

CORRESPONDENCE

The Nuclear Non-Proliferation Treaty Needs a Reform Agenda

Ambassador Paul Meyer's opinion article, "Saving the NPT: Time to Renew Treaty Commitments" (16.3, November 2009, pp. 463–72), is a timely appraisal of the problems in the Treaty on the Non-Proliferation of Nuclear Weapons (NPT)—problems that have long been pending and demand immediate redressal to salvage the treaty. Most of the issues that Ambassador Meyer highlighted have been passionately debated during the past decade. The article, like many other recent analyses, identifies the broad areas that need remedial action to strengthen the treaty, which include reinvigorating nuclear disarmament, resolving the nonproliferation-peaceful uses friction, redressing the institutional deficit, and progressing toward treaty universalization.

Though his diagnosis on these broad areas is comprehensive, there are gaps in some of his assessments. A conspicuous omission is the lack of analysis on the threat from non-state actors (especially terror groups), which the NPT is totally unequipped to tackle. Another shortcoming is the limited reference to the latent challenges raised by the treaty's withdrawal clause (Article X), which North Korea has exploited and set a precedent for aspirant states to follow. As key challenges with an ominous influence on the treaty's functioning and durability, these issues have to be prioritized in any treaty-strengthening agenda; neglecting them created a palpable vacuum in the article.

Meyer quite appreciably holds allegiance to the traditional route on disarma-

ment, emphasizing the nuclear test ban and potential prohibition of production of fissile material as practical steps to the total elimination of nuclear weapons. However, he does not take into account the fact that the instruments to achieve these objectives failed due to beliefs that their value to a credible disarmament process could be limited. Countries such as India cited the lack of sufficient disarmament commitments from the nuclear weapon states as a primary reason to reject the Comprehensive Nuclear-Test-Ban Treaty (CTBT). This fundamental deficiency still persists, thus raising doubts about whether these instruments would actually lead to total elimination of nuclear weapons or instead sustain an imbalanced nonproliferation bargain.

A possible answer to such concerns might be the call for an independent treaty for general and complete disarmament. India has raised this idea at various times, including in the Rajiv Gandhi Action Plan of 1988 and at the Special Session on Disarmament in 1995. India's current demand for a nuclear weapons convention to work toward a universally verifiable process leading to total elimination could be placed in this context. Interestingly, UN Security Council Resolution 1887 of September 2009 also reiterates the spirit of NPT Article VI, exhorting negotiations for a treaty on general and complete disarmament. Whether President Barack Obama will reflect these ideas in U.S. proposals at the 2010 NPT Review Conference is much anticipated.

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Meyer rightly highlights the destabilizing effects of the friction between non-proliferation obligations and increasing constraints on nuclear commerce—a key point of contention between the nuclear and non-nuclear weapon states. I found the assertion that nonproliferation could be maximized only if peaceful uses of nuclear energy would be eliminated stunning, though Meyer himself talks of a middle path (p. 467). As he points out, a handful of corrective measures, such the implementation of the Additional Protocol and Multilateral Approaches to Nuclear Fuel Cycles, could go a long way toward creating equilibrium between both objectives. However, the article ignores the potential of proliferation-resistant reprocessing technologies and nuclear fuel banks to undermine the spirit of Article IV, which secures the rights of state parties to develop civilian nuclear energy. In the long run, I fear that these projects might restrict nuclear energy development rights to a privileged few, as with the case of nuclear weapons, and the nuclear fuel banks could evolve into the energy equivalent of a nuclear umbrella.

Meyer also reiterates an existing proposal calling for all state parties to have both a comprehensive safeguards agreement (CSA) along with an Additional Protocol; this is proposed despite the realization that the nuclear weapon states prefer to enjoy the privileges of a voluntary safeguards system and the handful of states operating under the INFCIRC 66-type (item or facility specific) would have no incentive to discard their existing arrangements. Further, these arrangements are believed to be functioning optimally, in comparison with the bloated record of CSA enforcement in some deviant countries.

Meyer's assertions about universalization merely reflect the tempo at various NPT forums, which excel in platitudinous postulations but lack substance on proposals to integrate the three non-NPT states into the treaty. However, he abstains from reiterating the oft-repeated call for these non-signatory states with nuclear weapons (SNWs) to join the treaty as non-nuclear weapon states. Instead, he favors rapprochement between the NPT community and non-NPT states, though he does not outline the contours of such interaction. To me, this final frontier seems insurmountable, due not just to the temperaments of the non-signatories, but also owing to the lack of pragmatic proposals for their integration in a manner that recognizes their nuclear weapon status. Calls for their accession as non-nuclear weapon states are irrational because this could trigger a new set of technical and political complications, including disturbing the regional security equations. By acceding as non-nuclear weapon states, these SNWs would have to eliminate their nuclear weapons, terminate their strategic programs, and open all their facilities (including military) to a comprehensive safeguards regime. None of the three non-state parties can be expected to undertake such sacrifices to join the NPT. Neither is the NPT community giving them any incentive to do so. Under such circumstances, realistic possibilities of universalization will materialize only when the treaty initiates structural adjustments to integrate these countries.

Meyer's article raises a valid concern about the instabilities in the NPT system created by the U.S.–India nuclear deal. However, one should realize that the effort to integrate a non-NPT state with a good

nonproliferation record into the regime was a forced outcome of the treaty's rigid structure, which gives minimal scope for respectful accession. The nuclear deal can thus be seen as an effort to bring India into the nonproliferation mainstream. Consequently, the natural next step should be to assist India's accession to the NPT—even if it entails structural reforms, including the possibility of a new categorization for responsible SNWs. Such efforts for substantial restructuring or normative enhancements could add up as ingredients for a concerted effort to re-tailor the NPT to the requirements of the current security environment. That the Obama administration has declared its support to augmenting the NPT in a twenty-first-century incarnation with countries like India playing a major role adds to the optimism that the treaty will be revived.¹

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Paul Meyer responds

A. Vinod Kumar has provided several further observations on the problems facing the NPT and seems to share my concern that some remedial action is necessary to strengthen the treaty. There are clearly differences in opinion as to some of the gaps he perceives in the analysis; I don't see the problems posed by non-state actors as something that a treaty engaging states parties can really address. Presumably,

¹ Hillary Clinton, "Remarks at the United States Institute of Peace," Washington DC, October 21, 2009.

individual states will seek to act within their jurisdictions to ensure that non-state actors do not undermine the treaty or compromise national commitments (UN Security Council Resolution 1540 has also drawn attention to the responsibilities of states in this regard). I dealt with the Article X issue briefly in the discussion of North Korea and its unresolved status. I do not see the existence of this article, which is a standard feature of international security accords, as posing in and of itself an existential threat to the NPT. Rather than focusing on the unique defection, the priority should be on ensuring that the treaty continues to serve the security interests of its members so there is little incentive to leave. (I have written more extensively on this question in "Preventing Further Defections: Early Warning Indicators and Disincentives," in Jean du Preez, ed., *Nuclear Challenges and Policy Options for the Next U.S. Administration*, James Martin Center for Nonproliferation Studies, Occasional Paper No. 14, December 2008.)

There may be many ways to make progress on the nuclear disarmament front, and the initiatives mentioned by Dr. Kumar merit consideration. In the NPT context, however, the entry into force of the CTBT and conclusion of a ban on fissile material production enjoy a special significance, given the priority accorded them in the 1995 and 2000 NPT Review Conference outcomes. Key to restoring the credibility of nuclear disarmament commitments on the part of the nuclear weapon states is delivering on the promises already made.

Since universalization of the NPT remains a common goal of its members (and numerically not that far off), the nature of the relationship between those states within and without the treaty

will necessarily be difficult. I continue to believe that a rapprochement based on specific nonproliferation and disarmament criteria (and not on fluid “favored nation” treatment) would represent the best route to follow. It would also keep faith with those state parties that have complied with the demanding obligations of the NPT. One should not exclude the possibility that national security policies can change

dramatically over time. The nuclear age has already given us examples of states possessing nuclear weapons or related programs deciding to eliminate them and adhering to a treaty they once rejected. In the final analysis, however, the fate of the NPT will be in the hands of its members, and it is they who will need to rise to the challenges it currently faces.

Working with Unreliable Regimes

Jonathan B. Tucker offers a detailed analysis of Libya’s chemical weapons program, the decision in December 2003 to abandon its weapons of mass destruction, and the largely understudied subsequent difficulties in attempting to dismantle Libya’s chemical weapons program (“The Rollback of Libya’s Chemical Weapons Program,” 16.3, November 2009, pp. 363–84). The behavior that Tucker highlights—whereby Libya implemented parts of its WMD agreement, but lagged behind in the destruction of its chemical weapons stockpile—mirrors general trends in Libya’s conduct of foreign relations.

Indeed, Tucker notes that although Tripoli and Washington agreed in December 2006 that the United States would contribute about 75 percent of the cost of the destruction, Colonel Muammar Qaddafi reneged, in part due to his anger over what he saw as preferential treatment for North Korea, which he took as a personal slight. The agreement was also undermined by the need to satisfy corrupt Libyan officials. As a result of these factors, contrary to the Chemical Weapons Convention requirements that underpinned the agreement, destruction of the stockpiles has not yet

taken place. Here, noncompliance could have serious consequences. As Ambassador Robert Joseph, special assistant to the president and senior director for proliferation strategy, counterproliferation, and homeland defense, said in 2008, existing Libyan chemical weapon stocks “are a potential target for terrorists as well as a potential environmental hazard.”

In order to put Tucker’s excellent work into perspective, it is important to point out that the U.S.–Libya agreement included more than just the WMD component. Improved relations with Washington also depended on Libya accepting responsibility for the Lockerbie bombing, paying compensation to victims’ families, and ending support for terrorism. Libya has unfortunately backtracked on these stipulations: Qaddafi recently reneged on his acceptance of responsibility and delayed payment of the third tranche of compensation, which was due after Libya was removed from the U.S. State Department’s list of state sponsors of terrorism. Libya remained on the list longer than expected as a result of Qaddafi’s 2003 attempt to assassinate then Crown Prince Abdullah of Saudi Arabia. This behavior is reminiscent

of its treatment of destroying its chemical stockpiles, as Tucker documented, demonstrating that a deal with Libya is not truly done until Qaddafi not only signs on the dotted line but also delivers.

Libya's tendency toward unreliability, as well as the prevalence of rash and thuggish actions perpetrated by the regime, is a product of the Libyan political structure, which was left untouched by engagement with the United States. Qaddafi's ideology—including the high self-regard that Tucker alludes to—has not changed, nor has his position as the ultimate decision maker in Libya. Within this authoritarian system, Qaddafi's need or wish to satisfy local "hardline" political constituencies means that Libyan policy—in rhetoric and action—is oftentimes diametrically opposed to U.S. interests. These factors, and the presence of corruption that Tucker details, have also prevented Libya from fully benefitting from its deal with the United States, limiting Libya's economic resurgence and preventing Qaddafi from attaining the international prestige he craves. The nature of Libyan politics could occasionally militate against Tucker's suggestion that the United States and others should "maintain strong political . . . ties with the 'reformed' country."

Indeed, although Tucker notes other "practical lessons," primarily technical, with respect to Libya's chemical rollback, this issue cannot be considered outside the context of the general Libyan conduct of politics. As a result, there are wider lessons we can derive from the U.S. experience with Libya.

Among the most important lessons is that many of the earlier issues and trends can be expected to arise once more, mainly because there has been no turnover in personnel nor any large-scale political

change in Qaddafi's Libya. Tucker highlights how the U.S. government, fearing "second thoughts" by Qaddafi, moved rapidly to draft detailed working plans for the dismantlement of Libya's weapons programs. Yet since the deal went beyond the WMD question and backtracking by the Libyan regime has taken place, moving quickly in the WMD context alone to safeguard improvements is not sufficient. Ultimately, it is precisely because authoritarian states in general and Qaddafi's Libya in particular do not always keep bargains that some form of incentive or leverage must be maintained to ensure follow-through on the more important issues.

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Jonathan B. Tucker responds

Dana Moss makes a number of cogent observations about the unreliability of the Qaddafi regime in following through on its international obligations, both with respect to the payment of compensation for the Lockerbie bombing and the fulfillment of Libya's obligation under the Chemical Weapons Convention (CWC) to destroy its chemical weapons (CW) stockpile in a timely manner. Recent developments support Moss's argument. Although Libya pledged to complete the elimination of its CW stockpile (consisting of about 25 metric tons of mustard agent in bulk containers) by December 2010, as of late 2009 it had not yet begun construction of an incinerator facility for that purpose.

In October 2009, the Libyan government formally requested the CWC's secretariat, the Organization for the Prevention

of Chemical Weapons (OPCW), for an extension of its CW destruction deadline until May 15, 2011. In a national paper justifying the extension request, Libya claimed to have encountered unspecified logistical difficulties, fiscal problems associated with the global economic downturn, and "strong opposition" from civil society organizations concerned about the potential harmful consequences of transporting the CW stockpile from the storage site at Waddan to the destruction facility at Rabta. Given the fact that civil society organizations have little influence in Libya's authoritarian political system, many observers did not find the official explanation credible, yet the real reasons for the destruction delay remain obscure. Although the December 2009 session of the OPCW Conference of the States Parties granted Tripoli's request for an extension, patience with Libya is reportedly wearing

thin and further requests are unlikely to be approved.

In view of the unreliable behavior of the Qaddafi regime, Moss is correct in suggesting the need for "some form of incentive or leverage" to ensure that autocratic leaders follow through on their disarmament commitments. Nevertheless, I remain convinced that ongoing constructive political ties with "reformed" proliferators are essential to create positive incentives for compliance. As suggested by the cases of North Korea and Iran, sanctions alone will not persuade proud and suspicious regimes to adhere to international nonproliferation norms but may instead provoke a nationalist backlash. Although there are no guarantees of success in rolling back WMD programs, a combination of carrots and sticks is more likely to be effective.

Breathing New Life into U.S.–Russian Scientific Partnerships

Irvin R. Lindemuth's fascinating account of post-Cold War U.S.–Russian scientific collaborations ("U.S.–Russian Nuclear Cooperation and the CTBT," 16.3, November 2009, pp. 483–507) comes at an opportune time. In addition to supporting the entry into force of the Comprehensive Nuclear-Test-Ban Treaty, the expertise of U.S. and Russian scientific establishments will be needed to further reduce the risks posed by their nations' stockpiles of nuclear weapons and materials. Yet it is unclear that current U.S. leadership recognizes the potential contributions of expanded U.S.–Russian scientific collaboration.

As Lindemuth's account demonstrates, without strong champions within

federal agencies and the appropriate financial support, these collaborations often fail. At the very least, reenergizing the "lab-to-lab" program would begin to rebuild much-needed trust between the scientists at the heart of each nation's national security infrastructure. With the appropriate backing, however, these scientists could also broadly advance scientific understanding and develop innovative technical solutions that could contribute substantively to global security.

To start with, renewed collaborations could aim to build on the work done as part of the Fissile Material Transparency Technology Demonstration project at Los Alamos National Laboratory. Lindemuth alludes to

the “mistakes” that have been made in the Material Protection, Control, and Accountability cooperation between U.S. and Russian scientists, but this area of interest is likely to rise on the two nations’ shared agenda as they consider how to reduce the risks posed by their nuclear weapon stockpiles. Reinvigorating collaborative scientific efforts to support these goals today will

only encourage national leaders to clear additional political hurdles.

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