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# Director's Series on Proliferation

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# 1

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## The Dynamics of the NPT Extension Decision

*Archelaus R. Turrentine\**

In 1995, there will be a conference to review the Nuclear Non-Proliferation Treaty (NPT) and, in accordance with the terms of the treaty, to “decide whether the treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods.” The first step in the review process was a caucus of NPT parties held in New York on October 23, 1992, on the margins of the United Nations (UN) General Assembly’s First Committee. This caucus established the Preparatory Committee (PrepCom) for the 1995 Extension Conference and agreed that the first PrepCom session would be held May 10–14, 1993, in New York. A resolution was introduced in the UN General Assembly First Committee noting the decisions taken at the caucus and requesting the UN Secretary General to provide secretariat support for the NPT PrepCom sessions and the 1995 Extension Conference.

There were no surprises at the first meeting of the PrepCom. Markers were put down by Mexico and some others in favor of a comprehensive nuclear test ban (CTB), but real discussion of the nuclear testing issue was deferred, as were decisions on many key organizational matters. Agreement was reached on the venues and dates for the Extension Conference (New York, April 17 to May 12, 1995) and the other three sessions of the PrepCom (New York, January 17–21, 1994; Geneva, September 12–16, 1994; and New York, January 23–27, 1995). Mr. Jan Hoekema from the Netherlands was named chairman of the first session, and Ambassador Andre Erdos of Hungary was named chairman of the second session. The non-aligned countries indicated that they intended to nominate Nigeria to provide a chairman for one of the future sessions. They also indicated that they endorsed Ambassador Jayantha Dhanapala of Sri Lanka for the Presidency of the 1995 Conference. The Eastern European countries indicated

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that they also intend to put forward a candidate from Poland for president of the Extension Conference. Documentation requested for the second session was significantly less extensive than that requested for previous review conferences. Decisions on rules of procedure, participation, Extension Conference agenda, final documents, and financing were deferred until a future PrepCom session.

Although the process for the 1995 Review Conference (RevCon) has begun, it is too early to determine which issues will be of central concern to NPT participants in 1995. It is possible, however, to review key issues of concern addressed in recent international arms control fora to assess the likelihood that they will be pertinent in 1995.

### **Arms Control Issues**

There has been more progress in arms control over the past five years than during any time in the history of the NPT. One might assume, therefore, that interest would turn to other issues at the NPT Extension Conference. Nevertheless, arms control issues probably will continue to dominate Extension Conference considerations. A key reason is the cast of characters. The Extension Conference will be dominated by "experts" who have, in many instances, specialized in arms control for most of their careers. Consequently, the issues of most interest to them at the Extension Conference are likely to be those they know—issues related to arms control. If the only tool you are comfortable with is a hammer, every problem looks like a nail.

Of all the arms control issues, the one that still engenders the most attention and emotion is a CTB. Even with the deep cuts underway in the strategic forces of the two major nuclear powers—which will eventually be much deeper than anyone would have guessed in 1990—the fixation on a CTB has not diminished. Many of the opponents of nuclear testing still view a CTB as the ultimate test of movement toward "real" nuclear disarmament. Rightly, or wrongly, they view achieving a CTB as an outward and visible sign that the development of new types of nuclear weapons has been halted. In many respects, this issue is more a personal emotional reaction from the members of various arms control delegations in Geneva and New York and from nongovernmental organizations, than a reflection of solidly held and considered national policies and priorities from capitals.

The question of steps taken by certain countries to acquire nuclear weapons is also likely to be the topic of considerable debate at the Extension Conference. By the time the conference takes place, if Ukraine and Kazakhstan still have nuclear weapons on their territories and are still not parties to the NPT, there is likely to be considerable concern openly expressed. In this regard, Ukraine is perhaps the most likely candidate to be holding open its

option to retain nuclear weapons, even though the Chernobyl accident provided a strong undercurrent of antinuclear sentiment in this newly independent country. The question of what happened to nuclear warheads that may have gone astray in Russia may also receive some attention.

Three other issues are likely to be prominent: the South African announcement that it produced nuclear weapons and subsequently dismantled them before joining the NPT, the status of North Korea with respect to the NPT and its nuclear weapons program, and the case of Iraq. These events are likely to increase the focus on nuclear proliferation, in general, and the effectiveness of the NPT in preventing proliferation, in particular.

### ***The Nuclear Test Ban***

Since October 1992, the United States has been under a legislatively mandated nuclear-weapons-testing moratorium. The legislation does a number of things. First, it effectively prohibits the United States from carrying out any nuclear weapons tests before June 1993. Second, the United States is further prohibited from conducting nuclear tests after June 1, 1993, unless certain specific requirements are met. One of these requirements relates directly to United States policy on the negotiation of a nuclear test ban. Specifically, the legislation requires that, not later than March 1, 1993, and annually thereafter for fiscal years 1995 and 1996, the President must submit a report, *inter alia*, setting forth a schedule for the resumption of the Nuclear Testing Talks with Russia, and a plan for achieving a multilateral comprehensive ban on the testing of nuclear weapons on or before September 30, 1996.

Further, the legislation specifies that:

*... No underground tests of nuclear weapons may be conducted by the United States after September 30, 1996, unless Russia or another country has conducted a nuclear explosive test after this date and such a test is inimical to the security interests of the United States as certified by the President in a written explanation to the Congress, and after sixty days have elapsed from the date of submission of the certification, the prohibition on United States nuclear testing is lifted.*

The United States is not the only nuclear weapon state under a testing moratorium. Today, an unofficial, ad hoc moratorium on nuclear weapons testing exists among the five nuclear weapon states. The United Kingdom, which conducts all of its nuclear tests at the United States Nevada Test Site, is caught under the United States legislatively imposed testing moratorium, whether it wants to be or not, until the United States resumes testing. The Russian Federation and France have both extended their unilateral, politically declared moratoria on nuclear testing as well. China, while remaining silent, has also refrained from carrying out any nuclear tests. This nuclear

testing stand-down among the five nuclear weapons states has existed since the United States-legislated test moratorium entered into effect in October 1992. While the formulation of each of these moratoria is somewhat different, each is essentially conditioned on the lack of testing by others.

The only barriers to a resumption of testing by the Russians and French are essentially political. The barriers to a resumption of United States and United Kingdom testing are both statutory and political. If either Russia or France were to break the moratorium and test, the United States still could not test without meeting the requirements of the test ban legislation.

The uncertainties with regard to when the United States might again carry out nuclear weapon tests make it difficult to plan a program for future tests, and over time could have an impact on the United States ability to maintain a testing capability. In turn, the inability to carry out any nuclear tests could, over time, reduce confidence to some degree in the performance characteristics and safety of nuclear weapons that remain deployed. It will be difficult for the technical rationale with regard to testing to receive a sympathetic hearing in the highly charged political atmosphere that is likely to surround the NPT Extension Conference.

At the time of this writing (June 1993), nuclear testing policy is still under review by the Clinton Administration. The President has not yet submitted the report on nuclear testing that he was required to have submitted by March 1, 1993, in order for the United States (and United Kingdom) to be permitted to resume limited nuclear testing later in 1993. Indeed, the President has proposed continuing the current moratorium at least until September 1994 as long as no other nation tests. Even if another nation should test, the time frame for the resumption of testing in the United States has slipped at least until mid-September 1993 if not beyond—even into the next budget cycle—if the provisions of the law are strictly construed as written.

President Clinton has stated his support for the Congressional legislation, which calls for a CTB and has started the consultative process aimed at commencing CTB negotiations at an early date. This has raised expectations among the international community that the United States will press ahead for a CTB in 1993 as soon as its policy review is completed. If the United States approach is to move ahead toward a CTB in the future, but permit limited United States and United Kingdom testing, consistent with United States law over the next few years, NPT parties that are vocal CTB advocates are likely to be highly critical, particularly since little has been done to prepare the way for such an approach. Resumption of testing by any of the nuclear weapon states, even in response to testing by others, is likely to result in strong criticism by the CTB zealots.

### ***The Fate of the LTBT Amendment Conference***

On August 5, 1988, representatives from Indonesia, Mexico, Peru, Sri Lanka, and Yugoslavia, on behalf of their respective governments, submitted letters to the proper authorities of the three Limited Test Ban Treaty (LTBT) depositary governments, the United States Secretary of State and the United Kingdom and Soviet Foreign Ministers, proposing an amendment to the LTBT that would convert it into a CTB. Additionally, the amendment proponents called for convening an amendment conference, as provided for in Article II of the treaty. Subsequently, additional states parties joined in the formal call for an amendment conference, bringing the total to more than one-third of all the parties, the number specified by the LTBT as needed for calling an amendment conference.

The provisions of the LTBT state: "Any amendment to this Treaty must be approved by a majority of the votes of all the Parties to this Treaty, including the votes of all of the Original Parties," (i.e., the three depositaries). Both the United States and the United Kingdom stated firmly from the outset that they would not approve the proposed amendment. Thus, all parties clearly understood that this effort to amend the treaty would fail, as it did, to achieve its purported purpose. Early on, it was evident that those initiating the requirement to convene an amendment conference had another purpose in mind, namely to create a political event that would put additional pressure on the United States and the United Kingdom to change their position on a CTB. After extensive consultations among the depositaries and the parties, it was agreed to hold an organizational meeting for the LTBT Amendment Conference in New York from May 29 to June 8, 1990.

The principal advocates of the LTBT Amendment Conference pressed the CTB issue vigorously at the fourth NPT review conference in August and September 1990. They sought to link the achievement of a CTB to extending the NPT in 1995. In the end, the Mexican representative to the NPT Review Conference broke consensus on a final declaration over the issue of how to characterize the objective of achieving a CTB.

The LTBT amendment conference was held in New York from January 7-18, 1991. The proposed amendment was discussed, but not brought to a vote by its proponents to avoid forcing a direct rejection, thereby cleanly terminating the amendment process. The conference was brought to a close with a call, opposed by the United States and United Kingdom, for the conference president to consult further with states parties with a view to continuing work on the issue in a resumed session of the amendment conference prior to 1995. While the United States view has been that the proposed amendment was considered and that the amendment process initiated in 1988 was concluded, albeit without result, most states parties see it differently and believe that the amendment conference can be reconvened

without requiring reinitiation of the amendment conference procedures set forth in the LTBT. While the January 1991 session of the amendment conference did little to expand support for achieving a CTB via an amendment to the LTBT, it did sow the seeds for future confrontation and discontent on the issue during the period when preparations for the 1995 NPT review and Extension Conference will be getting underway.

It might be prudent for the United State to acknowledge, at least internally, that there is a dispute over the status on the termination of the amendment conference. There would probably be a number of advantages to thinking through the various courses of action in advance rather than waiting until challenged to react. In this context, it would be useful to consult early with the United Kingdom and develop a common position to take with various countries that might raise the issue in the context of the NPT Extension Conference, or elsewhere. The challenge to the Clinton Administration will be in keeping the residue of an inherited issue that remains controversial from complicating consideration of the nuclear testing issue during the NPT Extension Conference preparations.

### *The French Nuclear Testing Moratorium*

In May 1993, at the first meeting of the PrepCom for the NPT Extension Conference, the French Ambassador stated:

*In the wake of this policy of self-restraint, my country undertook an additional step by suspending, on 8 April 1992, its nuclear testing, and by proposing that the Representatives of the five nuclear-weapon States to the Conference on Disarmament engage in a common reflection on the issue of nuclear testing, in parallel with the work of the Ad Hoc Committee on a Nuclear Test Ban. The latest developments confirm that our approach retains all its validity.*

By linking their nuclear testing moratorium, at least to some degree, with the NPT, the French have made it very difficult politically to be the first one to break the current general moratorium. The French game plan may have been to try to have their cake and eat it too by initiating nuclear testing talks among the five designated nuclear weapon states, then terminating the moratorium and resuming testing during the period of negotiations on additional testing restraints. While this approach previously might have gained some favor in international circles, it is unlikely to play out that way with serious negotiations on a nuclear test ban eagerly anticipated among the CTB advocates. In sum, the French ploy is probably too little too late. The longer their moratorium remains in effect, the more difficult it is likely to be for them to terminate it as a unilateral political action.

If the ad hoc general moratorium continues in effect, it is likely that strong pressure will be exerted on the nuclear weapon states to continue the

moratorium pending entry into force of a CTB, or at least until after the conclusion of the Extension Conference. With the United States legislation on nuclear testing, the French moratorium has less impact on United States actions. However, with the absence of testing by all others, it raises the political threshold for resuming testing to a very high level for the United States. As long as the French and others continue a testing moratorium, the national security threat considerations for a United States test would have to be very high indeed to justify taking the political heat of announcing an intention to test in accordance with the United States legislative requirements.

### ***Former Soviet Nuclear Weapons***

With the breakup of the Soviet Union, Russia claimed to be the sole inheritor of the nuclear-weapon-state status of the Soviet Union. Reportedly, all tactical nuclear weapons located on the territories of the newly independent states were returned to Russian territory, although there have been stories in the press about several tactical nuclear warheads having been lost or not accounted for in the process. In addition, under the terms of the Lisbon Protocol to the Strategic Arms-Reduction Treaty I (START I), the strategic delivery systems located outside of Russian territory are to be eliminated, and the three new states involved—Belarus, Kazakhstan, and Ukraine—are to join the NPT as non-nuclear-weapon states. To date, Russia, Belarus, and Kazakhstan have approved ratification of START I, but Ukraine has not. (START I will not enter into force until all have signed.) Belarus has approved acceding to the NPT, but has not yet done so. More recently, some politicians in the Ukraine have advocated going slow on the elimination of strategic arms and the ratification of START I together with its protocols.

As a result of the Chernobyl reactor accident, there is a strong antinuclear political undercurrent in Ukraine. At the same time, there is a strong distrust of Russia, particularly because of the statements being made by the Russian right-wing about reestablishing the Soviet empire. Given the uncertain political future of the Yeltsin government in Russia, Ukraine clearly has decided to take a wait and see approach to ratification of START I and elimination of the nuclear delivery systems and warheads.

Even as strategic nuclear weapons remain deployed on Ukraine territory and a number of parliamentarians and government officials strongly advocate Ukraine retaining control over such weapons, public opinion in the country overwhelmingly views Ukraine as a "non-nuclear-weapon state." Every effort should be made to encourage the continuation of that thinking. At this point, it does not appear that Ukraine has the infrastructure necessary to support the warheads on its territory, and does not intend to make the investment necessary to create such an infrastructure. Bludgeoning Ukraine into NPT membership will not produce a dedicated party to the

treaty. At the same time, when the NPT extension issue is considered, should there be uncertainty about Ukraine's nuclear intention, the security calculus with regard to the treaty may be affected for some parties. In this instance, it could be difficult to generate support for an indefinite extension, perhaps even among some European countries.

The United States has pressed hard to encourage Ukraine ratification of START I, which would permit its entry into force, and accession to the NPT by Belarus, Kazakhstan, and Ukraine as non-nuclear-weapon states. At the same time, the United States has sought to avoid getting caught between Russia and Ukraine in their dispute over the disposition of the nuclear material contained in the nuclear weapons that are on Ukraine territory. Ukraine has asked for significant financial assistance from the United States for use in dismantling these nuclear weapons and has indicated it is not prepared to turn over nuclear warheads to Russia for storage or disposal. Ukraine also sought special security guarantees with regard to protection against Russian intervention in the future. The initial reaction by the United States was to state rigidly that it does not intend to recognize the nuclear weapons status of Ukraine and intends to delay the transfer of funds and assistance to Ukraine for use in dismantlement and conversion of nuclear and other weapons until Ukraine completes the actions to which it has committed itself. However, recently there seems to be a shift in United States thinking. There are signs that the United States may be prepared to be more flexible and to assist Ukraine in the initial stages of dismantlement and conversion without having the formal START I and NPT commitments in place.

If Ukraine takes part in the 1995 NPT Extension Conference as an observer, will it be subjected to strong international criticism, or will it be given encouragement to join the NPT? The key questions are how much carrot should be offered, and how much stick applied? In addition, the United States delegation will have to be prepared to deal with the concerns generated among other NPT parties if Ukraine is outside the fold during the Extension Conference proceedings, which seems to be a high probability at the moment.

### *"No First Use" of Nuclear Weapons Commitments*

Over the years, the former Soviet Union and China have supported the concept of formal commitments by nuclear weapon states not to be the first to use nuclear weapons. With the advent of serious arms control measures to reduce the numbers of strategic weapons, this rhetoric has tended to be less prominent. Nevertheless, there is still some interest in NPT circles for promoting a declaratory policy along these lines.

The issue of seeking a commitment to no first use of nuclear weapons is likely to arise at some point during the preparatory phase for the 1995 NPT

Extension Conference, or at the Conference itself. It may come up in the context of negative security assurances (NSAs), particularly if the consideration of NSAs should stall. At the moment, there seems to be less interest in the question of no first use of nuclear weapons commitments than at any time over the past decade, perhaps because it is seen to be tainted with old Soviet propaganda overtones. However, just because the Russians have dropped it does not mean that another country or group of countries will not pick it up and make it their own cause.

With the implementation of the Conventional Armed Forces in Europe Treaty and the Intermediate-Range Nuclear Forces Treaty, the United States concern about decoupling the nuclear deterrent from conventional warfare may no longer be as strong. However, a no first use of nuclear weapons commitment provides little, if anything, in terms of security enhancement, and only serves to undercut the concept of nuclear deterrence. The concept of no first use remains flawed, albeit less objectionable, but still with little to recommend it.

### *The Case of Iraq*

While there were strong suspicions about the Iraqi nuclear program prior to Desert Storm, after the war it became clear that Iraq, a party to the NPT, had systematically and repeatedly violated the NPT by pursuing a nuclear weapons program. These violations were confirmed by on-site inspections carried out by the International Atomic Energy Agency (IAEA) under the auspices of UN Security Council Resolution 687. This was the first time that a clear-cut, major violation of the NPT has been confirmed.

The special inspections carried out under Security Council Resolution 687 were far more aggressive and intrusive than IAEA safeguards inspections. Their objective has been to seek out clandestine activities and eliminate Iraqi capabilities to produce weapons of mass destruction and some missile delivery systems.

The regular IAEA safeguards inspections that had been carried out in Iraq prior to the war had not detected any diversion of materials from declared facilities or any covert nuclear activities. Under regular safeguards inspections, no effort was made to detect suspect activities in undeclared or clandestine facilities. While this should not be viewed as an indictment of IAEA safeguards, since they performed exactly as currently mandated, it does underscore the limits of routine safeguards, especially in detecting covert violations.

Although the nonproliferation regime may have been damaged by Iraq's violation of the treaty and the fact that IAEA routine inspections are not designed to expose such cheating, the fulfillment of Resolution 687 may have a positive effect on the regime. This is because the punishment inflicted upon Iraq in the Gulf War is seen by many to be a consequence of its

violations of international law and norms of behavior, including violation of the NPT. The fact that the NPT violations were not confirmed until hard evidence was gathered during special inspections after the war seems to be becoming somewhat blurred in the eyes of some members of the international community. The impression that the Iraqis brought wrath upon themselves by, *inter alia*, violating the NPT probably serves the long-term interests of the NPT.

Prior to the extension decision, there must be no perception among NPT parties that Iraq is "off the hook" and may be moving toward reestablishing its nuclear weapons program. At the same time, the continuing punishment inflicted upon Iraq must be managed with great care to avoid making Iraq a martyr in the eyes of the Third World.

### *The Case of North Korea*

North Korea's nuclear ambitions pose a serious threat to the NPT, United States security interests, and regional stability. Recently, the situation has worsened with North Korea's failure to live up to its NPT safeguards obligations and with the announcement on March 12, 1993, of its intention to withdraw from the NPT effective June 10, 1993. Although North Korea subsequently agreed to suspend its withdrawal from the treaty, it remains unwilling to allow IAEA special inspections of its suspected nuclear weapon facilities.

On December 31, 1991, North and South Korea signed a "Joint Declaration for a Non-Nuclear Korean Peninsula," with both sides pledging not to possess nuclear weapons and facilities for producing weapons material. The two sides also agreed to work out a bilateral inspection regime to build confidence and provide additional transparency. Subsequently, North Korea has refused to negotiate in a meaningful way with South Korea on the inspection regime and has not met the IAEA's deadline for accepting special inspections requested to investigate evidence of undeclared reprocessing to obtain plutonium.

The IAEA, unable to determine whether or not North Korea has diverted materials for use in prohibited military activities (i.e., development of nuclear weapons), declared on April 1, 1993, that North Korea clearly violated its NPT obligations to open its suspect sites to IAEA inspection, and referred the matter to the UN Security Council. Following the IAEA's action, the United States, United Kingdom, and Russia issued a joint statement urging North Korea to comply, stating that North Korea's withdrawal from NPT obligations "would constitute a serious threat to regional and international security." China, however, has been reluctant to press North Korea on this matter, arguing that North Korea should be given more time, and suggesting that further efforts be made to find a "face saving" way for North Korea to satisfy international "concerns." It is not clear that China

would actually veto an action against North Korea by the Security Council, but it might do so if the Security Council tries to authorize the use of force against North Korea under Chapter VII of the UN Charter.

When North Korea decided to become a party to the NPT, it probably did so on the assumption that it could control any safeguards that might be applied. Thus, North Korea could proceed with a nuclear weapons program without interference by simply not declaring the key facilities involved. Even though the IAEA has insisted on the right of inspection, North Korea, with its stalling tactics, has bought a considerable amount of time for its program to continue. This time could be used to complete one or more nuclear weapons, or to better hide key aspects of the nuclear program. With the closed society in North Korea, there would always be a question, particularly over time, about whether the North Korean nuclear weapons program had been driven underground by the application of safeguards and special inspections at all known facilities.

Special accommodations for North Korea to keep it in the regime without forcing a prompt accounting of its plutonium production and separation activities would appear to be a reward for bad behavior. In a sense, the IAEA has done its job and rung the alarm bell. If the Security Council is not able to impose sanctions and, if all else fails, authorize the use of force, the international community will have lost the opportunity to successfully address the issue. Also, the authority of other arms control regimes that have depended on resorting to the Security Council as the ultimate enforcer will be damaged along with the NPT.

It is almost certain that there will be an outcome to the North Korean issue well in advance of the 1995 NPT Extension Conference. Failure to deal with North Korea's nuclear program in the next two years could have a major negative impact on the NPT and on the Extension Conference. The best outcome would be a compliant North Korea, still in the NPT, at the time the extension decision is made. The worst outcome, other than actual use of nuclear weapons by North Korea, might be a noncompliant North Korea, still a party to the NPT at the time the extension decision is taken, still in clear violation of the treaty and thumbing its nose, unpunished and defiant, at supporters of the NPT.

### ***Nuclear-Weapon-Free Zones***

Since 1957, various proposals have been made for the establishment of nuclear-weapon-free zones (NWFZs) or even more restrictive demilitarized zones in several regions. In 1959, agreement was reached on the demilitarization of the Antarctic, which also made it a NWFZ. The Outer Space Treaty of 1967 prohibited placing nuclear weapons, and other weapons of mass destruction, in Earth orbit or stationing them on celestial bodies, in effect creating another NWFZ.

The first NWFZ in a densely populated area was created by the 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco). Parties to that treaty undertake a commitment to use the nuclear material and facilities under their jurisdiction exclusively for peaceful purposes, and to prohibit and prevent in their respective territories the testing, use, manufacture, production, or acquisition by any means whatsoever of any nuclear weapons, and the receipt, storage, installation, deployment, and any form of possession of such weapons.

In 1986, the South Pacific Nuclear Free Zone Treaty, also known as the treaty of Rarotonga, entered into force. This treaty commits its parties not to manufacture, acquire, possess, or control any nuclear explosive device inside or outside the zone; to prevent in their respective territories the stationing or the testing of any such device; and not to dump radioactive wastes at sea anywhere within the zone.

Both the Treaty of Tlatelolco and the Treaty of Rarotonga have protocols applicable to nuclear weapon states and other protocols applicable to extra regional states that are responsible for territories within the zone. The United States is party to the two protocols to the Treaty of Tlatelolco, but not to those of the Treaty of Rarotonga, although the United States has not taken any action inconsistent with the Rarotonga protocols since that treaty entered into effect. At the time the Treaty of Rarotonga entered into force, the United States decided not to sign the treaty's protocols, in part to avoid antagonizing the French whose testing in the South Pacific was the principal target of the zone.

With South African accession to the NPT, an active effort has begun to establish an African NWFZ, a proposal long supported by the United States. Some African states refer to this as the "denuclearization of Africa," a reference to their recently validated suspicions about South Africa's having acquired nuclear weapons. It is very possible that such a zone will be created prior to the 1995 Extension Conference.

There has also been a great deal of emphasis given to the question of establishing a NWFZ in the Middle East. This issue has taken on greater importance in the context of the Middle East peace talks. Egypt, the leading proponent of a Middle East NWFZ, has changed its position slightly in the past several years to emphasize the need for making the Middle East not just a NWFZ but a zone free of weapons of mass destruction. This is now, in fact, a central focus of discussions within the arms control working group in the Middle East peace talks.

The NWFZ issue will probably be of greater importance at the 1995 Extension Conference than it has been at recent NPT RevCons. It is likely that the African states will have completed work on their NWFZ by that time and may wish to highlight their accomplishment at the Extension Conference, either by opening it for signature or having all the nuclear

weapon states sign the protocols at the same time. If the African states succeed in this, pressure and attention on the status of progress toward a Middle East NWFZ is sure to increase. It is likely that the Treaty of Rarotonga's parties, in particular Australia, will press hard for the United States and United Kingdom to reconsider adhering to the protocols. The treaty's parties may feel that the current testing moratorium would make it more difficult politically for France to fight to preserve its "hypothetical" testing options, and easier for the United States and United Kingdom to rationalize a change in policy on the issue.

### *Negative and Positive Security Assurances*

At the First Special Session of the UN General Assembly devoted to disarmament in 1978, the five nuclear weapon states gave independent, unilateral NSAs to certain non-nuclear weapon states. The United States NSA was approved by President Carter in 1978, and subsequently re-endorsed by both Presidents Reagan and Bush. In 1982, the French modified their assurance in a way that brought it more in line with those that had been given by the United States and United Kingdom. The Chinese NSA essentially was a no-first-use pledge. The Soviet NSA excluded countries with nuclear weapons on their territory, leaving NATO countries as potential targets.

After the individual NSAs were given in 1978, the Conference on Disarmament (CD) established an Ad Hoc Committee to seek to negotiate a common NSA that all nuclear weapon states could accept on a legally binding basis. After more than a decade of effort, the CD has been unable to come up with such an arrangement. During the 1988 summer session of the CD, the Nigerian representative tabled a proposal for a protocol that incorporated all of the various NSAs with provision for each nuclear weapon state to adhere to its own in a legally binding manner. Subsequently, Nigeria withdrew this proposal before there was an opportunity for it to be given serious consideration. The approach presented in the proposal was unacceptable to the United States because it equated the various NSAs, and the United States did not consider the Soviet NSA to be the equivalent to the United States NSA. In addition, the United States objective in the CD negotiations has been to seek a common NSA rather than to make the individual, unilateral NSAs legally binding.

In its statement to the UN First Committee in October 1988, Nigeria proposed an additional protocol to the NPT whereby the nuclear weapon states would provide legally binding assurances to non-nuclear weapon states party to the treaty against the use or threat of use of nuclear weapons. Nigeria stated that unless such a protocol is completed, "there may be no incentive for some non-nuclear weapon states to endorse the extension of the life of the treaty when it expires in 1995."

At the 1990 NPT RevCon, the Nigerian delegation pressed hard on their NSA proposal with support, albeit tepid, from the nonaligned group. After a lengthy negotiation with the United States on language for the RevCon Final Document dealing with the issue, agreement was reached by the depositary states to consult on the issue, including giving consideration to the Nigerian proposal. However, with the failure of the RevCon to reach agreement on a Final Document, the agreement on the NSA issue was not recorded in any formal decision.

A positive security assurance (PSA) was adopted by the UN Security Council in 1968 after having been initiated in and first approved by the Eighteen Nation Disarmament Committee, one of the predecessor fora to the CD. At the 1990 NPT RevCon, the Egyptian delegation undertook a major effort to stimulate a commitment to further consideration of PSAs. After extensive negotiations with the United States, United Kingdom, and Soviet delegations, a text on the issue was agreed. It committed the three depositaries to consult on the issue, without prejudging whether it would be raised in the Security Council. As with the NSA text, the agreement on the PSA issue was not recorded in any decision.

With all five nuclear weapon states now parties to the NPT, it may be easier to give special consideration to the NSA issue in the NPT context. Also, with the breakup of the Soviet Union and the end of the Cold War, it may be possible to eliminate the anti-NATO bias from the old Soviet NSA and bring it more in line with those of the United States, United Kingdom, and France, if not reach some form of a common formulation acceptable to all.

Likewise, it may be easier to work out a PSA that might be adopted in a new Security Council resolution. Rather than use the CD to expand support for such an effort, it might be useful to work it during the second or third meeting of the Extension Conference PrepCom, coordinating the draft text of a new UN Security Council resolution that could be put forward by the five nuclear weapon states.

While it is unlikely that the security assurance issues will make or break the Extension Conference, progress on either NSAs or PSAs might help create a positive atmosphere and mitigate negative reactions on other second tier issues where the United States may not have much flexibility. With regard to PSAs, former President Bush indicated that the United States would be willing to seek improvements in and update the 1968 PSA that was adopted by the UN Security Council. There is no indication that the Clinton Administration has focused on this issue yet. The only reason not to move ahead on it has been, and may continue to be, the press of other more important and time-sensitive business on the Security Council's agenda.

With all five nuclear weapon states taking part in the Extension Conference, that forum will become a very attractive place to press the issues. It will, however, be difficult for the nuclear weapon states to make commitments on NSA and PSA issues on the spot, in view of the seriousness of the subject matter. Unless outcomes are worked out in advance, and the Extension Conference is used only as the vehicle for concluding them on a formal basis, it is not likely that any real success will be possible on these issues at the Extension Conference.

### ***Controls on Nuclear Weapons Materials***

With the major agreements on strategic arms reductions and the elimination of certain classes of tactical nuclear weapons, a large number of United States and Russian nuclear warheads will be withdrawn from service and stored or dismantled. While the various arms control agreements do not require the elimination or dismantlement of nuclear warheads, the issue has already become a major topic of interest and the basis of cooperative ventures between the United States and Russia to convert some of the material to a form suitable for use in civil programs.

Considerable interest has been expressed by the international community to assure that material recovered from nuclear weapons is accounted for and, once it has been made available for peaceful use, is not used in weapons. Given the massive amount of material, it would be costly and fruitless to attempt to track this material by expanding safeguards to cover all peaceful nuclear facilities that might use it in the nuclear weapon states. Some of those who are most likely to press for expanding safeguards in nuclear weapon states are the proliferation problem countries who wish to create a smoke screen to divert attention from their own activities. Any significant increase of safeguards effort in nuclear weapon states will almost certainly reduce the amount of resources that otherwise might go into special inspections or enhancement of regular safeguards. With respect to dealing with material recovered from nuclear weapons, which may not be needed anytime soon for military purposes, it would seem far preferable to develop a mechanism outside of the current safeguards system to deal with the problem rather than let this extraneous issue become a central consideration in developing the new safeguards system.

The United States has established close contact with the Russian nuclear community to provide incentives and benefits to assist in the transition from military nuclear programs to civil activities, and at the same time, avoiding undue proliferation risks. To date, the United States approach has been to keep the United States–Russian nuclear relationship in the bilateral channel. It may be desirable for the United States to consider ways to share the burden and risks with others who share an interest in the problem.

It might be useful to revisit the concept of an international plutonium storage regime, which was elaborated to a considerable extent in the IAEA in the early 1980s before being torpedoed by Yugoslavia, India, and Argentina just as it was moving into the end game. Certainly the political and nuclear program concerns of Yugoslavia and Argentina are sufficiently different today to make revisiting the issue worthwhile.

### **Issues Related to Peaceful Uses of Nuclear Energy**

As at past NPT RevCons, the organization of the 1995 Extension Conference undoubtedly will divide the emphasis between arms control and peaceful uses issues. Previously, arms control issues have tended to attract more policy-level attention and have been the most contentious. This may again be the case, but the peaceful uses issues could also become prominent.

There are a number of related issues, and some that are extraneous, that bear watching. For example, the increase in international shipments of plutonium has attracted considerable attention in the United States press. Domestic debate in the United States on this issue could easily spill over into the Extension Conference, particularly since the Extension Conference will be held in New York. Another issue that does not seem to be directly related to the NPT—Third World economic stagnation—could affect tensions between the “haves” and “have nots” at the Extension Conference. This issue could be further complicated by the emphasis the West has given to assisting the newly independent states created from the Soviet Union. Many of the developing countries are likely to resent this, feeling that they have been waiting for help a lot longer.

Another issue that falls in both the arms control and peaceful uses categories is the conversion to peaceful purposes of the fissile material recovered from dismantled nuclear weapons withdrawn from service. This is the old “swords into plowshares” concept.

It will be important for the United States to assemble a great deal of data on peaceful nuclear issues, including assistance, benefits, applications, safety, and safeguards, in preparation for the Extension Conference. It will also be important to be in a position to discuss a wide variety of issues, including reprocessing, advanced technologies, waste disposal, dumping, amendments to the NPT, and the future of the NPT, to mention only a few.

The NPT has reflected and confirmed the decisions of the vast majority of non-nuclear-weapon states not to seek to acquire nuclear weapons or other nuclear explosive devices. It anticipated well in advance what are now strong commitments by the major nuclear weapon states, the United States and Russia, to reduce their strategic forces significantly to a more stable balance, and ultimately to seek to eliminate dependency on nuclear weapons

for security. It also can be argued that the NPT has provided, and continues to provide, the underpinnings that permit peaceful nuclear commerce among responsible states to take place.

### **Safeguards**

As in past NPT RevCons, the issue of nuclear safeguards will receive considerable attention during NPT Extension Conference. Safeguards are recognized as a key element in the NPT regime. Article III of the treaty states:

*Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principal nuclear facility or is outside any such facility. The safeguards required by this article shall be applied to all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.*

In 1961, well in advance of the NPT, the IAEA established its initial safeguards system, based in large part on the various bilateral safeguards that the United States and others applied to nuclear material transferred under an assortment of bilateral agreements for peaceful nuclear cooperation. Shortly thereafter, the United States initiated a policy of converting its bilateral agreements into trilateral agreements, with the IAEA, as the third party, assuming the responsibility for carrying out safeguards. The original IAEA safeguards system was updated and extended to apply to additional types of facilities. In 1965, this new system was outlined in the IAEA's Information Circular 66, often referred to as INFCIRC/66/Rev. 2.

When the NPT entered into force in 1970, the IAEA was given a major responsibility with regard to safeguards. After almost two years of effort, agreement was reached on the approach that the Agency would take in meeting its safeguards responsibilities under the NPT. This approach was outlined in Information Circular 153, referred to as INFCIRC/153.

As the number of NPT parties have grown, the INFCIRC/153 procedures, which were designed for non-nuclear-weapon states party to the NPT, have come to dominate the IAEA's approach to safeguards. Yet the safeguards that are applied to non-parties to the NPT are still based on INFCIRC/66. Many of the assumptions upon which INFCIRC/153 is based, such as full-scope safeguards, are not necessarily applicable in the case of INFCIRC/66 countries. Those countries, other than the designated

nuclear weapon states, previously considered the most likely to seek to acquire nuclear weapons have been INFCIRC/66 countries. Iraq and North Korea proved to be exceptions to such conventional wisdom. The legalistic argument that the Iraqi case does not represent a failure of the safeguards system as it existed at the time, while true, is lost on all but the safeguards cognoscenti.

Over the past several years, there has been an effort underway among the safeguards experts who advise the IAEA Director General to strengthen safeguards and make greater use of special inspections to resolve questions concerning undeclared facilities. It should be noted that the provisions of INFCIRC/66 permit a more intense focus on how specific material is being used. A good case can be made that a greater safeguards effort should be directed toward problem countries rather than distributed evenly among the facilities of NPT states party and non-parties to the treaty.

Consideration might be given to seeking to set aside a part of the safeguards resources for the discretionary use of the Director General of the IAEA in dealing with problems that may come to the Director General's attention. It would be very desirable to consider ways that might be used to provide additional resources for safeguards, including removing them from the budget growth restrictions under which the UN and other international organizations, including the IAEA, have been operating.

The timing of the special inspection issue is particularly important with regard to United States interest in the NPT. Article III of the NPT obligates non-nuclear weapons states to accept safeguards on all nuclear material in peaceful nuclear facilities to prevent the diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Most states that are NPT parties have met their obligations to accept the INFCIRC/153 style safeguards that have been defined as "adequate to meet NPT safeguards commitments." Any changes in NPT safeguards procedures that are not acceptable to all parties could be viewed by some as "amending their obligation under the treaty without amending the treaty itself."

Attempts to strengthen safeguards could produce tension for the NPT regime just as the question of its extension is being considered. Yet, efforts to enhance special inspections and regular safeguards must not be cosmetic. Although it is highly unlikely that a new IAEA safeguards regime can be constructed to deal with all problems, it should be possible to raise the effectiveness threshold of safeguards well above the current level. For those cases that remain above the threshold of the IAEA's ability to deal with effectively, the world community must rely on the UN Security Council as the court of last resort. The challenge is in raising the IAEA's threshold of safeguards effectiveness sufficiently so that most safeguards and special inspection problems can be handled within the IAEA framework, and that

failure of the IAEA to be able to deal with a case is generally accepted as sufficient cause in itself to take the issue to the UN Security Council.

### ***Safeguards in Nuclear Weapon States***

Five countries—the United States, United Kingdom, France, Soviet Union, and China—are defined by the NPT to be nuclear weapon states. The terms of the treaty do not provide for any additional states to be accorded this status. With the demise of the Soviet Union, Russia claims to be the sole successor state to the Soviet Union in terms of being one of the NPT depositary states and as one of the treaty's designated nuclear weapon states. With the exception of the former Soviet Union and now Russia, the nuclear weapon states have tended to operate their military and civil nuclear programs separately. In the United States, this practice has become a matter of national policy, with the exception of enrichment facilities which serve both programs.

All five of the NPT nuclear weapon states, on a voluntary basis, have agreed to make some of their present and/or future civil nuclear facilities subject to IAEA safeguards under certain conditions. Nevertheless, over the years a number of non-nuclear-weapon states have called for expanding safeguards in the nuclear weapon states so that material in peaceful programs remains there, and so that the nuclear weapon states might experience the burden of safeguards on their commercial nuclear activities.

Any move to place all peaceful facilities in nuclear weapon states under IAEA safeguards would spread current resources so thin in the short-term that safeguards would be virtually meaningless. The notion of just "increasing" safeguards in nuclear weapons states is essentially a cosmetic measure that makes little sense in terms of international security. The one situation under which safeguards in nuclear weapon states might make some sense is a cutoff of the production of nuclear material for weapon purposes. Sweden has long been a proponent of increasing safeguards in nuclear weapon states and has argued that once the level of safeguards in nuclear weapon states has been increased, it would be easier to implement some form of cutoff. At this point, it would appear that the concept of a formal cutoff agreement is an idea whose time has come—and gone. There is such a vast quantity of weapons grade material in the defense programs of the designated nuclear weapon states that a formal cutoff by itself would have little effect on forcing reductions in the number of nuclear weapons, or on contributing to international security. Additionally, significant amounts of weapons grade uranium are also used, and consumed, in reactor fuel for nuclear-powered warships.

The United States has made all of its nuclear facilities that are not involved in defense programs eligible for IAEA safeguards. As a matter of practice, the IAEA has only safeguarded a small number of United States

facilities at any one time. The United States has resisted the proposals for increasing the level of safeguards applied in nuclear weapon states because such a move would use scarce resources in countries that already have nuclear weapons. Otherwise these resources would be available to inspect facilities at which confirming that no diversion of materials has occurred remains a major NPT objective.

With respect to dealing with material recovered from nuclear weapons which may not be needed anytime soon for military purposes, it would seem far preferable to develop a mechanism outside of the current, or new, safeguards system to deal with the problem rather than let this extraneous issue become a central consideration in developing the new safeguards system.

### *Enhancing IAEA Safeguards and Inspections*

In the aftermath of Desert Storm, special inspections carried out under UN Security Council Resolution 687 have been used to determine the scope of the covert Iraqi nuclear program. The program was not disclosed by regular IAEA safeguards inspections because they focused on declared nuclear materials and were never intended to locate undeclared material being used for nonpermitted purposes. As long as there was an accounting for all declared material in peaceful programs, no alarm was sounded.

The IAEA Secretariat has prepared some preliminary analyses dealing with the authority of the Agency to conduct special inspections in the territory of NPT parties. The legal staff in the Secretariat concluded that the Statute of the Agency, in conjunction with the provisions of INFCIRC/153, INFCIRC/66, and the NPT itself, already provide the Agency with the authority to carry out special inspections under certain circumstances.

If IAEA safeguards are going to be strengthened, such action is most likely to take place via a more active and innovative use of special inspections than through any significant increase in the funding and resources provided for regular inspections. Governments are unlikely to view spending more money for doing more of the same in regular inspections as a cost-effective way to improve the situation. However, it may be possible, even in these times of budgetary stringencies, to obtain support for adding a limited amount of inspection resources if it is clear that those resources are going to be used to deal with serious problems that have arisen.

IAEA safeguards are designed to increase inspection efforts as nuclear material moves closer to a weapons usable form (i.e., separated plutonium and highly enriched uranium). Emphasis is also given to avoiding discrimination, that is treating all member states in a particular category the same. Thus, regular safeguards, as presently carried out, focus the bulk of their effort on large nuclear programs in highly developed Western democracies

where the threat of proliferation is the least so that similar facilities in areas of proliferation concern may receive equivalent safeguards attention.

Special inspections do not follow this precedent. Instead, special inspections permit effort to be focused on the problem rather than spread around without regard to a member state's commitment to nonproliferation.

A careful distinction must be made between special inspections carried out under existing IAEA authorities and the IAEA inspections carried out under the authority of UN Security Council Resolution 687. The basis for Resolution 687 is Chapter VII of the Charter of the United Nations, which addresses threats to the peace, breaches of the peace, and acts of aggression. Under Resolution 687, IAEA inspectors are given the authority to go anywhere and to follow up on any uncovered information. In contrast, IAEA special inspections would focus attention on a specific known facility of concern, using special inspections to resolve very specific questions. A major safeguards or special inspection problem may be brought before the Security Council. If the concerns constitute a serious threat to the peace, the Security Council will provide a strong mandate for action. However, short of a serious problem that deserves to be brought up before the Security Council, it will be necessary to develop a workable system within the IAEA to deal with all problems up to a very high threshold.

### *Technical Assistance*

Part of the NPT "bargain" from the outset has been that, by forgoing the "benefits" of developing nuclear explosive technology, the non-nuclear-weapon states would be given technical assistance in the nuclear field in "compensation." Article IV, paragraph 2, states:

*All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also cooperate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.*

The developing countries that are members of the NPT, and that have strong nonproliferation credentials, have received support for most of their technical assistance proposals as long as those proposals have had the requisite technical merit. For its part, the United States and several other donor states have earmarked their voluntary technical assistance contributions to projects proposed by developing countries that are NPT parties.

At the 1995 Extension Conference, developing countries may attempt to bargain their support for the extension decision in exchange for some tangible commitment from the developed countries and, in particular, from the nuclear weapon states to provide a continuing source of funding for peaceful nuclear projects and applications. However, because the IAEA is already meeting a significant portion of the technical assistance needs for worthwhile projects, it is not clear that such a fund is needed. The major benefits for most developing countries have been in the area of nuclear applications in agriculture, pest control, and medicine rather than in costly nuclear facilities. While some developing countries have expressed interest in nuclear power, few can afford the capital investment required. Those that can afford the investment tend to be awash in oil already. Additionally, few developing countries have the electrical grid to handle a major energy source of the type represented by a nuclear power reactor.

The major difficulty in giving greater emphasis to technical assistance will be to have sufficient worthy projects that deserve to be funded. As a first step, a comprehensive inventory of problems and opportunities where nuclear technologies might be applied could help to generate appropriate proposals.

### *Access to Technology*

A key issue at previous NPT RevCons, and one that is likely to be of critical importance at the 1990 RevCon, is the question of access by all parties to the full range of nuclear materials and technologies for their peaceful nuclear programs. Article IV, paragraph 1, of the treaty states:

*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 and in conformity with articles I and II of this Treaty.*

To date, the peaceful nuclear programs in most non-nuclear-weapon states party to the treaty, except for several of the most advanced Western countries and Japan, would not justify any substantial involvement in the sensitive technologies such as enrichment or reprocessing. However, for a variety of motivations, some countries seek to maintain their option to acquire such technologies as a right rather than agreeing that they should meet some standard of appropriateness. Some parties, especially certain developing countries, are likely to use the Extension Conference to press for "guarantees" that they will be given access to nuclear materials and technologies whenever they deem it appropriate. This issue has been muted somewhat by the general slowdown in nuclear power programs around the world, due largely to the decline of oil prices. However, should the price of

oil increase and stabilize above the \$25-30 per barrel range, there could be a concomitant increase in interest in nuclear power and in access to nuclear materials and technologies.

With the revelation of the covert Iraqi and North Korean programs, many of the past criticisms of nuclear supplier controls have faded. These events have made a more persuasive case for exercising care in nuclear exports than could be made by any exposition of policy. The United States should press for any changes and improvements in nuclear export controls now while the experiences with Iraq and North Korea are still fresh in the collective international mind.

### **Organizational and Procedural Issues**

While there has been a growing interest over the years in introducing more substantive discussion in the PrepComs, this has been only symbolic in large part. The standard pattern has been for the first session of the PrepCom to deal with organizational and procedural arrangements, including identification of the documentation to be prepared by the Secretariat for the RevCon or, in 1995, for the Extension Conference. The second session of the PrepCom has usually been devoted to a review of the draft documentation and some preliminary discussion of issues associated with the peaceful uses of nuclear energy, including safeguards. The third session of the PrepCom has been devoted to a further review of the documentation and preliminary discussion of arms control and disarmament issues. It is anticipated that the preparatory process will be much the same for the 1995 Extension Conference, with the addition of the extension question itself. The rules that have been used in past review conferences are adequate for the "review" part of the 1995 Conference. The rules for considering the extension issue might be much the same, except for how the extension decision itself is to be taken, which is specified in the treaty.

With regard to the President of the Conference, the United States has an interest in ensuring that the President is a competent, experienced individual who commands the respect of the Conference. The selection of this individual, however, is much more likely to be influenced by how firmly the nonaligned countries back their prime candidate than by any other factor.

Perhaps more than ever, the cost of the Extension Conference, together with its preparatory phase, is likely to be a major concern of many parties. With all UN languages now in play for the preparatory phase as well as the Conference itself, the cost of preparing documents will be significantly higher.

One of the main decisions will be how the Conference organizes itself to deal with consideration of the extension options. Will it be assigned to a

separate committee that will meet at the same time that the three review committees are carrying out their work, or will it start its work after the review process is complete? The latter approach could make it very difficult to stay within the four week limit, and could make the work on the extension question subject to being taken hostage by demands for a "successful" final declaration from the review process. However, working on the extension decision options in parallel with the regular review does not mean that the extension question would be immune from linkage with review issues and outcomes. As a practical matter, there is no real decisive advantage in keeping committee work on the review separate from committee work on the extension options. Working the two in tandem could help keep the conference within the agreed four weeks allotted.

### ***Realignment of Geographic and Political Groupings***

Since the 1990 Review Conference, there have been a number of significant changes in the world scene, and more changes may be in store before the 1995 Extension Conference. With the end of the Cold War, the demise of the Soviet Union, and the break-up of the Warsaw Pact, the concept of the East as an international group has virtually disappeared. The "old days" when a handful of key players and strong personalities within the three major groups (East, West, and nonaligned) would wheel and deal for all participants are over. The new Eastern European democracies have far more in common with Western Europe than with the nonaligned. Indeed, the very concept of the "nonaligned group," which is no longer able to play East against West, seems to be fading. Many of the more advanced countries in the former nonaligned movement, such as Argentina, Brazil, and Sweden, find now that Western positions tend to reflect many of the interests they have today better than the old polemic and anti-Western stances of the nonaligned. Lacking Russian recidivism, this trend is likely to continue in the years ahead leading up to the 1995 Extension Conference.

An attempt to reserve all of the leadership slots previously allocated to the Eastern Group for the new Eastern European democracies might well be challenged, particularly if the Eastern European countries are participating in the caucus of the Western Group. It is vitally important that the new Eastern European democracies, in general, and the newly independent states formed from the former Soviet Union, in particular, be made to feel that they have a major stake in the future of the NPT. In this regard, it will be important to avoid any diplomatic slights or any impression that the relative importance of any party or group of parties has been downgraded. The challenge in dealing with the issue of succession to the Eastern European leadership slots will be to avoid enshrining the concept of the old Warsaw Pact and at the same time making sure that the Eastern Europeans

perceive themselves as having a major diplomatic stake in the future of the NPT.

Groupings based on Cold War politics are becoming less viable and are being supplanted by subregional relationships formed to deal with specific issues or problems. For example, in South America, Brazil and Argentina have worked out bilateral measures between themselves to provide cooperation and transparency in the nuclear field. Other examples of subregional coalitions include the Nordic counties, the newly independent Baltic States, the European neutrals, the European Community, the countries of the Association of Southeast Asian Nations, and the North African states. The trend in subregional coalitions coming together on a common issue or set of issues may make it more difficult to negotiate language in a final declaration at the Extension Conference since these subregional groupings tend to have a much narrower focus that makes finding compromises and trade-offs using other issues difficult.

The trend of the nonaligned movement becoming more of a Developing Countries Group is likely to result in greater emphasis on economic assistance and peaceful uses cooperation in return for extending the NPT. Unhappily for these countries, the domestic economic stringencies in the United States, and those that many other Western Group members are also currently facing, make it unlikely that the more advanced NPT parties will be responsive to demands for increased economic assistance.

The United States will find it necessary to carry out extensive consultations prior to the 1995 Extension Conference, giving special attention to subregional issues and groups. The multitude of special interests and issues flowing from the trend in subregional groupings will create more "background noise" than those who have worked previous RevCons are used to hearing. This will place a premium on maintaining an accurate data base on views expressed by various countries and subregional groups, and on what United States officials said in return. This will place a burden on the individual assigned the role of NPT Coordinator, a role played by the U.S. Arms Control and Disarmament Agency Assistant Director for nonproliferation matters during previous NPT RevCons.

### *Expansion of the Western Group*

At the last two NPT RevCons, in 1985 and 1990, several European neutrals caucused with the Western Group on nonsecurity issues. These countries, including Finland, Austria, Sweden, and Switzerland, all are strong supporters of the nuclear nonproliferation regime, the NPT, IAEA safeguards, and effective nuclear export controls. In general, this discussion of nonsecurity issues was supportive of shared interests and helped to produce positive outcomes. It now appears that some of the Eastern

European democracies, and perhaps even Russia, now also would like to participate in the Western Group caucus.

Expanding the Western Group in the context of the NPT Extension Conference could be useful on nonsecurity issues. However, it will run the risk of restricting opportunities for prompt tactical consultations on important security issues. Also, an expanded Western Group might risk polarizing the parties, and the Extension Conference, into two groupings, more along North and South lines, or "haves" and "have nots." This would provide the group from the South with an opportunity to leverage the North for pledges of economic assistance in return for voting in favor of extending the NPT for a considerable period of time.

The main difficulty with an expanded Western Group is that it is more unwieldy. It will become a major production for all participating countries to speak on any given issue. At the same time, with the European Community caucusing separately on security matters to coordinate positions, the role once played by the Western Group is less central than it once was. It is almost certain that the Western Group will be expanded to include most, if not all of the Eastern European democracies along with the neutrals. The real question is whether to include countries formed from the former Soviet Union, and whether the United States should play a passive or active role in encouraging such participation.

### *Procedural Issues*

While many NPT parties lack the scientific establishments and experience to be effective players on some of the technical issues, *everyone* is an expert on organizational and procedural matters. The experience that has been gained from previous NPT RevCons, other arms control treaty RevCons, and international conferences provide a wealth of precedents and models for how to proceed in almost any given circumstance. However, in the case of the NPT Extension Conference, it is the treaty itself that specifies how the decision by the parties on extending the treaty will be taken. It is assumed that the "review" part of the conference will be carried out very much like previous RevCons have been, using the same rules of procedure in most instances. While it may not seem like it makes much difference, the purpose of good procedures is to avoid unnecessary disputes over routine matters, and to provide a "built-in" mechanism for resolving or disposing of difficulties that may arise.

Procedures that generate frequent disputes may be flawed. However, when parties are bound and determined to force an issue, good procedures may help to mitigate the results, but should not be expected to prevent determined combatants from "having at it."

### **Conclusion**

It is not possible to anticipate and plan for all of the events that might occur over the next two years that would have an impact on the NPT Extension Conference. There are bound to be some "wild cards" introduced into the game at some point. However, it will be important to think through the significance to the NPT of all major events as they occur and to address the new issues promptly.

At present, there is no reason not to expect a positive decision to be made on extending the NPT for a considerable period of time. However, the length of the extension is likely to depend on the confidence that parties have in their future security rather than on such issues as whether or not a comprehensive test ban treaty (CTBT) is in place.

A decision to extend the NPT for only a brief period of time will reduce the value to the treaty in the security calculations of its parties and would be almost certain to damage the regime. The longer the period of extension, the greater confidence parties will have in it. For the past year, the United States and a number of other countries have been promoting the notion of "indefinite extension." The prospect of keeping all of the current parties on board the treaty and reaching agreement on an indefinite extension seems remote at best and is probably not possible. First, it is highly unlikely that the Middle East peace settlement will be in place by 1995, and that Israel will be a party to the NPT. Lacking the peace settlement in place and Israel solidly in the regime as a non-nuclear-weapon state, the Arab states are not likely to buy an indefinite extension. Second, it seems unlikely on regional security grounds that either South Korea or Japan would be ready to endorse an indefinite extension if North Korea persists in thumbing its nose at the treaty. North Korea will have to recommit itself to the NPT, give up its nuclear weapons program, and provide sufficient transparency through IAEA safeguards to resolve these regional proliferation concerns. Third, if either Kazakhstan or Ukraine, or both, remain outside the NPT regime and have moved to take direct control over the nuclear weapons that are currently on their respective territories, even some of our European friends may be far less interested in an indefinite extension that they may seem at present.

In sum, the United States should be flexible in its approach to extending the NPT. The basic United States interest is in preserving the NPT, and there are many roads to get there without rigidly tying oneself to one particular extension outcome. In a world changing as rapidly as ours is today, extending the treaty for another twenty-five year period, with the option to extend it for additional periods, is just as satisfactory an outcome as an indefinite extension, and probably a far more attainable "goal."

Some parties, or groups, may seek to set certain conditions that must be met, such as entry into force of a CTBT with all of the NPT nuclear weapons states as parties, in order for a longer term extension of the NPT to enter into effect. As in past RevCons, it would be best to set aside conditions for extending the treaty or amendments to it in the context of the 1995 Extension and Review Conference. In the end, it is the security value of the NPT and its ability to facilitate peaceful nuclear commerce and technical assistance that make it worthwhile for each individual party. It is, after all, a reflection of a set of the self-interests of many different countries. Even with the challenges that it has faced in recent years, and will continue to face, it still represents a very successful undertaking among nations that agree the further spread of nuclear weapons is not in the best interest of the international community.

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## North Korea's Nuclear Gambits

*Peter Hayes\**

The Korean nuclear proliferation dynamic is as complex as it is intractable. Only North Korea's top leader, Kim Il Sung, knows whether North Korea is committed to developing nuclear weapons. Indeed, the bewildering gyrations in North Korea's nuclear policies over the last few years suggest even he may not know exactly what the North is trying to achieve by challenging the Nuclear Non-Proliferation Treaty (NPT). Kim's regime is threatened with collapse by the hardships endured by the northern population; by the technological obsolescence of the North Korean economy; and by the subversive effects of information that stimulates desires for change among some members of the ruling elite. There may be no solution to Kim's dilemmas, and his enigmatic nuclear strategy may even exacerbate threats to the survival of his regime.

The irony of the Korean nuclear standoff is that South Korea depends on the survival of the Kim Il Sung regime in North Korea. Otherwise, the South might be flooded by twenty million poor northern relatives heading south. In turn, Kim Il Sung needs a minimal level of South Korean aid—especially rice—to survive.

In the medium term, South Korea expects to inherit whatever nuclear capabilities the North develops when unification occurs or the North collapses. Like North Korea, South Korea is greatly concerned about Japan's plutonium stockpile, and is determined to match Japan's capabilities and activities in the nuclear fuel cycle. Although South Korea also has capabilities to arm itself with nuclear weapons (by the year 2000, South Korea will have about 24 tonnes of plutonium stored in spent fuel, or recycled in metallic form), it would be easier diplomatically to "inherit" the weapons from the North.

Assuming that Korea is reunified by the year 2000, it still would not be a regional great power compared to the economic and military might of

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Japan or China. Only by obtaining nuclear weapons could Korea “leapfrog” into regional great power status. Unfortunately, therefore, the medium-term proliferation incentives facing a Korea reunified on Seoul’s terms (as is highly likely) are quite strong.

North Korea’s nuclear strategy remains relatively opaque, and the ability of the United States to predict its future behavior is hampered by limited interactions with the North Korean government. Only one American official has visited Pyongyang since the Korean War. He did so last year accompanying Senator Bob Smith of New Hampshire on a humanitarian MIA mission and did not discuss substantive issues relating to nuclear matters. US talks with North Korea have been at the level of middle and senior diplomats, individuals who are not the key decision-makers in Pyongyang. Thus, policy options dealing with North Korea must anticipate a very wide range of possible outcomes.

North Korea has not yet decided to build and deploy nuclear weapons. This notion is supported by the fact that American decision-makers with access to classified information apparently have concluded that North Korea may be persuaded to abandon its alleged nuclear weapons program. If US Government officials had definitive intelligence to the contrary, they would not pursue a diplomatic course premised on the notion that North Korea may yet fulfill its NPT obligations. Although it is conceivable that the United States has determined that North Korea has already made nuclear weapons and is currently trying to convince the North Koreans to destroy their weapons and their nuclear program, this thesis seems improbable in light of the structure of North Korea’s fundamental strategic interests (not to mention Washington’s propensity to leak such important information). A state armed with only a few nuclear weapons and without a retaliatory and secure second-strike force cannot survive a confrontation with a nuclear superpower like the United States. Using, or even deploying, a few nuclear weapons would invite military preemption and would increase North Korea’s vulnerability to external attack—a fact well-understood by North Korea’s military command.<sup>1</sup>

### **The Nuclear Issue and North Korean Politics**

One view of North Korea is that it has no samizdat, no cautious dissenters, no flow of information from the world outside its borders. Many officials are true ideological clones committed to the party, but many disagree with the policies of the Kim regime. Large numbers of North Koreans—some of whom are in government bureaucracies and in the military—do not actively oppose the Kim regime, but are undoubtedly alienated and apathetic toward its survival.<sup>2</sup> Furthermore, they are fairly well-informed. Many senior North Koreans have studied overseas, travel,

speak two or three languages, have short-wave radios, read and interact with foreigners, and are relatively open-minded. Some of these well-informed potential opponents of the ruling regime are in the crucial layer of North Korean officialdom just below Kim Il Sung (the Great Leader), his son Kim Jong Il (the Dear Leader), and a small number of key decision-makers. Given the right circumstances, these pragmatists are ready to support reforms.

Rapid change at the top of the regime will almost certainly originate from a rupture among top officials rather than being forced upon it from below.<sup>3</sup> There is no evidence in North Korea of mass cynicism about privilege and corruption of the kind that led to the collapse of the Soviet system. Many people still believe the mythic ideologies propagated by the regime. The theorists who predicted the catastrophic collapse of North Korea are wrong. Indeed, three years have elapsed already since Aidan Foster-Carter announced in 1991 that North Korea would not exist by 1995.<sup>4</sup> It seems much more likely that Kim Jong Il will last for a long time—as predicted by Byung Chul Koh.<sup>5</sup>

The highly centralized governmental system created by the Kim clique may be very resilient and could possibly rearrange itself quickly around a new alignment of the tiny elite. When the elder Kim dies, the new regime in the North is likely to keep Kim Jong Il as titular head of state for purposes of symbolic continuity. The likely leaders of such a takeover, whether by putsch or by the passage of time, have studied carefully the pros and cons of what happened to the former Soviet Union and China. They will implement minimalist reforms by relaxing in one area while simultaneously contracting in another area (for example, by allowing some privately owned service industries to emerge but tightening controls over corruption). In short, there *are* political struggles over many matters of state, including the nuclear issue, in P'yongyang but only at the very top.

The state ruling apparatus, while extremely oppressive, is not monolithic and has substantial elasticity and adaptability. Far from being rigid, ossified, and embattled, the ruling elite in North Korea is confident that it has the stamina and ability to exercise power for the foreseeable future and sees opportunities to enhance survival prospects in the coming years. The elite expects to outlast this American presidency, as it has every presidency since 1948. It is a mistake to underestimate North Korea's staying power even in the face of American resolve and international opinion against its nuclear stance.

The ruling Kims used the NPT issue in late 1992 to unify the country. They did so to assert their clique's decisive authority over conservatives in the party and government bureaucracies, and to quell resistance to economic reform policies, which they are said to favor at the margin (although this stratagem required putting reform on hold for the immediate future).

Another reason a unifying incident was needed was to help overcome foreign policy difficulties. The younger Kim, the Dear Leader, may lack confidence on foreign policy issues as symbolized by his unwillingness to meet with foreign press. He may also be desperate for external support because North Korea's implementation of its International Atomic Energy Agency (IAEA) and NPT obligations has not realized the anticipated improvement of North Korea's external relations. Indeed, North Koreans hold strongly that China betrayed them when it recognized the South without ensuring recognition of the North by the United States and Japan. However, throwing down the gauntlet to the whole international community is not exactly what one would expect from someone who lacks confidence. Rather, it seems a risky, but certainly decisive action designed to retrieve a desperate situation for the Kim clique. Kim Il Sung's vision is the rudder steering the North's nuclear strategy, however unsteady Kim Jong Il's hand may be on the tiller.

The ruling Kim clique has already squeezed out of the nuclear issue most of what can be gained in terms of reasserting its domestic authority and by engaging the United States in a show of foreign policy strength and confidence. If North Korea's NPT challenge delivers significant external economic and political support, then the two Kims may be willing to set aside nuclear ambitions. However, it seems unlikely that they will do so before being certain that such benefits will materialize.

### **The Nuclear Issue as Leverage**

North Korea seeks assurance that it will not be crushed by military means or by gradual erosion of political autonomy. It also seeks to normalize political and economic relations with industrial countries, above all, the United States. Objectives include trade and investment from the West, reparations from Japan, and aid from the South. However, North Korea does not want these economic benefits to accrue too quickly. Not only does North Korea have a limited institutional capacity to absorb the effects of these changes, but the information flow associated with external trade and investment could destabilize the polity by making people aware of their relative deprivation. When too much of a good thing may be worse than too little, it is very difficult for the West to design a package of inducements that might bring North Korea to abandon its nuclear weapons program.

In June 1993, United States and North Korean representatives met in New York to discuss the nuclear impasse. At these New York talks, the North Korean delegation raised the issue of shifting to light-water reactors instead of indigenous gas-cooled, graphite-moderated reactors. In response, American negotiators indicated that the United States might be supportive because light-water reactor technology is less proliferation-prone. But the

Americans suggested that the appropriate avenue to pursue this option is with South Korea or Russia (which has already agreed to supply four such reactors when the North complies with its NPT obligations and finds a way to pay for them).

The joint US–North Korean statement on June 11, 1993, simply kicked the can into the future on all the hard issues relating to North Korea's threatened withdrawal from the NPT. The statement reaffirmed both the North Korean and US commitment to achieving full-scope safeguards, non-use of force including nuclear weapons in Korea, and the peaceful reunification of Korea.<sup>6</sup> Thus, the joint statement simply restated the issues and permitted the dialogue to continue in Geneva. The most that the talks achieved was to define an off-the-record set of mutually dependent "contingent concessions," that is, a tentative list of what each party might do at some time in the future depending on the other's actions. No commitments were made other than to continue talking.

The result of the US–North Korean talks in Geneva on July 14–19, 1993, was "strike two" for Pyongyang. Instead of attacking the "erroneous" US policy on Korea as the source of the nuclear problem, North Korea asserted it had adopted inferior nuclear technology out of necessity and due to isolation. It proposed again that the United States provide light-water reactor technology. This signaled North Korea's willingness—at least in principle—to save face by trading opposition to the NPT for technology.

North Korea's price for compliance implicitly includes the United States removal of legal impediments to US firms trading with and investing in North Korea. The North can well afford to make this demand because it knows that it is impossible to overcome all the obstacles to effecting such a technology transfer (which include Coordinating Committee Export Controls and US legislation on trading with enemy and terrorist states) in a time frame that is meaningful to resolve the nuclear standoff.

The future of the talks will be largely determined by whether the North Koreans fulfill their commitment in Geneva to enter into bona fide discussions with the IAEA to resolve the discrepancies that led to its confrontation with the Agency in the first place. Most important is whether the North Koreans allow the core of the 5-MW research reactor to be sampled before the fuel loading is changed. This step was due in February 1993 and has been delayed ever since by North Korea. However, the North Koreans have no in-principle objection to this inspection as they had agreed to it before they complained that the IAEA was not impartial in relation to North Korea. Allowing the research reactor fuel to be sampled may cast light on the discrepancies between the North Korean operating records for the reactor given to the IAEA in 1992, and the nuclear waste samples taken by IAEA inspectors.

A sample may confirm these discrepancies and increase the resolve of the international community to act on the North Korean nuclear program. Alternatively, allowing sampling to proceed before the fuel change would indicate North Korean intent to resolve the issue, thereby building confidence with respect to future behavior, even if the analysis confirms past suspicions.

It is also faintly possible that the core sample would confirm North Korea's operating records and show the "discrepancies" to be in error. If so, then allowing the sample to be taken would resolve the issue—and devalue North Korea's implicit threat to withdraw from the NPT.

Thus, the reactor inspection encapsulates all the larger issues of nuclear cooperation or confrontation that are at stake in the standoff. If the above analysis is correct, then the North will attempt to string out the reactor core issue as long as possible to maintain ambiguity with respect to their ultimate intentions and maximize their bargaining leverage with respect to both Washington and Seoul. Put simply, North Korea has almost no options today except delay, which may provide some options in the future.

It will take at least a month, possibly two, for the United States, South Korea, and the IAEA to negotiate access to the core for the IAEA inspectors. It will take some time for the core samples to be extracted; and between two and six months for a definitive analysis to be conducted by the IAEA. In all, the North Koreans may think that they have at least six months of breathing space due to the reactor core inspection. Until information from the sampling is available, they may also expect the United States to sit on its hands and reserve its options.

On the basis of North Korea's stance at the second round of high level talks in New York, it was logical to expect that the major action on resolving the special inspections issue would move to the North-South talks. Indeed, the North Koreans insisted in New York that the way to resolve the special inspections issue was in the context of the bilateral denuclearization agreement and related inspection arrangements—a stand that the United States applauded, albeit skeptically.

As of early July 1993, the North pulled back from opening this channel and dropped this line of argument in Geneva. However, this is likely a tactical maneuver. If the two Koreas do enter into talks as agreed to in Geneva, the North Koreans may propose a North-South inspectorate to South Korea that would involve the IAEA in a noninspection capacity such as observers—as occurs in EURATOM, the European regional nuclear safeguards inspectorate. Although North-South talks will be held soon, little progress can be expected before September 1993.

As head of the North Korean Supreme People's Assembly Policy Committee on Reunification, Kim Yong Sun would negotiate the terms of the final solution to the nuclear issue, should one emerge, in the context of

North–South relations. A pragmatic realist, Kim may be more amenable to practical arrangements that will satisfy all parties to the nuclear issue in Korea than the conservatives in the Ministry of Foreign Affairs who have implemented Pyongyang's NPT stratagem to date.

The next round of high level talks with the United States may be North Korea's last chance to cash in its nuclear card for something that might enhance the survival prospects of the North Korean political elite. Given the range of views that exist in Pyongyang, North Korea might pursue one of the two following strategies in the forthcoming high level talks with the United States to salvage something from the debacle caused by its decision to withdraw from the Non-Proliferation Treaty.

*Strategy 1:* If the pragmatists in Pyongyang are able to shape North Korea's posture, they will likely seek to rescind the suspended NPT withdrawal and allow limited IAEA routine inspections. They may also delay the inspection of the research reactor core to maintain ambiguity about past extraction of plutonium while they negotiate on other issues. They would not change the reactor fuel without an inspection in order to revive some confidence as to North Korea's intentions. Finally, they will try to define a face-saving formula to resolve the discrepancies and special inspections issue in a way that is acceptable to the IAEA and the United States. This approach would be along the lines of a North–South inspectorate referred to earlier.

*Strategy 2:* If the conservatives and hard-liners on the nuclear issue associated with the Ministry of Foreign Affairs set the North Korean agenda, they will push to reactivate the NPT withdrawal, partly because this helps to sustain the domestic deep freeze on pragmatic reform. At the same time, they may allow IAEA inspections to continue, even to the extent of allowing the research reactor core to be inspected because not doing so would exacerbate external suspicions and distrust of North Korea.

That North Korean workers were again building the reprocessing plant in May 1993 even as they allowed IAEA officials to check monitoring equipment indicates that the two Kims are keeping open the hard-line nuclear option even as they negotiate. The fact that the North–South channel was put on hold after the June talks may also indicate that conservatives have gained the upper hand. The North Korean insistence after the Geneva talks that light-water reactor technology be transferred to them before they comply with their obligations also indicates that the conservative policy currently has the upper hand in Pyongyang. Alternatively, the Kim clique may not have decided which way to tilt, and may find that a conservative drift is the best way to keep everyone off balance for the moment.

If the nuclear issue is not resolved soon, the United States probably will move to impose sanctions. The first steps will be to press the Chinese for

support and to revive the issue in the UN Security Council. With or without UN Security Council support, the G7 group could tighten the net on technology transfer to the North. If this step fails to move North Korea, then the United States might implement a naval blockade on North Korean arms exports, especially its missiles, thereby striking directly at the foreign exchange earnings of the North Korean military.

For its part, North Korea will not give up its nuclear option without realizing substantial and tangible gains. It will demand these concessions from the United States up front now rather than later.

These two sets of contrary imperatives mean that the nuclear issue cannot be solved quickly. The North cannot wait much longer to cash in its nuclear card. Although the military value of the North's nuclear option increases with time, its value as a negotiating lever will diminish if the US–North Korean dialogue drags out interminably. Soon the two Kims must determine which of two strategies they will adopt—that leading to nuclear arms and confrontation, or that ending with disarmament and reconciliation.

### Notes

1. On the basis of the author's discussions with Major General Kim Yong Chol, Director General Staff Committee, North Korean Ministry of Defense, in September 1991, and with other senior North Korean officials in subsequent visits to Pyongyang in 1992 and 1993.

2. By one estimate, at least 21% of the adult population in North Korea were politically unreliable persons in 1974, being former collaborators (or relatives thereof) with Japanese or UN forces during the Korean War; former "class enemies" such as capitalists or landlords; former southerners and therefore suspect; kin of persons purged over the decades by the Kim clique; or ex-convicts. See US Army Special Research Detachment, *North Korean Paramilitary Reserve Forces*, Annex C-2, January 1975.

3. Dae-Sook Suh, "The Prospects for Change in North Korea," *Korea and World Affairs*, Vol. 27, No. 1, Spring 1993, p. 9.

4. A. Foster Carter, "Making Sense of North Korea: The Usefulness of Habermas," paper to the 1st International Conference, Research Institute for National Unification, Seoul, October 28, 1991, p. 17.

5. Byung Chul Koh, "Political Succession in North Korea: Problems and Prospects," paper to the 1st International Conference, Research Institute for National Unification, Seoul, October 28, 1991, pp. 19–20.

6. Reuters, "Text of North Korean–US Nuclear Statement," June 11, 1993.

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