was not in doubt (per the NPT, the decision required a majority of parties), Conference leaders wanted to avoid taking a vote that would record a sizable number of treaty parties against indefinite extension. The Conference President proposed a way to bypass a vote by gaining consensus on the proposition that there was a majority in favor of extension. The treaty was extended indefinitely on May 10, 1995.⁴⁰

This outcome came at a price, albeit a small one given the stakes. The legal decision to extend the treaty was accompanied by adoption of three political decisions: (i) substantive principles and objectives were set as future goals for treaty implementation, including the completion of negotiations on a test ban treaty by 1996; (ii) the five year review process was strengthened, and (iii) the creation of a weapons of mass destruction free zone in the Middle East was endorsed.⁴¹ Many viewed the extension of the NPT and these understandings as a package; and without them support for indefinite extension would have been weaker. Taken together, these decisions set up a process to enhance accountability for NPT implementation, including for Articles IV and VI.

The fact that the NPT became permanent, despite a questionable Article VI record by the nuclear powers over 20 of those 25 years, demonstrated that the vast majority of treaty parties understood and valued its central purpose of preventing the spread of nuclear weapons. Yet, it was also clear that wide spread support for in-

39. Harald Mueller, "A Cornerstone of World Order: Extending the NPT," *NATO Review*, Vol. 43, No. 5, September 1995, pp. 21-26, available from www.nato.int/docu/review/1995/9505-5.htm.

40. The Final Document of the 1995 Review and Extension Conference of the Parties to the Treaty on the Non-proliferation of Nuclear Weapons. NPT/CONF.1995/32 (Part I), p. 12, available from https://www.nonproliferation.org/wp-content/uploads/2015/04/2010_fd_part_i.pdf.

41. *Ibid*, pp. 8-14.

definite extension was predicated on the prospect that the end of the Cold War would lead to rapid progress toward the goals of Article VI, including conclusion of a test ban treaty.

How the NPT Fared Following Indefinite Extension and Up through 2015

Developments

The 1995-2015 period of NPT implementation began under a promising set of circumstances. The treaty had become virtually universal and the parties had agreed to an enhanced treaty review process. Despite the Iraqi and North Korean violations, no other serious compliance problems had surfaced and efforts were underway to strengthen IAEA safeguards. The end of the Cold War had created a promising environment for long-delayed progress on Article VI.

The situation began to unravel even before 2000. While a treaty to ban nuclear explosive testing was concluded in 1996, it was rejected by the U.S. Senate in 1999. The promise of U.S.-Russia cooperation on further nuclear reductions fell victim to domestic factors in both countries, driven in part by missile defense issues. The effort to begin negotiations on a fissile material cutoff treaty stalled in the Conference on Disarmament.

In a huge blow to the twin goals of nonproliferation and nuclear disarmament, India carried out nuclear explosive tests in May 1998 and announced its intention to incorporate nuclear weapons into its military forces. Pakistan followed suit three weeks later. It had been 34 years since the last declared nuclear weapon state—China in 1964, a hiatus in proliferation due to the NPT and the norm it established. These actions did not constitute NPT violations as neither country had ever joined the treaty. However, this action by India was they were a direct challenge to the nonproliferation standard established

by the treaty and also to regional security as countries that had fought three wars now launched into nuclear arms competition. Meanwhile, the Iraqi and North Korean violations continued to fester without resolution. Iraq's continued defiance led to U.S.-UK bombing of suspected proliferation sites in December 1998, which provided a pretext for Iraq to end UN-mandated inspections.

The negative turn of events continued from 2001-2009 under U.S. President George W. Bush. 9/11 led to a cascade of fears about nuclear terrorism and the possibility that rogue states like Iraq, Iran, or North Korea might facilitate such acts. By 2003, concern over Iraq's proliferation programs led to a U.S. led invasion that toppled Iraqi President Saddam Hussein. In August 2002, North Korea was confronted with evidence of a secret enrichment program, which led to its withdrawal from the NPT in 2003. In 2006, North Korea conducted its first nuclear weapon test.

In 2002, a secret nuclear program in Iran dating from the 1980s was exposed; it included uranium enrichment and the construction of a reactor optimized to produce plutonium. A subsequent IAEA investigation found multiple violations by Iran of its NPT safeguards agreement and uncovered an extensive nuclear black market run by A.Q. Khan, the father of Pakistan's nuclear weapons program. Libya too was implicated as a recipient of Khan's nuclear largesse. In 2003, Libya abandoned its proliferation programs, and Iran ended aspects of its nuclear weapons program.⁴² However, Iran continued to pursue enrichment and cited as justification its "inalienable right" to a peaceful nuclear program under Article IV.1 of the NPT. This action defied both the IAEA Board of Governors and a 2006 UN Security Council resolution calling for the suspension of enrichment. Syria's failure to account for what the IAEA believed was the construction of a secret reactor, which Israel destroyed in 2006, further compounded the challenge to the NPT in the Middle

42. National Intelligence Estimate – Iran: Nuclear Intentions and Capabilities, November 2007, available from http://www.dni.gov/files/documents/Newsroom/Reports%20and%20Pubs/20071203_release.pdf.

East.

Nonproliferation developments have been mixed under President Obama. No new NPT parties surfaced as threats. However, despite increasing sanctions, North Korea rebuffed any effort at dialogue and responded with nuclear tests in 2009, 2013 and 2016, and recently claimed to have miniaturized a nuclear warhead for delivery by ballistic missile. From 2009-2013, Iran's stockpile of enriched uranium continued to grow despite sanctions by the UN Security Council. A military attack on Iran's nuclear program seemed a definite possibility. Many thought it was only a matter of time before Saudi Arabia and others in the Middle East sought to match Iran's growing nuclear weapons capability. Yet, Iranian elections in 2013 led to a surprise breakthrough as the new government led by President Hassan Rouhani proved willing to negotiate a comprehensive settlement (described below) to the decade long impasse stemming from its NPT violation.

Responses

All three U.S. administrations pursued aggressive policies designed to bolster the NPT's nonproliferation pillar. The Clinton administration continued policies to improve IAEA safeguards, including the negotiation of a model IAEA safeguards additional protocol that was approved by the IAEA Board of Governors in 1997. This Protocol was designed to improve safeguards in NPT parties by granting enhanced legal authority to the IAEA to detect and deter clandestine nuclear activities. The administration also rallied a strong international condemnation by NPT parties of India's and Pakistan's 1998 acquisition of nuclear weapons, including the imposition of a wide range of sanctions (which turned out to be short-lived).

The Bush administration pushed strongly to punish violators and to establish new tools to thwart proliferation threats. The September 11, 2001, attacks also led to efforts to clamp down on the ability of terrorists to acquire material and equipment for nuclear weapons.

Among these steps were UN-mandated rules for controlling proliferation-related items and enhanced cooperation with Russia to protect nuclear material from theft. These multiple efforts had the benefit of imposing another layer of protection against state-level proliferation.

In 2005, the United States joined the European Union (EU) in negotiations to resolve Iran's noncompliance. This effort was unsuccessful and led to three rounds of UN Security Council-mandated sanctions on Iran during the Bush administration. The United States refuted Iran's claim of a right to an unhindered peaceful nuclear program by pointing out that Article IV.1 stipulates that any such program must be compatible with the NPT's nonproliferation objectives. Aspects of Iran's program were cited as evidence to the contrary, and the United States concluded that "Article IV does not provide States Parties that have violated the nonproliferation provisions of the treaty any protection from the consequences of breach."⁴³ This conclusion was accepted by key NPT parties and served to undergird UN sanctions on Iran.

Six-party talks with North Korea aimed at restoring its compliance with the NPT seemed promising at times, but any agreements soon foundered in implementation. North Korea's withdrawal, the first from the treaty, also prompted a major discussion among NPT parties of its legality and how to deter and respond to any future withdrawal actions by others.

There was a setback on Article VI as the Bush Administration decided to pursue unilateral actions on U.S. nuclear forces and not be tied down by treaties. While these policies still led to substantial U.S. reductions and to reduced reliance on nuclear deterrence, the reaction of NPT parties was largely negative. This approach rejected many of the Article VI measures that had been adopted by

43. Christopher Ford, "NPT Article IV: Peaceful Uses of Nuclear Energy" Statement to the 2005 Review Conference of the Treaty on the Nonproliferation of Nuclear Weapons, New York, May 18, 2005, available from <https://2001-2009.state.gov/t/vci/rls/rm/46604.htm>.

consensus at the 1995 and 2000 review conferences with the support of the Clinton Administration. In a further slap at the NPT, the United States decided in 2005 to exempt non-NPT party India from a nearly 30 year U.S. ban on sales of nuclear fuel to that country—a policy devised in the 1970’s to provide significant civil nuclear assistance only to NPT parties in recognition of their willingness to forswear nuclear weapons. Indeed, this NPT preference policy had been embraced by nearly all nuclear fuel suppliers by 1992 and continually recognized by NPT fuel recipients as an important benefit of Treaty membership.

The Obama administration placed preventing proliferation and nuclear terrorism at the top of America’s nuclear agenda. It continued many of the nonproliferation policies pursued by the previous administration, while tweaking some of them. In particular, efforts to obtain a legally-binding commitment to forego enrichment and reprocessing from states not already in possession of them were modified on a case-by-case basis. The President stressed the importance of consequences for those who break the rules. To that end, the administration achieved a substantial ratcheting up of sanctions against Iran in 2010 and steadily increasing pressure on North Korea.

While North Korea showed no evidence of a willingness to negotiate, the Iranian government elected in 2013 proved willing to limit its nuclear program in exchange for sanctions relief. The final deal among Iran and the United States, UK, Russia, China, France, Germany and the European Union was concluded in July 2015 and began implementation in January 2016. It calls for intrusive verification along with unprecedented limits on Iran’s nuclear program lasting 15-25 years. To the extent this arrangement proves effective in avoiding or at least delaying further proliferation in the Middle East, it has to be considered a very positive achievement for the NPT.

In nuclear arms control, President Obama departed from the previous administration by declaring U.S. support for “the peace and

security of a world without nuclear weapons,” signing a New Strategic Arms Reduction Treaty (START) treaty in 2010, and expanding U.S. policy against the use of nuclear weapons. The administration also embraced the “grand bargain” concept of the NPT and described nonproliferation, nuclear disarmament, and peaceful uses as “mutually reinforcing pillars of the NPT.” Moreover, in an unprecedented gesture to non-nuclear states’ concerns about Article VI, the President’s policy statements on the NPT placed nuclear disarmament ahead of nonproliferation when discussing the three “pillars.”⁴⁴ However, lack of support in the U.S. Congress for steps beyond the new START Treaty and a deterioration in U.S.-Russian relations effectively thwarted other aspects of the President’s nuclear agenda as of this writing (March 2016). There was no progress with Russia on further reductions nor in the Senate on U.S. ratification of the 1996 nuclear test ban treaty and of non-use Protocols to three regional nuclear weapon free zone treaties (for the South Pacific, Africa and Central Asia) submitted during the Obama administration.

Review Conferences

The outcomes of the four Review Conferences over this period re-

44. See Barack Obama, “Remarks by President Barack Obama,” Hradcany Square, Prague, Czech Republic, April 5, 2009, available from <http://iipdigital.usembassy.gov/st/english/texttrans/2009/04/20090406115740eafas0.9701763.html#axzz4XYKTJZrX>; Rose Gottemoeller, “Opening Statement at the Third Session of the Preparatory Committee for the 2010 Nuclear Non-Proliferation Treaty Review Conference,” UN Headquarters, New York, May 5, 2009, available from <http://iipdigital.usembassy.gov/st/english/texttrans/2009/05/20090508114236eafas0.9583704.html#axzz4XYKTJZrX>; Barack Obama, “Statement by Barack Obama on the Release of the Nuclear Posture Review,” April 6, 2010, available from <https://www.gpo.gov/fdsys/pkg/DCPD-201000235/pdf/DCPD-201000235.pdf>; and State Department Fact Sheet, “The Nuclear Non-Proliferation Treaty, Promoting Disarmament,” April 27, 2010, available from <http://iipdigital.usembassy.gov/st/english/article/2010/04/20100430172028xjsnmmis0.1379772.html#axzz4XYKTJZrX>.

flect in large measure the policy views of the Clinton, Bush, and Obama administrations toward NPT implementation. Due to the Clinton administration's flexibility on Article VI, the NPT received a strong endorsement by its parties at the 2000 NPT Review Conference in what was generally seen as a balanced review of nonproliferation, nuclear disarmament, and peaceful uses. Included in that 2000 outcome was a set of expectations about future implementation, which the parties believed would advance the purposes of the NPT. Among these measures were "13 steps" related to Article VI.⁴⁵

The run up to the 2005 Conference, as noted above, included a number of negative developments for the treaty in all three components. Not surprisingly, the 2005 Conference was the most contentious and least productive on record. Iran's presence guaranteed substantial controversy over Article IV and that any effort to single out its non-compliance would be blocked. U.S. efforts to focus on nonproliferation were met with pushback by non-nuclear powers who believed the U.S. had reneged on important Article VI commitments.

Going into the 2010 Conference, President Obama's reversal of his predecessor's approach to nuclear arms control prompted renewed hope and a spirit of compromise. While the Conference was unable to agree on the review of the last five years, it did reach consensus on a forward-looking action plan. That said, the action plan was nuclear disarmament-heavy and nonproliferation-light. This outcome may have been inevitable given Iran's inclination to veto any new nonproliferation measures and the desire of many NPT parties to make up for what was seen as an erosion in U.S. support for Article VI implementation during the previous administration.

The prospects for the April/May 2015 Conference were dim as President Obama's 2009 Prague agenda had proved too ambitious as noted above. The Iran nuclear issue was still unresolved at the time

45. Final Document from the 2000 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, NPT/CONF.2000/28, Part I, pp. 14-15, available from www.reachingcriticalwill.org/images/documents/Disarmament-fora/npt/GENERAL-DOCS/2000FD.pdf.

and North Korea's bellicosity had further dampened any hopes for a roll-back of its nuclear program. Nonetheless, substantial agreement was reached on many key issues. However, in the end, the United States and a few other states could not join consensus on a final document due to the failure to find compromise language on steps to convene a conference related to establishing a WMD free zone in the Middle East.

Comments

From 1995-2015, the NPT's nonproliferation mission experienced its first sustained test of enforcement. The Iraqi and North Korean cases began before 1995, but work to resolve them continued well into this period—with efforts to contain North Korea since 2006 focused on denuclearization. Adding the Iranian, Libyan and Syrian violations created an unprecedented challenge to the treaty's effectiveness in containing proliferation. The vast majority of NPT parties proved willing to confront noncompliance by non-nuclear powers and to utilize the IAEA and, if necessary, the UN Security Council to address violations. Violations by Iraq, North Korea, Iran, Libya, and Syria were all, to varying degrees, dealt with by these international institutions. The problems in enforcement stemmed from differences among NPT parties about the pace, scope and effectiveness of actions to resolve the violations. This task was compounded by the failure of the violators, with the exception of Libya, to cooperate fully. The difficulties of forcing sovereign states headed by autocratic leaders to reveal their nuclear secrets became painfully evident.

As noted earlier, these frustrations led twice to the use of force, both times in Iraq. A four-day bombing campaign of suspected proliferation sites was carried out by the United States and United Kingdom in December 1998 and a U.S.-UK led invasion to overthrow Saddam Hussein was undertaken in March 2003. These actions were conducted without explicit authorization of the UN Security Coun-

cil, although the second was far more consequential for the NPT.

The 2003 invasion reflected a decision to abandon inspections and sanctions as a means to enforce compliance in favor of forcible regime change. This action was widely criticized by other countries, including many U.S. allies. Other NPT parties saw the United States as unwilling to trust internationally-sanctioned measures to enforce the treaty; U.S. leadership on the NPT suffered accordingly. This negative view of the United States deepened as no evidence was found after the invasion of a reconstituted nuclear weapons program, as the United States had alleged.

Such a use of military force to resolve proliferation violations without the authorization of the UN Security Council will inevitably complicate future efforts to gain international support for diplomacy aimed at resolving compliance matters. Why would any violator caught cheating be willing to pursue a negotiated solution when the United States has a past record of rejecting these outcomes in favor of military action? Similarly, potential supporters of a diplomatic solution might be reluctant to sign up if the United States is considered unreliable in terms of its willingness to search for and support a peaceful resolution of an NPT violation. That does not obviate the right of the United States to act unilaterally in self-defense, but to do so in the absence of an imminent threat would inevitably impose serious costs on U.S. global leadership in this field.

Indeed, Iran's violation and failure to promptly resolve all questions led to frequent public discussion about the use of military force—with Israeli Prime Minister Benjamin Netanyahu barely concealing his desire for the United States to launch such an attack. Such a step was resisted by both the Bush and Obama administrations, despite Iran's continued failure to engage in constructive negotiations to address the demands of the UN Security Council.

Whether the peaceful resolution of Iran's NPT violation proves successful in the long run, only time will tell. It came at a high price—too high for some—in that Iran was allowed to retain an enrichment

program—albeit substantially limited for 15 years. On the other hand, it set a helpful precedent that NPT noncompliance can lead to enforcement action against a state’s nuclear program, even those peaceful activities claimed to be a sovereign right under NPT Article IV. Iran had fought mightily against such action, but consistently lost this argument at both the IAEA and UN Security Council. At a minimum, the deal has delayed what appeared in 2012-2013 to be a steady march toward the acquisition of enough enriched uranium for Iran to acquire a nuclear weapon within four to six weeks of a decision to do so. The deal lengthened that time period to one year, adequate time to rally substantial opposition to a resumption of Iran’s nuclear weapons ambition.

It demonstrates that with resolve and the right political conditions, the NPT can be effectively enforced without resort to military action. The Treaty’s essential role in fostering global security received a large boost—without the NPT and its IAEA safeguards system, there would have been no foundation for the kind of global pressure through the UN Security Council that was applied to Iran. Despite opponents’ claims, the outcome represented a strong endorsement of the NPT’s nonproliferation mission. Any deal like this has risks, but so would military action. Whether the potential downsides of the deal will occur and/or be effectively managed will not be known for many years. The history of the nonproliferation regime shows many instances of imperfect solutions that nonetheless buy time and delay the onset of nuclear risks.

Events of the past 25 years have revealed deficiencies in NPT enforcement. In the first instance, increasing the capacity of the IAEA “watch dog” to bark early and often remains a work in progress. Moreover, while the IAEA has been persistent once unleashed, it is too methodical for the United States in pursuing violations. Prompt and satisfactory NPT enforcement will likely occur only in cases where the state in question comes clean and fully cooperates with Libya being the prime example.

Should there be future cases like Iraq and Iran, however, it will

take long and sustained action and even then the resolution may not be fully satisfactory. But if the outcome at least substantially delays the time by which a country could acquire nuclear weapons, it can still be viewed positively as having created space for an eventual strategic decision by the country in question to remain compliant with the NPT and forego nuclear weapons. Moreover, as Iraq demonstrates, target state resistance does not necessarily mean that the IAEA has failed, nor should it translate into a “worst case” scenario that presumes a continued march to nuclear weapons. The downside, of course, is that long delays in NPT enforcement foster uncertainty about the violator’s true intentions. This situation in turn could stimulate the very actions that peaceful enforcement actions are designed to forestall, such as the use of military force against the suspect facilities or a regional competitor seeking its own nuclear weapon capabilities. With Iran, these negative consequences did not occur despite its decade long refusal to resolve the violations. Finally, with time running out and military action increasingly likely, sanctions began to impose ever greater costs and dramatic changes in Iranian political leadership created an opening for a peaceful resolution. It is hoped that Iran will comply with the deal and that the downsides of the delay in its resolution will continue to be avoided.

While serious violations by five NPT parties tested the treaty, these challenges were met with strong action, if not always textbook in their implementation. In the one case where force was used, Iraq, it turned out to be unnecessary. Libya cooperated and continued international pressure on Iran appears to have halted its march to nuclear weapons, at least for 15-20 years assuming it complies with the basic undertaking of the 2015 joint plan. Syria remains on the docket, but further action to resolve its violation seems highly unlikely except in the context of resolving the ongoing civil war. Meanwhile, it seems equally unlikely that Assad would take the risk of committing further NPT violations with the future of his country and his leadership already in jeopardy.

North Korea withdrew from the NPT and is building and testing nuclear weapons. It represents the one clear failure of enforcement

and poses a major danger to that region of the world. To date, its situation and behavior point to this as a “one off” action and not indicative of a systemic problem with the treaty. It will inevitably lead to talk of South Korea and/or Japan starting their own nuclear weapon programs, actions that would be a severe blow to the NPT. So far, however, the United States appears to have credibly reinforced its extended deterrent relationship so that neither government is considering abandoning the NPT.

Other trends since 1995 demonstrate continued support for the NPT’s nonproliferation component. Importantly, virtually all parties remain in compliance and no new countries have been found in violation for nearly a decade. Cuba finally joined in 2002, deciding that its political differences with the United States over the Treaty were less important than the stigma of being an outlier to a virtually universal treaty. More than 120 NPT parties have brought into force the Additional Safeguards Protocol since 1997. The reluctance of a few holdouts like Egypt and Brazil to sign this Protocol obscures the fact that most NPT non-nuclear powers with significant nuclear activities have accepted it. This is an important gain for nonproliferation as the Protocol represents a major upgrade in NPT verification from the standard that applied during the treaty’s first three decades.

The Nuclear Suppliers Group has continued to improve its export guidelines to respond to the ever-changing threat picture, and currently boasts 48 members, including several members of the non-aligned group. This too reinforces the NPT’s nonproliferation mission as countries frequently critical of the suppliers group have now embraced its Guidelines. The fact is no state is immune from penetration by clandestine nuclear procurement networks, whether state-affiliated like A.Q. Khan or those sponsored by terrorist groups. Nuclear export controls remain a vital part of an NPT party’s commitment to nonproliferation. Finally, the extensive cooperation since 9/11 to strengthen measures against the threat of nuclear terrorism has also contributed positively to nonproliferation.

The Middle East (ME) resolution adopted at the 1995 Conference should be noted briefly in this discussion of NPT party practices related to nonproliferation. The resolution urges the creation of a proliferation-free zone in the Middle East. It is widely viewed as the “price” for having gained Arab acquiescence in the consensus decision to extend the NPT indefinitely. The Arab League, under Egyptian leadership, uses the resolution to highlight Israel’s failure to join the NPT and forswear nuclear weapons. At the 2010 Review Conference, the parties called for a separate Conference to be convened in 2012 to address the ME resolution. Despite the intensive efforts of a Finnish facilitator, the Conference has not been held and the issue proved to be a major negative factor at the 2015 review conference. This resolution contributes to the discussion of the NPT’s nonproliferation objectives, but to date not in a constructive fashion. It has effectively institutionalized a high level of attention to Israel’s non-party status while no comparable effort is made toward India and Pakistan.

Turning to nuclear disarmament, the heightened interest in Article VI since 1995 stems in part from the greater accountability imparted to the review process. Other factors include the Treaty’s near universality, which has led many non-nuclear powers to argue that the NPT has largely fulfilled its promise of nonproliferation. They note that despite violations by a few countries more than 180 non-nuclear states remain in good standing. This narrative then turns to Article VI, and the degree to which its promise has been realized.

This emphasis on Article VI was buoyed in 1996 when the International Court of Justice, at the request of the UN General Assembly, issued an advisory opinion on the legality of the threat or use of nuclear weapons. The opinion included a finding that Article VI encompasses “an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament.”⁴⁶ As an

46. International Court of Justice, “Legality of the Threat or Use of Nuclear Weapons,” Advisory Opinion of July 8, 1996, available from <http://www.icj-cij.org/docket/files/95/7495.pdf>.

advisory opinion, it does not have the force of law. The United States had unsuccessfully urged the Court to decline the request given that it was being asked to render an opinion on a hypothetical situation without any concrete set of facts.⁴⁷

This growing emphasis on Article VI is also bolstered by the end of the Cold War and an anticipation of faster progress toward nuclear disarmament. The United States and Russia continue to feel most of the heat since they possess over 90% of the world-wide total of nuclear weapons. Unfortunately, while agreements and unilateral actions have substantially reduced stockpiles, serious political differences between and within the United States and Russia have obstructed the type of irreversible and verifiable treaties that non-nuclear powers believe are the hallmark of progress on Article VI. Since 2010, non-governmental organizations and nonaligned countries have focused on the humanitarian consequences of the use of nuclear weapons as a means of energizing progress toward nuclear disarmament. In general, non-governmental groups have seized on widespread sentiment that there are still far too many nuclear weapons and that their modernization is both unnecessary and too costly.

Article IV has gained prominence since 1995 largely because Iran used it as a defense against pressure to curtail its enrichment program. Its skillful diplomats have exploited the “inalienable right” language of the NPT to create sympathy among nonaligned countries for its position. Support for Iran’s “victimization” narrative had been inadvertently stoked by international discussion of alternatives to the establishment of new national programs in enrichment and reprocessing. The United States and other NPT leaders rebutted Iran’s arguments effectively while noting that NPT parties in good standing continued to receive Article IV benefits. While attention to this issue will continue at a moderate level, Article IV

47. Michael J. Matheson, “The Opinions of the International Court of Justice on the Threat or Use of Nuclear Weapons,” *American Journal of International Law*, Vol. 91, July 1997, pp. 417-435.

concerns do not trigger the depth and breadth of grievance that most non-nuclear states experience about Article VI.

In summary, events of the last 20 years have substantially increased the political importance and visibility across the board of all three treaty components—nonproliferation, disarmament, and peaceful uses. While nonproliferation retains its salience as the NPT's number one priority, it is clear that implementation of Article VI will demand greater attention. The role of Article IV in the NPT's future will depend to some extent on how states respond to the Iran settlement and the growth in civil nuclear uses worldwide. Any significant uptick in demand for the establishment of new national enrichment and reprocessing programs will conflict with current international nuclear export standards that strongly discourage such exports, and could lead to broader dissatisfaction with Article IV.

The Three Pillars: Analysis

The Policy

The previous section described how nuclear disarmament and peaceful uses have increased in prominence since 1995, and did so while nonproliferation also gained more attention due to serious cases of noncompliance. This context along with the NPT policies of the Clinton, Bush, and Obama administrations, and the outcomes of the three Review Conferences prior to 2010 offer a plausible explanation for the three pillars strategy.

At the 1995 and 2000 Review Conferences, the United States emphasized nonproliferation (per Iraqi and North Korean violations) while acknowledging that more should be done to move toward nuclear disarmament. In that context, the United States agreed to include in the Final Documents a list of steps that would represent progress on Article VI. These outcomes were consistent, as ex-

plained earlier, with the shift in focus after the Cold War toward Article VI implementation and with the Clinton administration's nuclear arms control agenda.

By the 2005 Conference, further instances of noncompliance had taken place (Libya, Iran, along with North Korean withdrawal) and the Bush Administration "doubled-down" on nonproliferation. This strategy was understandable in light of these events and arguably represented the strongest U.S. affirmation of the treaty's nonproliferation mission at a review conference in 20 years. However, as described above, it coincided with the Bush administration's turnabout from the nuclear arms control approach of the Clinton Administration and from the Article VI steps endorsed at the 1995 and 2000 Conferences.

Before looking at the U.S. approach to the 2010 Conference, recall that at Prague in 2009, President Obama said America had a moral responsibility to lead in reducing the dangers of nuclear weapons and outlined an ambitious agenda (described earlier). When it came time to translate these policies into a strategy for the 2010 NPT Review Conference, the Administration (a) embraced what it called the basic bargain of the NPT: Weapon states move to disarmament, non-weapon states forsake nuclear weapons; all parties abiding by their obligations gain access to peaceful uses; (b) adopted the term "pillars," which was already in common use by many NPT parties, to describe the treaty's three main components and gave priority to nuclear disarmament; and (c) accepted the three pillars as inter-related and mutually reinforcing. As noted at the outset, it is the totality of these factors that comprises the three pillars strategy for the purposes of this chapter.

A search of NPT records over its history would likely find "pillar" used on occasion to describe components of the NPT. But its use increased dramatically in the run up to the 2005 Conference. References can be found, for example, in statements from that period

by the Non-Aligned Movement (NAM), Canada, and in the Chair's summary of the 2004 meeting of the Preparatory Committee. This summary states that the pillars "represent a set of interrelated and mutually reinforcing obligations and rights of States parties."⁴⁸

Moving to the next review cycle, the Chair's working papers from meetings in 2007 and 2008 mention the NPT as resting on three pillars and that the nonproliferation and disarmament pillars are reinforcing. A new point in these 2007/2008 documents stresses "the importance of balanced, full and non-selective application and implementation of the Treaty." In contrast to the Chair's listing of pillars in 2004—which cited nonproliferation, disarmament, and peaceful nuclear cooperation, in that order—the 2007 and 2008 papers list nuclear disarmament, nonproliferation, and peaceful uses of nuclear energy. "Nuclear" disarmament had supplanted nonproliferation as first in the list.⁴⁹ This was not an accident, and while these were not consensus documents, they reflected a growing tendency to accord nuclear disarmament a higher priority than nonproliferation.

This evolution in the characterization of the NPT was clearly influenced by nonaligned countries, which viewed the Bush Administration's emphasis on nonproliferation as excessive and coming at the expense of nuclear disarmament. This perception was reinforced by its reversal of many of the Clinton Administration's Article VI

48. Chairman's Summary, Preparatory Committee for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, May 10, 2004, NPT/CONF.2005/PC.III/WP.27, p. 1, available from www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2005/PC.III/WP.27.

49. Chairman's working paper, Preparatory Committee for the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, May 11, 2007, NPT/CONF.2010/PC.I/WP.78, p. 1, available from <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N07/353/04/PDF/N0735304.pdf?OpenElement>; and Chairman's Working Paper, Preparatory Committee for the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, May 9, 2008, NPT/CONF.2010/PC.II/WP.43, p. 1, available from http://repository.un.org/bitstream/handle/11176/307851/NPT_CONF.2010_PC.II_WP.43-EN.pdf?sequence=3&isAllowed=y.

policies. Nonaligned statements in 2007 and 2008 stressed that the lack of balance in implementation of the three pillars “threatens to unravel the NPT regime.”⁵⁰ The Bush Administration did not embrace pillars as its official mantra, but did not object either—while making clear that nonproliferation was the pillar deserving priority attention.⁵¹

The Obama Administration’s first mention of the NPT as having three pillars was on May 5, 2009—one month after the Prague speech—in then-Assistant Secretary of State Rose Gottemoeller’s opening U.S. statement to the third session of the Preparatory Committee for the 2010 Conference.⁵² In outlining U.S. views on the three pillars, Gottemoeller led with disarmament, as did the President in Prague when describing the NPT’s basic bargain. In docu-

50. Statement by Cuba on behalf of the Group of Non-Aligned States Parties to the Treaty of the Nonproliferation of Nuclear Weapons, General Debate of the First Session of the Preparatory Committee for 2010 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Vienna, April 30, 2007, p. 2, available from www.reachingcriticalwill.org/images/documents/Disarmament-foa/npt/prepcom07/statements/30aprilNAM.pdf; and Statement by Indonesia on behalf of the Group of Non-Aligned States Parties to the Treaty of the Nonproliferation of Nuclear Weapons, General Debate of the Second Session of the Preparatory Committee for 2010 Review Conference of the States Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Geneva, April 28, 2008, p. 2, available from www.reachingcriticalwill.org/images/documents/Disarmament-foa/npt/prepcom08/statements/NAMApril28.pdf.

51. John Wolf, Remarks to Second Session of the Preparatory Committee for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, Geneva, Switzerland, April 28, 2003, p. 6, available from www.reachingcriticalwill.org/images/documents/Disarmament-foa/npt/prepcom03/2003statements/28April_US.pdf and Christopher A. Ford, “The 2010 NPT Review Cycle So Far: A View from the United States of America,” Wilton Park, UK, December 20, 2007, available from <https://2001-2009.state.gov/t/isn/rls/rm/98382.htm>.

52. Rose Gottemoeller, “Opening Statement at the Third Session of the Preparatory Committee for the 2010 Nuclear Non-Proliferation Treaty Review Conference,” UN Headquarters, New York, May 5, 2009, available from <https://2009-2017-usun.state.gov/remarks/4358>.

ments and speeches over the next year, the administration fleshed out its view on the mutually reinforcing nature of the pillars.

In a March 5, 2010, statement on the 40th anniversary of the NPT's entry into force President Obama said: "Each of these three pillars—disarmament, nonproliferation and peaceful uses—are [sic] central to the vision that I outlined in Prague of stopping the spread of nuclear weapons and seeking a world without them."⁵³

As the Conference approached, Under Secretary of State Ellen Tauscher underlined the need to strengthen the NPT's three pillars and said "this review conference is different from past conferences." She went on to highlight Secretary of State Hillary Clinton's decision to lead the U.S. delegation, in contrast to the previous administration's delegating that task in 2005 to an Assistant Secretary of State. Tauscher pointed to North Korean and Iranian actions as evidence "that the nuclear nonproliferation regime is under great stress and is fraying at the seams."⁵⁴

Secretary Clinton delivered the major U.S. address to the Conference on May 3, 2010. She said the stakes were high and that we could be confronted with a new wave of proliferation unless all parties fulfilled their responsibilities under the NPT. To prevent that

53. "Statement by President Barack Obama on the 40th Anniversary of the Nuclear Nonproliferation Treaty," March 5, 2010, available from <https://geneva.usmission.gov/2010/03/08/obamanuclear-nonproliferation-treaty/>.

54. Ellen Tauscher, "Previewing the NPT Review Conference," Remarks at the Center for American Progress, Washington, DC, April 29, 2010, available from www.state.gov/t/us/141029.htm; and Ellen Tauscher, Susan Rice, and Susan Burk, "Briefing on the Nonproliferation Treaty Review Conference" Press Conference, Washington, DC, April 30, 2010, available from <https://2009-2017.state.gov/t/us/141029.htm>.

possibility “we must commit ourselves to strengthening the three pillars of the nonproliferation regime.”⁵⁵

A review of statements by U.S. officials through 2015 reveals no change in this approach. At the UN General Assembly on October 7, 2014, Gottemoeller, now the Under Secretary of State for Arms Control and International Security, stated that “it is important to focus on all three pillars of the NPT” and that “NPT pillars are mutually reinforcing and implementation of each is a shared responsibility.” At the NPT Review Conference on April 27, 2015, Secretary of State Kerry stated that each pillar “is an essential ingredient to the full embodiment of the NPT. The NPT cannot stand unless all three of those pillars are study enough to support it.”⁵⁶ At a conference in Japan on November 1, 2015, Deputy Assistant Secretary of State Anita Friedt paid tribute to the “grand bargain” of the NPT (nuclear disarmament, nonproliferation, peaceful uses) and said “All state parties to the NPT value the treaty’s three mutually reinforcing pillars that remain strong even in the face of periodic setbacks.”⁵⁷

Why the U.S. Embrace of the Three Pillars Approach?

The first order question is the easiest to answer: Does the three pillars strategy suggest a different legal interpretation of the NPT’s

55. Hillary Clinton, “Remarks at the Review Conference of the Nuclear Nonproliferation Treaty,” United Nations, New York, May 3, 2010, available from <https://www.state.gov/secretary/travel/rm/2010/05/141424.htm#>.

56. Remarks by Secretary of State John Kerry at the 2015 Nuclear Nonproliferation Treaty Review Conference, April 27, 2015, available from <http://www.cfr.org/nonproliferation-arms-control-and-disarmament/remarks-secretary-kerry-2015-nuclear-nonproliferation-treaty-review-conference/p36497>.

57. Remarks by Anita Friedt, Principal Deputy Assistant Secretary of State, Bureau of Arms Control, Verification and Compliance before the 61st Pugwash Conference on Science and World Affairs, Nagasaki, Japan, November 1, 2015, available from <https://2009-2017.state.gov/t/avc/rls/2015/249252.htm>.

main obligations? In short, the answer is no. While the President elevated the peaceful uses and nuclear disarmament components of the treaty, and even placed nuclear disarmament as first among the three, the actual language used to characterize the pillars is consistent with the treaty's undertakings.⁵⁸ Moreover, other NPT statements by the Administration during and since the 2010 Conference continue to use a long-standing consensus formulation that creates no ambiguity about nonproliferation as the treaty's central purpose and that it underpins the other pillars. There are several variations, but the substance of these statements cites the NPT's role in preventing the spread of nuclear weapons and/or as the cornerstone of the nonproliferation regime; while noting that the treaty also provides an essential foundation for progress/negotiations on disarmament and for cooperation in the peaceful uses of nuclear energy.⁵⁹

The most plausible explanation for the three pillars strategy is that the administration wished to convey *equal political* weight to all three components of the treaty. The United States saw the NPT as at serious risk due to proliferation concerns and to perceptions that the nuclear powers were not serious about Article VI. This situation

58. "Remarks by President Barack Obama," Prague; and "Statement by President Barack Obama on the 40th Anniversary of the Nuclear Nonproliferation Treaty."

59. Examples include "United States information pertaining to the Treaty on the Non-Proliferation of Nuclear Weapons," submitted to the 2010 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons, NPT/CONF.2010.45, May 7, 2010, p. 1, available from www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2010/45; Rose Gottemoeller, "Third Meeting of the Preparatory Committee to the 2015 Nuclear Non-Proliferation Treaty Review Conference, New York, April 29, 2014, p. 1, available from <http://iipdigital.usembassy.gov/st/english/texttrans/2014/04/20140429298471.html#axzz4XYKTJZrX>. P5 statements also routinely include this characterization: See for example "Joint Statement on First P-5 Follow-Up Meeting to the NPT Review Conference," July 1, 2011, available from <https://geneva.usmission.gov/2011/07/05/p-5-npt-review-conference/>; "P-5 Statement to the 2012 NPT Preparatory Committee," May 3, 2012, p.1, available from www.un.org/ga/search/view_doc.asp?symbol=NPT/CONF.2015/PC.I/12; and "Joint Statement by P-5 at the 2015 NPT Review Conference," April 30, 2015, p.1, available from http://www.un.org/en/conf/npt/2015/statements/pdf/P5_en.pdf.

had been exacerbated by the previous administration's tendency to focus far more on the treaty's nonproliferation mission than on disarmament. Embracing the NPT as three reinforcing pillars and highlighting the reenergized U.S. commitment to nuclear disarmament was seen as a credible way to invigorate NPT implementation and restore U.S. leadership.

This approach also reflects a belief that an unequivocal U.S. commitment to all aspects of the treaty, including Articles IV and VI, is essential to the long run success of the NPT's nonproliferation mission. This belief is met with skepticism by some,⁶⁰ but others view credible implementation of Article VI as fundamental to sustaining the NPT's value as a barrier to proliferation.⁶¹ The reality, of course, is never quite as simple as frequently asserted.⁶² It is important not to overstate the linkage; certainly the violations uncovered over the past 25 years in Iraq, North Korea, Iran, Libya, and Syria cannot be traced to compliance or non-compliance with Article VI. Moreover, the reluctance of some non-nuclear states to hedge on their support for nonproliferation initiatives in recent years cannot

60. Christopher A. Ford offers a thorough critique, "Nuclear Disarmament, Nonproliferation, and the 'Credibility Thesis,'" September 2009, Briefing Paper, Hudson Institute, pp. 8-14, available from 02e18f7.netsolhost.com/New_Paradigms_Forum/Documents_and_Links_files/Ford%20Hudson%20Paper%20on%20Credibility.pdf.

61. Scott D. Sagan and Jane Vaynman: "Conclusion: Lessons Learned from the 2010 Nuclear Posture Review," *Nonproliferation Review*, Vol. 18, No. 1, March 2011, p. 238; Lewis A. Dunn, "The NPT: Assessing the Past, Building the Future," *Nonproliferation Review*, Vol. 16, No. 2, July 2009, pp. 163-164; and Lewis A. Dunn, ed., "Foreign Perceptions of U.S. Nuclear Policy and Posture: Insights, Issues and Implications," report prepared by Science Applications International Corporation for the Advanced Systems and Concept Office, Defense Threat Reduction Agency, December 12, 2006.

62. Henry Sokolski, *Underestimated: Our Not So Peaceful Nuclear Future*, Carlisle, PA: Strategic Studies Institute, 2015, pp. 7-46, available from www.npolicy.org/thebook.php?bid=34. Sokolski presents differing views on the relationship between nuclear weapons reductions and nonproliferation and finds them all wanting to various degrees.

be sourced solely to Article VI. Still, the undertakings in Articles IV and VI are legally-binding and manifest the political consensus that led to the NPT in the 1960s. To downplay their importance or appear condescending to non-nuclear states' criticism of their implementation risks weakening support for the treaty as a whole.

A push on Article VI was a natural fit for the Obama Administration. The President believes in the benefits of observing and enforcing international norms, including the NPT, and in the importance of the United States meeting its obligations pursuant to such norms. The President had campaigned in favor of a more aggressive U.S. role in reducing reliance on nuclear weapons. By the time of the review conference, these policies had been put into place and the New START Treaty had been signed. The previous administration's opposition to treaty-based nuclear arms control was seen as having created a trust deficit for the United States, which the new administration was determined to reverse.

A strong emphasis on the peaceful use "pillar" also made sense. Iran was going to make Article IV a major issue in any event, claiming that its "rights" to a peaceful nuclear program were being illegally curtailed. The administration was in a good position to counter these claims by citing Article IV's affirmation that peaceful uses must conform with the NPT's nonproliferation undertakings and by reinforcing the President's Prague policy that those who break the rules should face consequences. Moreover, regardless of Iranian protests, the United States has a long and credible history of effective implementation of Article IV, which the Administration planned to buttress at the 2010 Conference by a "peaceful uses" initiative targeted at developing countries.

In sum: The administration viewed the NPT at a crossroads and circumstances suggested that a heightened U.S. emphasis on Articles IV and VI at the 2010 Conference would restore a sense of stability to its implementation. The result was an embrace of the basic bargain concept of the NPT and its characterization as comprising three pillars that are mutually reinforcing and interrelated.

This nomenclature had been used in meetings of the Preparatory Committee for the Conference that were held before the Obama Administration came into office. It probably seemed unexceptional and compatible with a desire to restore U.S. bona fides in regard to Article VI. While this strategy represents a substantial increase in U.S. political support for equal treatment among nonproliferation, disarmament, and peaceful uses, it did not alter the treaty's basic undertakings or represent any change in the object and purpose of the NPT. One can question the strategy, but the substance of the administration's position provides no persuasive evidence of a change in treaty interpretation.

The Risks

The three pillars strategy, along with the prominence given to the Article VI pillar, strays from the traditional U.S. portrayal of the NPT. It has downsides, and the following discussion attempts to illuminate them. The risks may not become serious or unmanageable, and would not likely be manifest except over an extended period. But they are not trivial, and future U.S. NPT diplomacy must prevent these risks from growing and undermining the treaty.

The bulk of NPT non-nuclear states, represented by nonaligned countries, have long pushed for more focus on Article VI. From 2003-2008 this nonaligned critique was compounded by a perception that the Bush Administration was overemphasizing nonproliferation while dialing back on Article VI. Fair or not, this view led some nonaligned countries to suggest that support for stronger nonproliferation measures should be withheld in the absence of progress on Article VI. Another point frequently heard is that work on the pillars should be balanced and/or advanced together. While it sounds benign, acceptance of this linkage gives NPT non-nuclear states a "pass" on bolstering nonproliferation if they are dissatisfied with Article VI implementation. A similar example lies in the tendency of some states to have downplayed Iran's violations while

trumpeting allegations of nuclear weapon state failure to comply with Article VI.

While the reasons for these nonaligned positions are more complex than simple dissatisfaction with nuclear weapon state performance under the NPT, it is not in the interests of the treaty for this situation to persist. Such attitudes can slowly erode the barriers to the NPT's nonproliferation mission and should be strongly countered. Yet, by accepting the three pillars of the NPT as politically equivalent and mutual reinforcing, the Administration appears to have legitimized these linkages. There is also the risk that if the promised Article VI progress does not occur (it takes at least two to conduct good faith negotiations), some NPT non-nuclear states will feel even more justified in their lukewarm support for nonproliferation.

Finally, even assuming progress resumes on Article VI, it is inevitable that the nuclear disarmament process will face difficulties and occasionally stall as nuclear stockpiles go lower and the other nuclear powers join the negotiations. One need only consider the task of preserving security at ever lower levels of nuclear weapons among disparate states amid an unpredictable security environment to realize the enormity of the challenge. During this period, the NPT will need to hold the line against further proliferation. That could be more difficult if treaty parties have come to view nonproliferation and nuclear disarmament as inextricably linked. In general, legitimizing the NPT as a bargain between nuclear weapon states "moving toward nuclear disarmament" and non-nuclear states "forsaking nuclear weapons" invites a quid pro quo mentality toward advancing these goals—when in reality each is worthy of pursuit independently.

Theoretically, the same negative dynamic might operate for Article IV, i.e. granting equivalency to the peaceful use pillar could encourage more conditional linkages to nonproliferation by NPT parties who feel their rights to certain peaceful nuclear facilities are being curtailed. This dynamic already exists, but it does not carry the same weight as Article VI. The nonaligned Article IV critique over the

“right to access” applies primarily to enrichment and reprocessing technology, which for virtually all NPT non-nuclear parties is not an economically viable fuel cycle option. Thus, their interests are not directly affected.

Many non-nuclear states’ complaints about Article IV are perfunctory and would not likely become more substantive even if peaceful uses acquired a status under the NPT equivalent to nonproliferation. (In contrast, most of these states were persuaded long ago that nuclear disarmament occupies a level of importance equal to that of nonproliferation.) It also seems unlikely that “pillar equivalence” in this area would have any impact on weakening supplier policies; restraint on certain nuclear technologies and ever stricter export controls have a long pedigree. Moreover, several nonaligned states are now associated with such controls by having joined the suppliers group. In general, elevating peaceful use to the status of nonproliferation under the NPT would appear to have a far lower risk to the NPT’s effectiveness than doing the same for nuclear disarmament.

A similar, but more subtle, risk is that characterizing the NPT as three inter-related and mutually reinforcing pillars conveys a false sense of equivalency in terms of meeting the NPT’s object and purpose. Taken to an extreme, along with the image of three pillars holding up the NPT, it implies that a failure or weakening in any one of the pillars would have a direct and equal effect on the stability of the treaty. Thinking of the NPT in this way misreads what the Treaty was designed to accomplish and promises more than it can deliver.

It is axiomatic that the failure to prevent even one NPT non-nuclear weapon state from acquiring nuclear weapons would further complicate nuclear disarmament. Indeed, the NPT was regularly identified during the negotiations *as a step toward nuclear disarmament*—an admission that nonproliferation is necessary to achieve that goal. Moreover, while the NPT is not necessary to the pursuit of nuclear energy for peaceful purposes, the treaty has fostered a

higher degree of confidence in peaceful uses than might have otherwise have been the case; and Article IV has provided useful leverage for developing countries to gain access to such benefits. The parties themselves have regularly described the NPT as the foundation for pursuit of nuclear disarmament and of peaceful uses. In other words, its widespread success in codifying the norm of nonproliferation has helped to preserve the 70-year goal of eliminating nuclear weapons and the promise of peaceful uses of nuclear energy for all nations. But to suggest a mutual degree of interdependence in the other direction is misleading and continued emphasis on it would weaken the treaty in the long run.

Recall that the NPT nonproliferation mission continued to grow in popularity during the worst times of the Cold War when little progress was recorded on the “good faith” negotiations called for in Article VI and deployed strategic weapons increased to 10,000 on each side. Had the NPT been evaluated in 1990 on the basis of “three mutually-reinforcing pillars,” it would have been judged a failure given the meager record of Article VI implementation. Conversely, the substantial decrease in nuclear weapons stockpiles over the past 25 years has been met with a growth in nuclear proliferation and violations of the NPT’s nonproliferation undertakings. This trend is the opposite of what one would expect if progress in Article VI implementation enabled nonproliferation. Similarly, to suggest that peaceful nuclear use under Article IV reinforces Articles I, II, and III is unpersuasive since it is only through conformance with these nonproliferation undertakings that a state’s nuclear program can earn its status as peaceful in the first place.

Another factor relevant to this discussion of equivalency among the so-called pillars is the actual language of the treaty. How explicit are the undertakings and can they be measured? There are stark differences: The nonproliferation undertakings establish a prohibition on the acquisition and transfer of nuclear weapons and require non-nuclear powers to accept verification by the IAEA. In contrast, Article IV requires parties “to facilitate...the fullest possible exchange” of peaceful nuclear commodities and Article VI requires parties to

“negotiate in good faith ...on effective measures” related to disarmament. The nonproliferation obligations are far more explicit. Of course, that was not an accident; the treaty was created to prevent the spread of nuclear weapons to additional countries. Nonperformance by NPT parties of Articles II and III can be measured, if not early in the process of acquiring nuclear weapons then more likely once the prohibited activities involve the use of nuclear material and certainly once a nuclear device is detonated. However, how is compliance with Articles IV and VI measured? Persistent charges of violations of these Articles suggest that some NPT parties have set their own standards; but the treaty offers no guidance. That too is not an accident, as the drafters deliberately formulated the Article IV and VI undertakings to encompass general obligations rather than specific measures. Positing equal value of the three pillars would make sense only if the undertakings were equally explicit, making compliance with each equally measurable and enforceable. That is not the case.

Certainly, a good record of fulfilling the general obligations of Articles IV and VI maximizes the perceived benefits for non-nuclear states and helps to sustain the NPT and its central purpose of non-proliferation. In that regard, the NPT is no different than any other multilateral treaty. Its core obligations are supplemented with ancillary commitments that address the diverse interests of nations whose support is being sought. That doesn't translate into imputing equal importance to each provision in achieving the treaty's purpose.

There is also the danger that viewing the three pillars as of equal political importance could encourage an interpretation that accords them equal legal importance. Continued emphasis on the presumed equality of the pillars could over time lead some NPT parties toward the logic of suspending operation of the treaty because of a claimed material breach of Article VI. A recent revisionist interpretation of the NPT has raised just such a possibility.⁶³ Admittedly,

63. Daniel H. Joyner, *Interpreting the Nuclear Non-Proliferation Treaty*, Oxford: Oxford University Press, 2011; Critics of this approach include Norman A. Wulf,

this is a worst case scenario and current implementation practices of the parties do not suggest that non-nuclear parties are likely to take this step.

In addition to the long-term risks of this strategy, its use has placed the United States at a tactical disadvantage as the obstacles mount to the Prague Article VI agenda. This situation invites the kind of dithering by some non-nuclear parties described above on the NPT's nonproliferation obligations. Leading with Article VI and the three pillars strategy may have yielded short-term benefits in 2010, but continuing to leverage it to advance the NPT offers little promise.

The principle argument against the three pillars strategy is that the NPT was conceived with one pillar, as the title of the treaty makes clear, and can still deliver on only one pillar—nonproliferation. At its core, the benefits of the NPT do not stem from any grand bargain or quid pro quo between the nuclear and non-nuclear powers on nonproliferation, nuclear disarmament, and peaceful uses. Yes, there would be no NPT without Articles IV and VI, and these undertakings must be taken seriously and pursued with diligence, transparency, and due regard for the views of other NPT parties. But it is misleading to assert or imply a relationship of strict interdependence between implementation of Articles IV and/or VI on the one hand and Articles I, II and III on the other. The structure and terms of the NPT created a nonproliferation security pact among its members; the inclusion of Articles IV and VI was never intended to create an obligation equivalent in effect to nonproliferation nor do the terms of these Articles do so.

In its zeal to invigorate the NPT and U.S. leadership, the Obama Administration “double-downed” on nuclear disarmament and the

“Misinterpreting the NPT,” [Review of Interpreting the Nuclear Non-Proliferation Treaty by Daniel Joyner] *Arms Control Today*, September 2011, available from legacy.armscontrol.org/2011_09/Misinterpreting_the_NPT; and Christopher A. Ford, “Misinterpreting the NPT,” remarks delivered at a discussion of Dr. Joyner’s book organized by the Carnegie Endowment for International Peace, September 30, 2011, available from www.newparadigmsforum.com/NPftestsite/?p=1100.

three pillars approach appeared to accept nonproliferation and nuclear disarmament as equal goals under the NPT. Words matter and a continuation of that approach could further exacerbate the tensions inherent in the NPT, which have grown substantially in recent years. Indeed, the lack of progress on the 2009 Prague nuclear agenda almost certainly contributed to the disappointing results of the 2015 NPT Review Conference. By 2015, U.S. leverage due to Article VI had substantially dissipated and the United States was in a weaker position to work out acceptable compromises on unrelated topics that might have led to adoption of a Final Document. On the other hand, the Obama Administration would almost certainly claim that its “rebalancing” act on the NPT helped to preserve and strengthen the coalition pressuring Iran which led to a diplomatic solution shortly after the Review Conference. One could argue both of these points and causal links are virtually impossible to prove. However, the author is not swayed from the general conclusion that in the long run it is not healthy for the United States to pursue a diplomatic strategy that detracts from the NPT’s central mission of nuclear nonproliferation.

Strategy Going Forward

The NPT has always drawn bipartisan support, and it is expected that the next Administration—Democrat or Republican—would be prepared to continue efforts to ensure its effectiveness. Implementation of the Iran deal should ensure that the Treaty’s nonproliferation mission remains front and center and offers opportunities to strengthen it. But emphatically what should not happen is an effort to renegotiate the 2015 Iran deal or to block its implementation, as some U.S. political leaders have urged. Doing so, even despite good intentions, would undermine U.S. leadership in the nonproliferation field including with the NPT. Reversing widely supported international commitments to which previous Administrations have agreed, such as the nuclear deal, would harm U.S. standing in the world. The ball is in Iran’s court to comply scrupulously with

the settlement. At this point the only sensible approach would be to closely monitor Iran's compliance and be ready to pounce in the event of a serious violation.

In regard to general NPT diplomacy the United States will not be able to avoid the three pillars terminology. However, it is time to dial back the excessive U.S. focus within the NPT on nuclear disarmament. The notion of the pillars as mutually reinforcing and interrelated should be quietly retired from the U.S. position. Equal attention to implementation of each pillar should be acceptable, but efforts to link progress in one to progress in another should be strongly resisted. It should be enough to stress that the continued value of the NPT depends on respect for and compliance with all three pillars. NPT parties should stop arguing with each other over the relative importance of nonproliferation and nuclear disarmament, and energize efforts to pursue both goals.

To NPT parties that find fault with Article VI implementation by the United States and argue that nuclear disarmament should take priority over nonproliferation, it is important to point out that the increased nuclear weapons risk over the past 25 years is due to proliferation—not from actions by the United States. Major NPT violations were uncovered in North Korea, Iraq, Iran, Libya and Syria—infractions that led to increased tensions and insecurities. The NPT's nonproliferation undertakings were instrumental in mounting challenges to these violations. Strengthening IAEA safeguards, seeking global acceptance of the Additional Protocol, and ensuring consequences for violators are all worthy of support in advancing this mission. Without efforts to hold the line against NPT violators, the vision of a nuclear weapons free world would become ever more distant. Just because the NPT is nearly universal and most parties honor their obligations is no reason for complacency.

While reinforcing the NPT's nonproliferation purpose, the United States should also ensure that it maintains a credible record of meeting U.S. obligations under Articles IV and VI. Along these lines, there seems little cost in retaining the U.S. commitment to seek the

peace and security of a world without nuclear weapons, while making clear that the United States will retain nuclear weapons as long as others have them. If presidents as disparate as Ronald Reagan and Barack Obama can make such a pledge, it should not be difficult for the president who takes office in January 2017 to do the same.

Despite obvious obstacles to progress on nuclear disarmament, the United States should recognize that examining ways to achieve substantial further reductions of nuclear weapons and to do so in a verifiable manner are now in the mainstream. A rejection of global nuclear disarmament as a desirable goal or of activities that advance this goal would brand the United States as an outlier and severely erode U.S. influence on nonproliferation. Despite the passage of seven decades and a history of non-use, the impulse to eliminate the world's most devastating weapons remains strong among governments around the world and increasingly by civil society. There is nothing inherently incompatible with policies that sustain a credible focus on the goals of Article VI while pursuing a posture that recognizes the essential albeit declining role of nuclear weapons in U.S. national security.

The NPT has proved its worth in confronting nuclear proliferation. While established during the Cold War and approaching its 50th anniversary, the Treaty has demonstrated its continued relevance in the highly unpredictable political and security environment of the 21st century. U.S. leadership made the NPT possible and has ensured its continued vitality over the years. The next Administration is well positioned to continue this record and to do so in an environment that is conducive to a balanced approach to U.S. NPT diplomacy and a well-timed focus on nonproliferation.