



CHAPTER TWO: CORE CONCEPTS AND KEY ACTIONS

What Universal Compliance Means

The new strategic aim of nonproliferation policy should be to achieve *universal compliance* with the norms and rules of a *toughened* nuclear nonproliferation regime.

Compliance means more than signatures on treaties, or declarations of good intent—it means actual performance. *Universal* means that all actors must comply with the norms and rules that apply to them. This includes states that have not joined the NPT, as well as those that have. It also includes nonstate actors—corporations and individuals. The burden of compliance extends not only to states obtaining nuclear weapon capabilities through dual-use fuel cycle programs or those abetting proliferation through technology transfers; it applies equally to nuclear weapon states that are failing to honor their own nonproliferation pledges.

Emphasis on compliance engenders controversy, especially when coming from Americans. Many European and developing-country commentators on the draft of the present document argued that “compliance” evokes images of the United States acting as a “rogue cop,” knocking down the walls and violating the sovereignty of other states without authorization of legitimating institutions, particularly the UN Security Council. Reacting to the Iraq experience, many commentators seemed to fear the exertion of U.S. power more than the failure of the nonproliferation regime due to lack of enforcement.

This sentiment is sobering, and should neither be ignored nor indulged. The proliferation of nuclear weapons poses such grave threats to international peace and security that rules and enforcement must be strengthened. National sovereignty remains vitally important, but as actors within state boundaries acquire the capability to threaten large numbers of their neighbors or even distant populations, the international community's obligation to prevent such threats necessarily expands. As destructive technologies evolve and the reach of nonstate actors grows, the balance between national sovereignty and international security imperatives must evolve, too. Understandably, developing countries that have only recently wrested sovereignty from colonial masters are especially reluctant to accept the notion that certain global standards must be enforceable across sovereign borders. The challenge is to reassure states that the rules and their enforcement are judicious, fair, and balanced, not a new form of colonialism. The United States, as the power that others increasingly seek to constrain, must take especial care to persuade others that it acts fairly and judiciously, and that enforcement of the rules applies to it, also. International institutions serve this legitimating function, which is one reason to support and strengthen them.

The UN Security Council is the critical international body—the one with the clearest authority to order law enforcement action. The United States will have to work harder to build the necessary will and capacity among Security Council member states, and should accept that this in turn will require greater accommodation of others' priorities and concerns. Complicating this challenge, the Permanent Five (P-5) members of the Security Council may as a group face a legitimacy deficit when it comes to enforcing nuclear nonproliferation. Not only do these five

states possess nuclear arsenals and evince little genuine interest in fulfilling their commitments to dismantle them, their own track records betray varying degrees of imperfect adherence to nonproliferation norms and rules. The P-5 are seen as the chief enforcers *and* the most advantaged beneficiaries of the nuclear nonproliferation regime. *To sustain—much less strengthen—the regime, this “advantaged” minority must ensure that the majority sees it as beneficial and fair. The only way to achieve this is to enforce compliance universally, not selectively, including the obligations the nuclear states have taken on themselves.*

Most notably, these obligations were spelled out as “thirteen steps” and explicitly accepted by the nuclear weapon states at the 2000 NPT Review Conference (see “The Thirteen Steps,” page 151.) While commitments may be renegotiated for changed circumstances, there is no way to dance around or disown them as having been made by a prior administration—as American and French officials have suggested. If governments made commitments such as these binding only on their own administrations and not on their successors, no international undertaking would have a shred of meaning.

Universal compliance therefore seeks to achieve a *balance of obligations*. Its component policies correct the impression that nuclear weapon states are getting much more out of the nonproliferation regime than are others. The name of the strategy is both a reminder of the goal and a guide to ensure that each tactical step helps build a system to which all states commit and contribute.

Finally, universal compliance extends the principle of *defense in depth* that has shaped the nonproliferation regime for decades. Thus, the NPT commitment not to acquire nuclear weapons has been reinforced over the years with regional nuclear-free zones,

export controls, test bans, military action, and a variety of other technological and legal measures. Redundancy—overlapping measures and fallback options—is a key to success. Defense in depth is further strengthened by employing all of the state’s tools—diplomatic and technical, financial and political, coercive and attractive. For example, the EU has conditioned its future trade agreements on compliance with nonproliferation norms: a valuable model for others. Finally, defense in depth requires extending the regime’s compass beyond states to individuals and the corporate sector. A number of business sectors—banking, finance, certain manufacturers, as well as the nuclear industry itself—have key roles to play. Multiple lines of defense offer the best protection against breakouts from proliferation restraints, and enable the regime to survive the failure of any one instrument.

The Six Obligations

Six obligations form the core of the universal compliance strategy. Each requires many subsidiary policy changes, resources, and institutional reforms. Some of the necessary steps depend on new national or international laws or voluntary standards, while others require only the will to live up to existing commitments. Of the nearly one hundred recommendations in the present volume, twenty are highlighted here as the top priorities. They are a combination of the steps with high impact that are achievable in the near term and those that will take longer but would be truly transformative.

OBLIGATION ONE: Make Nonproliferation Irreversible. The nonproliferation regime must be adapted to changed conditions by making its fundamental bargains meaningfully enforceable and irreversible. International rules managing the production and distribution of nuclear weapon-usable materials need to be revised and the terms by which states can withdraw from the NPT need to be clarified and tightened.

Because facilities to enrich uranium and separate plutonium have inherent weapons potential that cannot be prevented by international safeguards, **the acquisition of enrichment and reprocessing plants by additional states should be precluded.** **In return,** the United States and other states that currently possess such facilities must **provide internationally guaranteed, economically attractive supplies of the fuel and services** necessary to meet nuclear energy demands. This bargain would greatly augment the reliability and permanence of states' commitments to forgo nuclear weapons (see p. 91).

Obtaining global acceptance of this new norm will be unlikely, however, so long as existing facilities continue to add to the global oversupply of HEU and plutonium. **States should therefore agree to end the production of HEU and to adopt a temporary “pause” in the separation of plutonium** (see p. 97).

Countries must also be discouraged from building up the capability to produce nuclear weapons through international cooperation made possible by treaty membership, and then, having achieved that aim, leaving the treaty without penalty. The **UN Security Council** should pass a new **resolution making a state that withdraws from the NPT nonetheless responsible for violations** committed while it was still a party to the treaty. The

Security Council should also **bar states that withdraw from the treaty**—whether in violation of its terms or not—**from legally using nuclear assets** acquired internationally before their withdrawal. All states should agree to **suspend nuclear cooperation with countries that the IAEA cannot certify** are in full compliance with their nuclear nonproliferation obligations* (see pp. 55–56).

OBLIGATION TWO: Devalue the Political and Military Currency of Nuclear Weapons. All states must diminish the role of nuclear weapons in security policies and international politics. The nuclear weapon states must do more to make their nonproliferation commitments irreversible, especially through the steady verified dismantlement of nuclear arsenals.

To comply with commitments made in 1968 and explicitly reaffirmed in 1995 and 2000, the United States, Russia, China, France, and the United Kingdom must **disavow the development of any new types of nuclear weapons, reaffirm the current moratorium on nuclear weapon testing, and ratify the Comprehensive Test Ban Treaty.**¹¹ To reduce the risk of inadvertent nuclear war or a renewed arms race, the United States and Russia should **lengthen the time decision makers would**

* The world does not have a representative institution for establishing a global rule on nuclear technology. The suppliers' cartel approach in the form suggested by President Bush in his speech of February 11, 2004, meets intense resistance. IAEA Director General ElBaradei has established an Experts Group to explore ways to multinationalize uranium enrichment and plutonium reprocessing facilities, but neither this group nor the IAEA can establish binding rules. The Experts Group or an outgrowth of it could, however, make a recommendation to the UN Security Council. NPT parties meeting in a review conference could agree on new rules, though a way would have to be found to include India, Israel, and Pakistan in the process.

have before deciding to launch nuclear weapons, and should make nuclear weapon reductions, such as those required under the Strategic Arms Reduction Treaty of 2002 (Treaty of Moscow), irreversible and verifiable (see pp. 134–149). As described more fully under obligation 6 and in “Implementing the Three-State Solution,” page 45, India, Pakistan, and Israel should accept similar obligations.

The core bargain of the NPT, and of global nonproliferation politics, can neither be ignored nor wished away. It underpins the international security system and shapes the expectations of citizens and leaders around the world. On the other hand, it remains unclear whether thousands of nuclear weapons and uncounted thousands of tons of fissile materials can be verifiably decommissioned and secured in ways that would make the world safer and more stable. Only the United Kingdom has begun to analyze the steps that would be necessary to achieve mutual and verifiable nuclear disarmament.¹² The United States and all other states with nuclear weapons should go further and **produce a detailed road map of the technical and institutional steps they would have to take to verifiably eliminate their nuclear arsenals**. By defining the level of transparency and accounting accuracy necessary to verify elimination of all nuclear weapons, this process would begin to illuminate whether total disarmament is actually feasible, and if it is not, what alternative actions would fulfill the nuclear weapon states’ obligations under the NPT (see p. 154).

OBLIGATION THREE: Secure All Nuclear Materials. All states must maintain robust standards for securing, monitoring, and accounting for all fissile materials in any form. Such mechanisms are necessary both to prevent nuclear terrorism and to create the potential for secure nuclear disarmament.

Acquiring nuclear materials—whether by making, buying, or stealing them—is the single most difficult step for terrorists, as it is for states seeking nuclear weapons. Therefore, the security of nuclear stockpiles—wherever they are—is as vital an element of defense as any weapons system. The United States should therefore encourage formation of a high-level **“Contact Group to Prevent Nuclear Terrorism” to establish a new global standard for protecting weapons, materials, and facilities.** All members would be pressed to uphold these standards and arrange for assistance to those that need technical or financial help to achieve them. In addition, **the United States, Russia, and their partners should vigorously identify, secure, and remove nuclear materials from all vulnerable sites within four years**—an accelerated “Global Cleanout” (see pp. 87–89).

OBLIGATION FOUR: Stop Illegal Transfers. States must establish enforceable prohibitions against efforts by individuals, corporations, and states to assist others in secretly acquiring the technology, material, and know-how needed to develop nuclear weapons.

Nonproliferation norms and rules must be universal—applying equally to nonstate actors and to all states. The Security Council took a vital step in this direction by passing Resolution 1540 in April 2004. **All states should now establish and enforce national legislation to secure nuclear materials, strengthen export controls, and criminalize illicit trade, as this resolution requires.** Because Resolution 1540’s obligations are framed under Chapter VII of the UN Charter, they are obligatory and warrant all necessary means to ensure compliance (see pp. 116–118).

To help enforce the laws adopted under the resolution, nations need to strengthen international mechanisms to guide exchanges

of sensitive equipment, material, and know-how. **The IAEA's Additional Protocol should be mandatory for all states, and the members of the Nuclear Suppliers Group should make it a condition of supply to all their transfers** (see p. 120). All states should work to provide international inspection regimes with a strong mandate and sufficient budgets and resources, and should strive to build the will to punish noncompliance. Members of the **Nuclear Suppliers Group should expand their voluntary data sharing with the IAEA and make it obligatory for transfer of all controlled items** (see pp. 119–120). Undeclared exchanges would then be illegal on their face, while declared exchanges would be conducted under existing export control and customs regulations. **Going further, corporations should back up these policies with voluntary actions to block trade, loan, and investment activity with those illegally seeking nuclear capabilities** (see p. 57). **The Proliferation Security Initiative should be grounded in international law and widened** to cover international waterways and airspace, as do international agreements on piracy, hijacking, and slavery (see p. 124).

OBLIGATION FIVE: Commit to Conflict Resolution. States that possess nuclear weapons must use their leadership to resolve regional conflicts that compel or excuse some states' pursuit of security by means of nuclear, biological, or chemical weapons.

Because the use of nuclear weapons could result in staggering casualties and global disorder, states that possess these weapons—including India, Pakistan, Israel, and possibly North Korea—have a special obligation to ensure that they are not used and do not spread. **The major powers must concentrate their diplomatic influence on diffusing the conflicts that underlie these**

and possibly other nations' determination to possess nuclear weapons. These conflicts are triggers of potential nuclear use (see p. 132).

Separate sections of this report detail the urgent steps required to address nuclear threats in the Middle East, South Asia, and Northeast Asia. However, it must be emphasized that preventing the use of nuclear weapons and reversing proliferation in these regions is not just a nonproliferation challenge. Arms control experts, nonproliferation inspectors, and nuclear scientists cannot solve these problems; national leaders must devote their energies and resources to resolving key regional security dilemmas and supporting the political reforms necessary to remove the perceived need for nuclear weapons. Averting a nuclear and missile arms race between India and Pakistan, for example, requires progress in normalizing these two states' overall relationship, particularly concerning Kashmir. Achieving a zone free of weapons of mass destruction in the Middle East will require normalization of relations between Israel and other regional states and entities, which in turn will require a cessation of terrorism and a just settlement of the Israeli-Palestinian conflict (see pp. 159–190).

OBLIGATION SIX: Solve the Three-State Problem. The unrealistic demand that India, Israel, and Pakistan (which never signed the NPT, and hence did not violate it in acquiring nuclear weapons) give up their weapons and join the NPT as non-nuclear states should be put aside. Instead, a policy should be pursued that focuses on persuading these three states to accept the same nonproliferation obligations accepted by the weapon state signatories. The three states should not be rewarded with trade in nuclear power reactors, but should receive cooperation to strengthen nuclear material security and reactor safety.

The universal compliance strategy offers a constructive way out of the dilemma posed by the anomalous nonproliferation status of India, Pakistan, and Israel—the so-called three-state problem. India and Pakistan have demonstrated their possession of nuclear weapons. They are now pressing for the removal of technology embargoes applied to them as sanction for crossing the nuclear threshold. Israel does not confirm or deny its nuclear status, but its widely recognized possession of nuclear weapons causes turmoil within the nonproliferation regime. Yet each of these states has committed itself to preventing further proliferation. As a result, for many years supporters of nonproliferation have been suspended between the unrealistic hope that these countries will reverse their nuclear status and the unappetizing prospect of accepting them as new full-fledged nuclear weapon states in order to bring them into the nonproliferation regime. The result has been little movement in either direction.

Under the universal compliance strategy, the United States and others would end this state of suspension by **dropping the demand that India, Israel, and Pakistan give up their nuclear weapons absent durable peace in their respective regions and progress toward global disarmament.** Diplomacy would focus instead on **persuading the three states to accept all of the nonproliferation obligations** accepted by the five original nuclear weapon states, which they are not now committed to do.¹³ The three states would agree, for example, to follow the highest global standards for preventing proliferation exports and securing nuclear weapons and materials, to reduce the role of nuclear weapons in their national security policies, and to eschew nuclear testing. If they failed to comply, they would be subject to the same sorts of sanctions and political pressures that others—including

China and Russia—have faced over their past transgressions of nonproliferation rules.

The goal of persuading India, Israel, and Pakistan to abandon nuclear weapons would not be dropped; rather these three states would be expected to eliminate their nuclear arsenals as and when the United States, China, France, Russia, and the United Kingdom eliminate theirs. This formulation recognizes the reality that Pakistan will not give up its weapons if India does not do the same, that India will not disarm if China does not, and that China will not if the United States and Russia do not. The challenges of nonproliferation and nuclear disarmament are linked; the energy devoted to pressing India, Israel, and Pakistan to disarm as a subgroup will not yield results absent major progress by the established nuclear weapon states in creating the conditions for eliminating their own nuclear arsenals (see below and pp. 159–169).

The present strategy document has been written by an American-based organization, so many recommendations highlight steps the United States should take. Yet many policy recommendations here emphasize Security Council actions, and still more highlight the specific steps that the other nuclear weapon states—Russia, China, the United Kingdom, and France—should take. The universal compliance strategy acknowledges, for example, that the imbalance of power between Russia and the United States drives Russian policy makers to increase reliance on nuclear weapons. Working with the United States and other partners, Russia should devise ways to reverse this trend. Another step critical to international success is for China to overcome its reluctance to use the Security Council as an enforcer of international nonproliferation rules, even at the risk of setting a

precedent that could limit Beijing's freedom of action in other spheres. The members of the EU also have a greater-than-average responsibility to back up their rhetorically admirable nonproliferation strategy with deeds, especially a willingness to use force when diplomacy fails.

All countries with manufacturers or distributors of technology useful in producing nuclear weapons must contribute energetically to measures recommended here to block transfers of technology, material, and know-how for nuclear weapons. As important members of the international community, India, Israel, and Pakistan are not absolved of responsibility to protect against proliferation, and this strategy document suggests many ways in which these three countries can do more. In short, the policies recommended here are *international*, reflecting both the security interests and the responsibilities of a large number of states whose vigilance will determine whether or not the world experiences the horror of nuclear conflagration.

IMPLEMENTING THE THREE-STATE SOLUTION

Dealing with the reality that India, Israel, and Pakistan possess nuclear weapons does not mean rewarding these three states with new nuclear reactors, as India and, more recently, Pakistan have sought. The United States and others would continue to observe the Nuclear Suppliers Group agreement of 1992 barring reactor sales to recipients operating nuclear facilities that are not under international safeguards.^a This restriction on nuclear

Continued on page 46

IMPLEMENTING THE THREE-STATE SOLUTION (continued)

commerce is not a punishment, but a necessary means of upholding the incentives that reward other states for complying with their obligation not to acquire nuclear weapons.

While India, Pakistan, and Israel will not find it easy to embrace the universal compliance strategy, it enables the three states to contribute constructively to international security without accepting obligations greater or less than those borne by the original nuclear weapon states. In return for explicitly shouldering the obligations of responsible international citizenship, India, Pakistan, and Israel would gain relief from unproductive, ritualistic hectoring or possible coercion to eliminate their nuclear arsenals before others do. And by providing these three states the opportunity to become members of the regime rather than outsiders, the arrangement offers them the chance to become leaders of the international effort and to help steer its future course.

In discussions of the draft of this strategy, some experts in India, Israel, and Pakistan argued that their states should receive additional formal benefits in return for the nonproliferation commitments they would make. Indians, particularly, argued that UN Security Council Resolution 1172, which was passed in June 1998 following the Indian and Pakistani nuclear tests, should be withdrawn. This resolution condemned the South Asian nuclear tests and, among other things, urged “India and Pakistan, and all other States that have not yet done so,” to sign the NPT. Some commentators in Egypt, Germany, and other states without nuclear weapons pointedly argued against

Continued on page 47

IMPLEMENTING THE THREE-STATE SOLUTION (continued)

any formal slackening of pressure on India, Israel, and Pakistan to sign the NPT as non-nuclear-weapon states.

On balance, the most realistically constructive option may be to fashion a new, superseding Security Council resolution that would formally welcome explicit commitments by the three states to forgo nuclear explosive tests, to implement and enforce comprehensive national laws barring sensitive exports, to adopt state-of-the-art technologies and practices to secure all nuclear materials, to participate constructively in Conference on Disarmament negotiations to ban production of fissile material for nuclear weapons or other nuclear explosive purposes, to refrain from increasing the declared and undeclared role of nuclear weapons in their national security policies, and to commit to the peaceful resolution of conflicts. Each of these policies is called for in Security Council Resolution 1172; a new resolution's binding of the three states to these obligations would be a significant enough gain for international security to warrant agreement that it supersedes Resolution 1172, whose more ambitious aim is highly unlikely to be achieved.^b

India may want additional benefits, but this desire flows from an anachronistic belief that the world somehow owes something to states with nuclear weapons. Today, obligations flow the other way. States possessing nuclear weapons should be judged by their contribution to the global interest in preventing the spread and use of these devices. The way for India to gain a larger international role is to demonstrate its commitment to strengthen international norms and rules preventing the spread

Continued on page 48

IMPLEMENTING THE THREE-STATE SOLUTION (continued)

and possible use of nuclear weapons, for example, by adhering fully to all Nuclear Suppliers Group guidelines, as Israel does. India would bolster its case for international leadership by providing global public goods in this manner, rather than withholding them in order to negotiate what many others would see as a weakening of nonproliferation rules. For its part, Pakistan should recognize that its egregious failure to prevent the immense harm done by the commercial nuclear network of A. Q. Khan creates a debt to the international community that can only be repaid by unconditioned compliance with the strongest nonproliferation practices (including full cooperation in eradicating that network).

Global citizenship should help impel India, Israel, and Pakistan to adopt the most stringent nonproliferation policies and practices, including participation in a contact group to establish state-of-the-art security over nuclear materials as discussed in chapter 4. A similar recognition of interdependence should motivate the rest of the world to drop barriers to assisting India, Israel, and Pakistan to ensure safe operation of their nuclear facilities. As the three adopt the nonproliferation policies advocated here and put all of their civilian nuclear facilities under safeguards, the Nuclear Suppliers Group should remove restrictions on transferring equipment that these states need in order to bring safeguarded nuclear plants up to the highest safety standards. This should include “trigger list” technology if necessary. The U.S. Congress and nonproliferation agencies have opposed taking this step. This resistance has extended to the

Continued on page 49

IMPLEMENTING THE THREE-STATE SOLUTION *(continued)*

Nuclear Suppliers Group, with the result that safety cooperation with these nonparties to the NPT has largely been limited to lectures on best practices.

All care must be taken to ensure that transferred equipment does not augment these countries' military capabilities. But, the "principle" of withholding cooperation in nuclear safety to punish a state for not forswearing nuclear weapons is morally hollow and practically dangerous. As Chernobyl showed, unsafe operation of nuclear facilities can threaten long-term human and environmental health on a massive scale. There is obviously a global interest in preventing nuclear accidents. Nor will withholding safety cooperation motivate a state to reverse its nuclear policies. All it does is make innocent people more vulnerable to nuclear calamity than they need to be. At the same time, the three states must accept that some old nuclear facilities cannot be made sufficiently safe even with international assistance. The same imperative to protect long-term human and environmental health requires that these reactors be shut down.

Notes

- a Were these states to dismantle uranium enrichment and plutonium reprocessing facilities, and place all nuclear reactors under international safeguards, international cooperation in supplying power reactors and fuel cycle services would make sense from a global security standpoint.
- b India, Israel, and Pakistan are not the only states practically unlikely to fulfill all of the objectives recommended in Resolution 1172, which include a call for "the five nuclear-weapon States to fulfill their commitments relating to nuclear disarmament under Article VI" of the NPT.