

C. PART THREE: General and Complete Disarmament

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In addition to effective measures relating to cessation of the nuclear arms race and to nuclear disarmament, Article VI requires good-faith negotiations "on a Treaty on general and complete disarmament under strict and effective international control." What is the nature of the envisaged treaty?

The preamble would seem to answer this question, referring to "the elimination from national arsenals of nuclear weapons and the means of their delivery pursuant to a Treaty on general and complete disarmament." That is, the preamble seems to refer to a treaty on elimination of nuclear forces as an instance of a type of treaty, the type being treaties on general and complete disarmament.

Similarly, the Biological Weapons Convention and the Chemical Weapons Convention each is a treaty on general and complete disarmament. As the preamble to the CWC says, they represent "effective progress towards general and complete disarmament under strict and effective international control, including the prohibition and elimination of all types of weapons of mass destruction." Following this logic, a treaty on the prohibition and elimination of nuclear weapons would be a treaty that would represent progress towards the achievement of general and complete disarmament.⁵⁰

This is consistent with how the International Court of Justice read Article VI. The Court effectively combined the two clauses of the article. Its unanimous holding is that "there exists an obligation to pursue in good faith and bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international

⁴⁹ "Our people ... Generating Combat Effects from and through space," a speech prepared for General Lance W. Lord, Commander, US Air Force Space Command, Strategic Space Conference, Qwest Center, Omaha, NE, October 7, 2004, www.peterson.af.mil/hqafspc/50th/speeches.asp?yearlist=2004&speechchoice=81.

⁵⁰ For analysis of a issues raised by a nuclear weapons convention, and a revised version of a model convention circulated to UN member states by the Secretary-General, see Merav Datan and Alyn Ware, *Security and Survival: The Case for a Nuclear Weapons Convention*, International Physicians for the Prevention of Nuclear War, 1999, online at www.ippnw.org/IPPNWBooks.html#NWC. The 2000 New Agenda resolution (A/55/33C) acknowledges the logic of a convention or convention-like approach affirming "that a nuclear-weapon-free world will ultimately require the underpinnings of a universal and multilaterally negotiated legally binding instrument or a framework encompassing a mutually reinforcing set of instruments."

control." The reference to "strict and effective international control" comes directly from the second clause on general and complete disarmament, and the phrase "in all its aspects" could refer to related matters like the delivery systems referred to in the preamble.

The 2000 commitments are to like effect. The unequivocal undertaking to eliminate nuclear arsenals is separated from the reaffirmation of the "ultimate objective" of "general and complete disarmament under effective international control."

Nonetheless, certain nuclear weapon states still insist on linking progress towards nuclear disarmament with progress on other disarmament and security fronts. After the ICJ opinion and the 2000 commitments, one would have thought this matter to be settled. But in February of this year, the US Assistant Secretary of State for Arms Control said that the "text and negotiating history of the NPT support the expectation that efforts toward complete nuclear disarmament would be linked with efforts towards general and complete disarmament.... It follows that if anyone wishes to argue that the nuclear weapons states are in default on their obligations relating to nuclear disarmament, they will have a difficult time explaining why all NPT states parties are not also in default on their obligations relating to general and complete disarmament."⁵¹

And in May 2004, France referred to the 1995 "action program" as including "the determination to move forward systematically and progressively in cutting nuclear weapons as a whole within the framework of general and complete disarmament."⁵²

As we have demonstrated, there is no legal link between elimination of nuclear arsenals and comprehensive demilitarization. This point must be insisted upon, so as not to allow nuclear weapon states a rote excuse for failure to comply with Article VI.

It is also the case, however, that in certain respects there may be *practical* links between progress towards nuclear abolition and other disarmament measures. A verification regime for the ban on biological weapons and a regime preventing the weaponization of outer space both would give the nuclear-armed states greater confidence in proceeding towards elimination of nuclear arsenals.

Here the United States is in absolutely no position to lecture other states about meeting obligations of general and complete disarmament.⁵³ In 2001, the United States shattered seven-year old negotiations on a verification protocol for the BWC. It stands virtually alone in opposing commencement of negotiations on a PAROS treaty. And its withdrawal from the ABM Treaty and pursuit of missile defenses makes reduction of nuclear forces more difficult, as other major states make calculations about what capabilities they would wish to retain for a second-strike option.

Nor can we overlook trends in high-tech, conventional armament. For example, the US Navy is converting four ballistic missile submarines to carry conventionally-armed cruise missiles and Special Forces units.⁵⁴ Contractors have been asked to submit concepts for new intermediate-range submarine-launched missiles, capable of carrying

⁵¹ Stephen G. Rademaker, "US Compliance With Article VI of the Non-Proliferation Treaty (NPT)," Remarks at a Panel Discussion of the Arms Control Association, Carnegie Endowment for International Peace, Washington, D.C., February 3, 2005, armscontrol.org/events/20050203_rademaker_text.asp.

⁵² Statement by H.E. Mr. François Rivasseau, Permanent Representative of France to the Conference on Disarmament," April 26, 2004, New York, Third Session of the Preparatory Committee for the 2005 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons.

⁵³ General and complete disarmament also refers to measures on such weapons as landmines and small arms, not addressed here because, unlike biological weapons and missiles, they generally are not considered "strategic weapons."

⁵⁴ Norris and Kristensen, "US Nuclear Forces, 2005."

conventional or nuclear payloads.⁵⁵ Military planners are looking at potential conventional "global strike" missions for deactivated Peacekeeper missiles.⁵⁶ The US Air Force is planning for a new ICBM to be deployed in 2018, some of which could be conventionally armed.⁵⁷ In addition to exploring conventional payloads for existing ICBMs, under the label of non-weapons research the military is pursuing a variety of technologies that could allow accurate weapons delivery at global distances.⁵⁸ Further, upgrades to computer software and hardware used to plan and execute nuclear strikes and new military communication satellites will improve capabilities for non-nuclear as well as nuclear war-fighting.

While the United States contends that development of conventional forces demonstrates decreased reliance on nuclear forces, the effects nonetheless can be counterproductive in the nuclear sphere. Use of conventionally-armed missiles would run the risk of causing other states to believe they are under nuclear attack. More generally, other major states may be reluctant to agree to nuclear arms control/ disarmament measures if they view their nuclear forces as a necessary deterrent to dramatically improved US non-nuclear capabilities. That is all the more true should the United States eventually execute schemes for placing weapons in space.

In short, if the United States wishes to insist on the importance of progress towards general and complete disarmament for the achievement of nuclear abolition, it should look first of all to itself.

Conclusion

To conclude this three part Article VI compliance assessment: Interpreted in light of the NPT preamble and the 1995 and 2000 commitments, Article VI provides an excellent road map for the achievement of nuclear abolition: implementation of effective measures on cessation of the nuclear arms race at an early date and toward nuclear disarmament, and conclusion of a treaty on the elimination of nuclear forces. Over the last five years, the nuclear weapon states, and especially the United States, have gone way off the map. This Review Conference should reaffirm the road map and point the nuclear weapon states back in the right direction.