

international instruments. The Subcommittee on the Prevention of Discrimination and Protection of Minorities should prepare a report, perhaps on an annual basis, on the harassment and intimidation of NGOs.

Respectfully submitted,
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Chair

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IV. Arms Control and Nonproliferation*

RECOMMENDATION

BE IT RESOLVED, that the American Bar Association recommends that the United States Government take the actions listed below, with the cooperation and agreement of other nations whenever possible, to maintain and strengthen the international regimes designed to control the proliferation of weapons of mass destruction:

- A. Take all possible steps to obtain the unconditional, indefinite extension of the Treaty on the Nonproliferation of Nuclear Weapons (NPT) at the conference of the parties scheduled for April-May 1995.
- B. Work to satisfy the NPT obligation of the five declared nuclear weapons states (the NWS) to “pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament.” To this end, the United States Government should:
 1. pursue early completion of a comprehensive ban on nuclear testing, of indefinite duration;
 2. seek an agreement restricting the production of fissile material (highly enriched uranium and plutonium) for nuclear weapons;
 3. declare, as a matter of national policy, that nuclear weapons have no valid function except to deter, and possibly to respond to, a nuclear attack, and that the United States will not use nuclear weapons first; and seek similar declarations by other NWS;
 4. seek to achieve the ratification and implementation of START I and II by all parties as soon as possible;
 5. seek to establish an adequate system of verification and control over national procedures for the dismantlement of nuclear warheads, and over the disposition of surplus fissile material from dismantled warheads;
 6. pursue talks on further nuclear weapons reductions;

*The members of the working group on arms control and nonproliferation are listed in Appendix A.

7. develop and seek international discussion of plans for the eventual elimination of nuclear arms;
 8. seek agreement among the five NWS to grant comprehensive security assurances to all states renouncing nuclear weapons under the NPT or comparable internationally binding commitments (the nonnuclear-weapons states, or NNWS). Assurances should be both negative—that the NWS will not use nuclear weapons against the NNWS—and positive—that the NWS will seek immediate Security Council action to assist and support a NNWS that is subject to nuclear attack or threats thereof;
 9. work for a stronger and more intrusive NPT safeguards system, administered by the International Atomic Energy Agency (IAEA); support current reforms of the IAEA; work to give the Agency the resources and political support it needs; and work to establish a Security Council procedure for promptly responding to refusals to permit IAEA inspections; and
 10. work with other members of the Security Council to plan and implement “concrete steps to improve the effectiveness” of its enforcement procedures, as the members of the Council have already pledged to do, with special attention to enforcement of nonproliferation commitments.
- C. Pursue efforts to resolve regional disputes implicating weapons of mass destruction before the NPT extension conference; and, in the longer term, work to strengthen the ability of the United Nations and relevant regional organizations to resolve disputes and to make and keep peace.

REPORT

This recommendation is the fourth in a series of five recommendations which deal with important issues of international law that are crucial to the maintenance of international peace and security and justice. They have been developed by the Section of International Law and Practice, through its Working Group on Improving the Effectiveness of the United Nations, as a contribution of the American Bar Association to the 50th Anniversary of the United Nations, in fulfillment of the American Bar Association’s Goal VIII—to advance the rule of law in the world. This recommendation addresses the issue of arms control and disarmament, with emphasis on the nonproliferation of nuclear weapons and the banning of all nuclear test explosions.

I. Introduction

Preventing the proliferation of weapons of mass destruction—nuclear, chemical, and biological—is one of the most important tasks facing mankind. An unusually broad range of issues relating to the goal of nonproliferation will appear on the agenda of the international community in 1994 and 1995. To an unusual extent, moreover, these issues are closely interrelated. The central imperative

is to obtain the indefinite and unconditional extension of the Treaty on the Nonproliferation of Nuclear Weapons (NPT), the centerpiece of the nuclear nonproliferation regime; a conference to consider extension is scheduled for the spring of 1995. In order to secure the extension of the NPT, however, a number of related steps—notably negotiations on a comprehensive nuclear test ban—must be taken promptly. Other measures are important to ensure the long-term success of the nuclear nonproliferation regime and to build similarly successful regimes for chemical and biological weapons.

The United States has traditionally taken the primary leadership role on nonproliferation issues, within the United Nations and in other fora. The government of the United States must, however, exercise particularly strong and active leadership over the next few years if it hopes to obtain the indefinite extension of the NPT and to resolve the many complex issues that are intertwined with the NPT and other nonproliferation regimes. The nonproliferation issues currently on the agenda—especially those relating to the nuclear nonproliferation regime—are of sufficient gravity to require the immediate and continuing attention of the President himself.

The United Nations has been, and continues to be, a key institution for the success of the nonproliferation effort. It provides the fora in which states can carry out complex and sensitive negotiations. It acts as a catalyst for action. Of special importance for the nuclear nonproliferation regime, the Security Council is the primary vehicle through which the five declared nuclear weapons states under the NPT (the NWS)—the United States, Russia, the United Kingdom, France and China, which are also the five permanent members of the Council—can collectively act and make commitments. Finally, the Council remains the agency with ultimate responsibility for the enforcement of nonproliferation commitments in all areas, a responsibility that is almost certain to increase.

II. Extending the NPT

The NPT entered into force in March 1970. Article X:2 of the Treaty provides for a single conference, at the end of the initial 25-year term, to determine whether the NPT shall (1) continue in force indefinitely, (2) be extended for an additional fixed period, or (3) be extended for more than one additional fixed period. This conference will be held at the United Nations in April and May 1995; two of the four planned preparatory meetings had been held by February 1994. At the conference, the decision to extend must be taken by majority vote of the parties to the Treaty, already over 160 in number.

Extension of the NPT is crucial to the nonproliferation effort. Under the NPT, all parties other than the five NWS commit themselves not to acquire nuclear weapons. The Treaty thus provides the only global norm against the proliferation of such weapons. The NPT is the basis for the regime of safeguards, administered by the International Atomic Energy Agency (IAEA), that is designed to detect

diversion of fissionable material from peaceful to weapons uses. The Treaty also helps legitimize international pressure and the threat of sanctions against nations such as North Korea, Iraq and Iran. Over the years, the NPT has helped to restrain states from developing nuclear capabilities, and has delegitimized the activities of the few states that have undertaken clandestine nuclear programs.

Unconditional extension of the NPT for an indefinite period is the announced policy of the United States. Indefinite extension has also been called for by the Group of Seven, NATO, the European Union and the Secretary-General of the UN, among others. Should indefinite extension prove politically impossible, the best alternative would be to make the Treaty automatically renewable for an indefinite succession of 25-year terms (if necessary, a procedure for avoiding automatic renewal could be established). Extension for a single fixed period should be avoided, since the NPT provides for only one extension conference.

It is important to note that obtaining a majority vote for either of the desirable extension options may be difficult. The 1995 extension conference will be the first time since the Treaty was signed that the nonnuclear-weapons states will have significant bargaining power with which to advance their agenda. The NWS will have to take action on several complex and controversial measures in order to win political support for indefinite, unconditional extension. There now appears to be a consensus, for example, that agreement on an indefinite extension of the NPT can only be achieved if the NWS agree to a comprehensive ban on nuclear testing that is also of indefinite duration. Much of the remainder of this report deals with this and other steps that appear necessary to obtain a satisfactory extension of the NPT.

III. Satisfying the Obligations of NPT Article VI

In Article VI of the NPT, all parties to the Treaty undertook to pursue negotiations in good faith (1) on effective measures relating to cessation of the nuclear arms race at an early date, (2) on effective measures relating to nuclear disarmament, and (3) on a treaty on general and complete disarmament under strict and effective international control. For the most part, of course, these obligations pertain only to the NWS. Article VI was seen as part of the grand bargain between the nuclear and nonnuclear powers: Article VI negotiations, it was hoped, would gradually reduce the nuclear threat to the nonnuclear-weapons states (NNWS), i.e., those states renouncing nuclear weapons under the NPT or comparable internationally binding commitments.

At the four previous NPT review conferences, held at five-year intervals, the NNWS have strongly criticized the NWS for failing to carry out their obligations under Article VI. Indeed, two review conferences, including the most recent, held in 1990, failed to reach consensus on a final declaration because of these issues. The Article VI obligations thus appear likely to become central issues at the extension conference.

- A. By the phrase “at an early date,” the Treaty itself suggests that measures relating to cessation of the nuclear arms race are of the greatest urgency. Several such measures have been on the international agenda continuously since 1968, and are now under consideration at the Geneva Conference on Disarmament. The NNWS have consistently complained of the nuclear powers’ failure to take action on these measures. The three most important are:
- (1) a comprehensive ban on nuclear testing (CTB). A CTB has been the highest priority demand of the NNWS, in part because the preamble of the NPT specifically calls for such a measure. Reciprocal testing moratoria among all of the NWS except China are already in place; President Clinton proposed a global CTB in July 1993. There remains, however, an obligation to continue negotiating in good faith. France and China, which first became subject to this obligation when they joined the NPT in 1992, and the United Kingdom must actively participate in CTB negotiations. As noted above, significant progress toward a CTB of indefinite duration, if not an actual treaty, among the five NWS will be an important factor in efforts to obtain an indefinite extension of the NPT. In the interim, the existing moratoria must be kept in place.
 - (2) an end to the production of fissile material—highly enriched uranium (HEU) and plutonium—for nuclear weapons, with the ultimate goal an end to the production of these dangerous substances for any purpose. The United States has unilaterally suspended production of both materials; Russia has recently cut off production of HEU, and has committed itself to cease plutonium production by the year 2000. In September 1993, President Clinton proposed a global production cutoff for weapons purposes, with adequate safeguards for peaceful uses; the UN General Assembly issued a call for such an agreement in the same year. These initiatives may provide an impetus for significant progress. The most effective approach would include two basic steps:
 - (a) negotiations aimed at achieving a multilateral agreement cutting off production of fissile material for nuclear weapons purposes by a specified date, with any necessary improvements in IAEA safeguards. Such an agreement should at least include all five NWS; ideally, it would also include the several “near-nuclear” states and a number of other nations. The Geneva Conference on Disarmament has begun to address this issue, as has the IAEA; the United States should strongly support these efforts. It would be highly desirable if significant progress could be made before the NPT extension conference. Negotiations on a cutoff agreement would be greatly enhanced by the adoption of additional production moratoria.
 - (b) multilateral negotiations on a total end to the production of HEU and plutonium. With nuclear technology increasingly widespread, reducing the availability of fissile material may be the most effective

way to constrain the clandestine production of nuclear weapons. A total production cutoff is probably a longer-term goal, because several states have invested in breeder reactor programs.

- (3) condemnation of the use of nuclear weapons for any purpose other than deterrence of, and possible response to, a nuclear attack. NWS military doctrines that contemplate first use of nuclear weapons—whether against conventional, chemical or biological attack—exacerbate the security concerns of the NNWS and legitimate their desire to possess nuclear weapons. Such doctrines also highlight the discrimination between NWS and NNWS inherent in the NPT. Restrictions on use have from the beginning been considered an important part of the “measures relating to the cessation of the nuclear arms race” contemplated under NPT Article VI. To date, the NWS—with the notable exception of China—have been unwilling to constrain their military doctrines to this extent.

The United States should exercise leadership on this issue by declaring as a matter of national policy, after consultation with its allies, that nuclear weapons have no valid function except to deter, and possibly to respond to, a nuclear attack, and that the United States will not use nuclear weapons first. It should then seek similar declarations from the United Kingdom, France and Russia, and should seek a reaffirmation of China’s pledge not to use nuclear weapons first. Essentially the same recommendation has been made by the Committee on International Security and Arms Control of the National Academy of Sciences.

Now that the primary US security goal has shifted from deterring an attack by the Soviet Union on Western Europe to preventing the spread of nuclear weapons, the United States should act to deemphasize the role of such weapons. The announcement of a no-first-use, deterrence-only policy for nuclear weapons would be an exercise of leadership by example as well as by precept. The increased credibility that such an action would give US efforts to discourage other nations from acquiring nuclear weapons would outweigh any possible advantage of retaining the option of first use.

- B. NPT Article VI also calls for good faith negotiations on effective measures relating to nuclear disarmament. The United States and the Soviet Union made significant progress on this matter with the Intermediate-Range Nuclear Forces Treaty and the START I and II agreements. START I and II, when fully implemented, will reduce the number of deployed strategic weapons by some $\frac{2}{3}$. Yet the number of strategic weapons still deployed will even then exceed the number deployed when the NPT was signed in 1968.

In addition, implementation of the START agreements is not yet assured. Under the Lisbon Protocol, START I is now a five-party treaty, including the former Soviet Union states of Ukraine, Kazakhstan and Belarus—where Soviet strategic weapons were stationed—as well as Russia and the United

States. START I has not gone into effect, however, because Ukraine has not yet ratified the NPT as a NNWS, as required by the Lisbon Protocol. Ratification of the bilateral START II is suspended in both the United States and Russia, primarily because of the problem with START I. It is essential that these two agreements be ratified and put into effect as soon as possible.

Once the START agreements are in effect, implementation of agreed weapons reductions should be accelerated. The United States and Russia have already begun to dismantle some weapons, including nuclear warheads, and have committed themselves to further deactivation in a trilateral statement issued with Ukraine in January 1994. As this process continues, it is essential to reach agreement on, and to put into operation, adequate systems for verifying and controlling the dismantlement of nuclear warheads and the disposition of the fissile material removed from them in a form not readily convertible to weapons uses. Such safeguards are an essential counterpart to efforts to terminate production of additional fissile material for nuclear weapons. The March 1994 agreement between the United States and Russia to permit on-site inspection of facilities where plutonium triggers from dismantled nuclear warheads are stored is an important step in the right direction.

It would also be highly desirable if further strategic arms talks were underway, or in an advanced stage of planning, by the time of the NPT extension conference. The first step should be bilateral talks between the United States and Russia aimed at reducing each party's deployed strategic weapons to an agreed level no higher than 1500. For the first time, the United Kingdom, France and China must also be brought, formally or informally, into the SALT-START process to negotiate limits on their strategic weapons deployments. This process would be eased by the US-Russian agreement just mentioned, since that would bring the strategic arsenals of all five NWS closer to a comparable range. Finally, since the NPT requires negotiations related to nuclear disarmament, not merely arms control, the United States and the other nuclear powers should at least begin serious planning for the longer-term future, with explicit attention to modalities for eventually eliminating nuclear arms from national arsenals. The United States last proposed such a plan in 1962.

- C. The Article VI obligation to pursue negotiations on a treaty on general and complete disarmament stands on a somewhat different footing. Article VI itself suggests that such a treaty would have to provide for "strict and effective international control"; under present circumstances, however, such a prospect seems unlikely. In addition, the preamble to the NPT suggests that the parties saw a general easing of international tension and the building of trust among nations as preconditions for negotiations on general and complete disarmament. Even with the end of the Cold War, it seems apparent that these conditions are not satisfied. This report thus makes no specific recommendation on general and complete disarmament, except to suggest that the

issue be considered along with nuclear disarmament in long-range planning efforts.

IV. Security Assurances

While security assurances are not a part of the NPT itself, they have been a prominent and controversial issue since the original negotiation of the Treaty. The NNWS have sought from the five NWS both negative assurances—that the NWS will not use nuclear weapons against a state that has renounced such weapons—and positive assurances—that the NWS will seek and support immediate Security Council action to assist and support a NNWS that is subject to nuclear attack or nuclear blackmail. Some states allegedly refused to join the NPT because of inadequate security assurances; it is thought that others, including Italy and Japan, felt able to join only because of alliance commitments.

In Security Council Resolution 255 (1968), the three NWS intending to sign the Treaty (France abstained, and the People's Republic of China was not yet in the UN) gave a collective positive assurance, stating that the Council would be obligated to act in the event of nuclear aggression or the threat thereof. The United States, the Soviet Union and the United Kingdom unilaterally declared that in such a situation they would seek and support immediate Council action, while reaffirming the right of collective self-defense until the Council had acted. No negative assurances were given. Since that time, however, all five NWS have given unilateral negative assurances, though most of them contain significant exceptions.

The NNWS have consistently sought stronger assurances of both types, presenting the issue as one of basic reciprocity between themselves and the NWS. Both the UN General Assembly and the Non-Aligned Movement have recently called for binding, collective assurances. The issue is likely to be pressed aggressively at the extension conference.

The importance of security assurances has recently been brought home to the NWS as well. The United States referred to Resolution 255 to help bring Kazakhstan into START I and into the NPT as a NNWS, as required by the Lisbon Protocol. In the case of Ukraine, more extensive assurances have been necessary.

In November 1993, the Ukrainian parliament (Rada) failed to approve adherence to the NPT; it did approve ratification of START I, but only subject to a number of conditions, among them broad security assurances. At the Moscow Summit in January 1994, Presidents Clinton, Yeltsin and Kravchuk of Ukraine issued a trilateral statement setting forth extensive security assurances. The positive assurances are based on Resolution 255 and the concurrent national statements. Many of the negative assurances are drawn from the Final Act of the Conference on Security and Cooperation in Europe (CSCE). These provisions repudiate the use of force generally and provide assurances as to Ukraine's independence, sovereignty and territorial independence; they also harmonize differ-

ences among existing NWS assurances. These assurances, however, do not come into force until Ukraine ratifies the NPT as a NNWS. In February 1994, the Rada approved START I unconditionally, based in part on the January security assurances. A vote on ratification of the NPT, however, will not take place until after the 1994 parliamentary elections.

The NWS should be prepared to give an expanded positive security assurance to all states renouncing nuclear weapons under the NPT or comparable internationally binding commitments, in the form of (1) strengthened individual declarations, supported by (2) a Security Council resolution accepted by all five permanent members. The credibility of future Security Council action is an essential element of such assurances, yet the veto power makes such action inherently uncertain. The five permanent members, which are also the five NWS, should study constructive ways of achieving consensus that will allow the Council to respond when necessary. The NWS should also give a strengthened negative assurance in the same format, removing exceptions that are a vestige of the Cold War. Ideally, the NWS should consider framing this negative assurance as part of a broader agreement restricting the use of nuclear weapons, as discussed above in section III:A(3) of this report.

V. Strengthening Verification and the IAEA

A credible verification process is essential to the long-term health of the nuclear nonproliferation regime. The IAEA has been responsible for verification through its safeguards system, but the discovery of a clandestine Iraqi nuclear program demonstrated the limitations of the agency's prior approach. The international community has now come to expect that the IAEA will provide a higher level of assurance. A widespread perception that it can do so will be essential to extension of the NPT. A number of steps are necessary to strengthen the safeguards regime; some have already been initiated. The United States and other NWS should take the lead in ensuring that the necessary improvements are implemented.

A. A more effective monitoring system must be put in place. Prior to the Iraq episode, the IAEA focused on routine monitoring and inspection of declared inventories at declared nuclear facilities. This approach is valuable, and efforts should be made to strengthen it. By itself, however, it is clearly insufficient. The IAEA has now acknowledged that it possesses, and has pledged to use, the authority to make special inspections of suspect sites at any location within the territories of NPT parties (and other states with equivalent commitments). The first manifestation of this new approach is the current effort to inspect non-declared North Korean sites. The IAEA Secretariat has also advanced additional safeguards proposals that are deserving of support. Finally, IAEA experts are currently studying entirely new safeguards modalities, some of which may require enlargement of the Agency's legal authority.

- B. The IAEA must be given the resources and support necessary to administer a strengthened safeguards system. One aspect of this, obviously, is financial; an expanded, more intrusive safeguards regime will be costly. The major powers must also make arrangements to share relevant intelligence information, obtained by national technical means or otherwise, with the IAEA. The current dispute with North Korea demonstrates that some degree of intelligence sharing has already begun.
- C. The Security Council must provide strong and credible political support for expanded safeguards operations, especially in cases where states refuse to permit authorized inspections. The IAEA Statute and standard safeguards agreements already authorize, indeed require, the IAEA to report such refusals to the Council. The agency's first such report, filed in April 1993, dealt with North Korea; the IAEA again referred North Korea's refusal to accept valid inspections to the Council in March 1994. The Security Council has considerable authority to deal with such situations under Chapter VI of the UN Charter; Chapter VII is also available if necessary. (As this report is written, the President of the Security Council has issued a statement directing the IAEA to report back to the Council in several weeks, following additional attempts to complete the disputed inspections. The President's statement refers to the possibility of further Council consideration of the matter; this is widely understood to be a highly oblique reference to the possibility of economic sanctions under Chapter VII against North Korea.)
- D. Some have suggested that further external reviews of the IAEA's safeguards system and its failure in Iraq should be undertaken. This report does not support such suggestions: a number of reviews have already been made, and the IAEA Secretariat, as well as its Safeguards Advisory Group and other outside bodies, have made numerous suggestions for reform. Further efforts at this time should be focused on implementing the reforms that have been proposed.

VI. Regional Issues

Before the NPT extension conference, every effort must be made to resolve a number of complex regional issues that stand as stumbling blocks to broader progress on nonproliferation and arms control.

- A. The two most immediate problems have already been alluded to in this report. First, it is essential that Ukraine carry out its obligation under the Lisbon Protocol to adhere to the NPT as a NNWS, thus relinquishing control over the former Soviet strategic nuclear weapons on its territory. The trilateral statement issued in January 1994—described above in section IV of this Report—addresses many of the Ukrainian Rada's expressed concerns: in addition to setting forth broad security assurances, the statement establishes principles and procedures governing economic assistance, and provides compensation for shipping the ballistic missiles and nuclear warheads on Ukrainian territory

to Russia for dismantlement over a relatively short period of time. Both President Kravchuk and the Ukrainian Rada have now recognized Ukraine's obligation to join the NPT, but actual ratification has not been approved, and a vote has now been deferred until a new parliament has been elected. The United States should press Ukraine to transfer all nuclear weapons for dismantlement as quickly as possible, and should continue to work for prompt Ukrainian ratification of the NPT, so that the security assurances in the trilateral statement can take effect and the START I treaty can be ratified by all five parties, and so that a nuclear Ukraine does not discourage other nations from supporting extension of the NPT.

- B. The second urgent problem is that of North Korea's continued refusal to allow IAEA inspections of all suspect sites within its territory. North Korea's recent acceptance of IAEA inspections at seven declared sites appeared to represent significant progress, but soon thereafter the North Korean government refused to allow IAEA inspectors access to the most sensitive of these sites, and the IAEA has referred the matter to the Security Council. The situation is compounded by North Korea's earlier decision to withdraw from the NPT; that decision is currently suspended, but North Korea has again threatened to withdraw if the Council imposes sanctions against it. The situation in North Korea stands as an important test of the NPT regime, especially the authority of the IAEA and the enforcement power of the Security Council. A demonstration that the regime can successfully manage such a situation without armed conflict will be an important factor in obtaining NNWS support for extension of the NPT.
- C. The strong political tensions in the Middle East have led to significant nonproliferation problems. A number of states in the region are not parties to the NPT. Israel is generally believed to possess a substantial number of nuclear weapons. One or two other Middle Eastern states, apart from Iraq, may also have clandestine nuclear weapons programs, although weapons production is not believed to be imminent. The United States and the General Assembly have proposed the establishment of a nuclear-free zone in the Middle East. These proposals are deserving of support. In addition to the nuclear threat, a number of Middle Eastern states are believed to have developed chemical and biological weapons capabilities as a counter to Israel's nuclear arsenal; some have indicated that they will not ratify the CWC until Israel joins the NPT as a NNWS. In this region more than any other, then, the problems of nuclear, chemical and biological weapons proliferation are interrelated. It is essential that these issues be systematically addressed as part of the Middle East peace process. Regional tensions arising outside the Arab-Israeli framework, like those between Iran and Iraq, have also encouraged proliferation. These conflicts must be addressed in other fora.
- D. In the South Asian region, both India and Pakistan are believed to have nuclear weapon capabilities, and are rapidly developing improved surface-to-surface

ballistic missiles. Pakistan has proposed a nuclear-free zone for the region, a concept supported by the UN General Assembly, but India has refused to participate. The United States has recently proposed that the two countries agree to halt production of fissile material for nuclear weapons, with international safeguards, and to ban the deployment of missiles that could deliver nuclear weapons. India, however, has indicated that it will only agree to restrain its own nuclear program if China participates in any regional arrangement and if significant progress is made on worldwide nuclear disarmament. Thus, many of the global issues discussed in this report in the context of extending the NPT are relevant to resolving the South Asian proliferation problem, just as South Asian proliferation stands in the way of universalizing the NPT.

VII. Strengthening Security Council Enforcement

The UN Security Council bears the ultimate responsibility for enforcing the obligations of the NPT and other nonproliferation agreements. In their collective statement of January 31, 1992, the members of the Council—meeting at the summit level—declared that “the proliferation of all weapons of mass destruction represents a threat to international peace and security.” This statement recognizes the Council’s responsibility for enforcement under Chapter VII of the Charter. More specifically, the statement declares that the members of the Council “will take appropriate measures” to deal with violations of the NPT notified by the IAEA. (The Council’s Chapter VII authority, of course, can be exercised even against a state that is not a party to a particular nonproliferation agreement or one that has withdrawn from such an agreement under the relevant withdrawal clause.)

Unfortunately, both the structure and the history of the Council’s operations reduce the credibility of these declarations. Structurally, the veto power makes it difficult for the Council to commit itself to future action in situations where the interests of the permanent members may differ dramatically. Historically, the Council has been unwilling or unable effectively to address the nuclear weapons programs of the “near-nuclear” states, including India, Pakistan and Israel.

In their summit statement, the members of the Council declared that they would “take concrete steps to enhance the effectiveness of the United Nations” in the areas of nonproliferation, arms control and disarmament. The Council should initiate a serious study, involving the Secretariats of the UN and the IAEA as well as other interested parties, to identify specific feasible measures, much as it has done in the area of peacekeeping. The United States and other NWS should strongly support the needed reforms.

Respectfully submitted,
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