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Start II Treaty

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the Tribunal should be deemed equivalent to requests by a foreign government under such a treaty and as authorizing extradition to the Tribunal; (2) incorporate the pertinent language of selected articles of a modern extradition treaty relating to the issues requiring particular regulation; and (3) preclude the denial of extradition on the basis that the crimes charged before the Tribunal are “political offenses.”

III. Conclusion

The Section of International Law and Practice believes that the ABA should support the establishment of the Tribunal and urge Congress to promptly adopt implementing legislation to enable the President of the United States to give full support to the Tribunal. The Section further believes that the ABA should urge that every effort be made to assure that due process and procedural guarantees are fully respected in the implementation of the Tribunal’s mandate.

Endorsement of the Tribunal through adoption of the accompanying recommendation by the American Bar Association will further the process begun by the United Nations to prosecute those responsible for violations of international humanitarian law committed in the territory of the former Yugoslavia. In addition, it will strengthen the ability of the U.S. Government to effect the implementation of the Tribunal’s mandate in a manner consistent with due process and procedural guarantees and will lend support to the U.S. Congress in adopting appropriate implementing legislation. Such an endorsement by the ABA will thus further Goal VIII of the Association—to advance the rule of law in the world.

Respectfully submitted,
 Louis B. Sohn
 Chair
 Section of International
 Law and Practice

August 1993

II. START II Treaty*

RECOMMENDATION

BE IT RESOLVED, That the American Bar Association urges the ratification of the Treaty Between the United States of America and the Russian Federation

*This Recommendation and Report was developed by the Section’s Committee on Arms Control and Disarmament.

on the Further Reduction and Limitation of Strategic Arms (START II), which Treaty eliminates land-based ballistic missiles with multiple warheads and significantly reduces the overall number of long-range nuclear weapons possessed by both Parties to the U.S. level of the early 1960s and the Soviet level of the mid-1970s.

REPORT

The Treaty Between the United States of America and the Russian Federation on Further Reduction and Limitation of Strategic Arms (START II) builds upon the reductions that will be implemented pursuant to the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Reduction and Limitation of Strategic Offensive Arms signed at Moscow on July 31, 1991, (the START Treaty) as amended by the Lisbon Protocol of May 23, 1992. The START Treaty was negotiated over a nine-year period and it requires a reduction of 30 to 40 percent in the overall number of long-range nuclear warheads possessed by the Parties. START was a historic achievement in our long-term effort to stabilize the strategic balance through arms control. START II represents its capstone.

The impetus for START II was the desire to further reduce the limits placed upon the Parties by the START Treaty. The Joint Understanding signed by Presidents Bush and Yeltsin in Washington, DC on June 17, 1992 set forth the START II Treaty guidelines.

The START II Treaty envisions that by further reducing the overall number of long-range nuclear warheads and by eliminating all the MIRVed ICBMs of the Parties, it will further reduce the risk of nuclear war.

The START II Treaty was negotiated bilaterally between the United States and the Russian Federation. Although START was modified to involve five Parties, including the United States, Russia, Ukraine, Belarus, and Kazakhstan, START II relies upon the START Treaty for definitions, counting rules, and verification provisions with a small number of specific exceptions. Therefore, START II is not a stand-alone Treaty but is built upon the START Treaty. It cannot enter into force without prior entry into force of the START Treaty.

The START Treaty was the first U.S.-Soviet arms control agreement to actually reduce strategic offensive arms. It enhances stability in times of crisis. It limits strategic arms and reduces them significantly below current levels. As a result of the modifications made through the Lisbon Protocol of May 23, 1992—made necessary by the dissolution of the former Soviet Union in December 1991—the START Treaty will result in the elimination of nuclear weapons and strategic offensive arms from the territories of Belarus, Kazakhstan, and Ukraine within seven years, with only Russia and the United States retaining strategic offensive arms.

The START II Treaty limits will become effective on Russian forces after that seven year period during which strategic arms will have been eliminated from Belarus, Kazakhstan and Ukraine. At that point, START II will ban the most threatening types of nuclear-weapon—the land-based intercontinental ballistic missile with multiple independently targetable nuclear warheads—which will be implemented by eliminating such missiles within the next three years. Yet, START II permits a significant, but reduced, sea-based force. Also, in conjunction with the START Treaty, START II reduces the overall inventory of strategic weapons on each side by more than two-thirds. By the year 2003, if not sooner, Russia and the United States will have reduced their strategic nuclear warheads to between 3000 and 3500 warheads, roughly their levels in the 1960s.

In addition, START II will result in the complete elimination of Russian heavy ICBMs and their launchers by the year 2003. The United States has no heavy ICBMs. All but 90 heavy ICBM silos will be destroyed and the remainder will be physically converted so that they are no longer capable of containing heavy ICBMs. They will be used only for single-warhead missiles. START II requires that all of the SS-18 missiles themselves be physically destroyed—a procedure not required by the START Treaty. To address Russian concern over the cost of implementing the START II reduction requirements, START II provides for the conversion of up to 90 of the remaining 154 (after the START reductions) Russian SS-18 heavy ICBM silos to be used for smaller SS-25 type ICBMs. There will be no reconversion of such silos.

START II allows some reductions to be taken by downloading, or reducing the number of warheads per missile. This will allow the United States to achieve the reduction in a cost-effective way by downloading some of our sea-based missiles.

Since START II cannot enter into force until START has entered into force, it is necessary that START be ratified by all its participants. The United States Senate has already given its advice and consent to START and the legislatures of Russia, Belarus and Kazakhstan have approved the START Treaty, leaving only Ukraine. Russian approval was contingent upon Belarus, Kazakhstan, and Ukrainian prior adherence to the Nuclear Non-Proliferation Treaty (NPT) as non-nuclear-weapon States Parties (Belarus has so adhered to the NPT though it has not yet deposited an instrument of accession with any of the NPT Depositaries. Ukraine and Kazakhstan have not as yet). While the Lisbon Protocol to the START Treaty requires that these States join the NPT, it does not make their adherence a prerequisite for entry into force of START.

The legislature of Ukraine is now considering both the START Treaty and the NPT and the legislature of Kazakhstan is considering the NPT. The United States is urging Kazakhstan to act to adhere to the NPT at an early date. It is hoped that Ukraine will fulfill its responsibility and complete action on START and NPT soon.

The United States has taken a number of steps to meet Ukrainian concerns regarding its ratification and implementation of the START Treaty. The United States has:

- offered \$175 million in Nunn-Lugar funds to aid Ukraine in dismantlement and related tasks conditional on START and NPT ratification;
- told Russia it will not implement the agreement to purchase uranium from dismantled weapons until the Russians reach agreement with the other states, including Ukraine, on an equitable sharing of the proceeds; and
- agreed that it will give Belarus, Kazakhstan, and Ukraine certain security assurances once START and the NPT have been approved.

The ratification of START II should help ensure continued support by non-nuclear-weapon states for the NPT, due for extension in 1995. The NPT obliges the nuclear powers to pursue continued arms reductions. The non-nuclear-weapon states have traditionally regarded the continued pursuit of such reductions as an important consideration in the success of the NPT.

START II is in the interest of the United States and represents a watershed in our efforts to stabilize the nuclear balance and further reduce strategic offensive arms. Bringing down the totals of each nation's strategic warheads to between 3000 and 3500 will further buttress a central tenet of our preferred world order—that conflict must not and shall not be resolved through the use of nuclear weapons. START II, along with its predecessor, provides an orderly mechanism for Russia to dramatically decrease the resources it devotes to strategic offensive arms.

Prompt Senate action on START II should encourage rapid action on the part of Kazakhstan and Ukraine because START II reduces Russian nuclear forces substantially. The approval of START II is fully consistent with our overall role of aiding Russia in its transformation to a secure, prosperous, market oriented democracy. It is greatly in the interest of the United States and indeed the entire world that it come into force promptly.

The Treaty was signed at Moscow on January 3, 1993, by Presidents Bush and Yeltsin. The Treaty will enter into force upon the exchange of instruments of ratification by the Parties. It will remain in force so long as the START Treaty remains in force.

Respectfully submitted,
 Louis B. Sohn
 Chair
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