STATEMENT BY
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Noncompliance Challenges and Opportunities

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Check against delivery
The world that faces us today, as States Parties to the Nuclear Non-Proliferation Treaty (NPT), is a world of contrasts—a world of serious challenges and grave perils, but also of opportunities.

On the one hand, there has been a serious breakdown of compliance by a few NPT parties with the core nonproliferation undertakings of the Treaty contained in Articles II and III. We have been struggling with one such case for more than a decade—North Korea’s violations of these Articles, its continued development of plutonium weapons and pursuit of uranium ones, and its refusal to accept the complete, verifiable, and irreversible dismantlement of its nuclear program. Another case of Article II and III violations has thrust itself upon the attention of the international community as more and more of Iran’s secret nuclear weapons program has been exposed to public view by the International Atomic Energy Agency (IAEA). Such cases illustrate the challenges facing the NPT regime and its member states, which has yet to stop either Iran’s or North Korea’s weapons programs and enforce full adherence to and compliance with the NPT’s core nonproliferation obligations.

On the other hand, we have in recent months seen the emergence of a remarkable nonproliferation compliance success story. December 19, 2003 will be remembered as a very important day in the history of the nuclear nonproliferation regime, because on that day, the government of Libya announced that it would reveal and eliminate its weapons of mass destruction (WMD) programs. Libya pledged to eliminate its nuclear weapons program, declare all its nuclear activities to the IAEA, and allow immediate inspections and monitoring to verify these actions. As Libyan leader Colonel Muammar Qadhafi subsequently made clear, Libya had reassessed its commitment to nuclear weapons noting that in the past, “any country which had the means sought to acquire the nuclear bomb.” By contrast, Colonel Qadhafi explained that, today, “if you built a nuclear bomb you would be in big trouble.”

The contrast between countries such as Iran and the model of WMD renunciation that Libya is in the process of presenting to the world could hardly be more stark. This suggests some important points about the NPT regime to which it is imperative that we all pay close heed today.
Iran illustrates the difficult challenges the NPT regime faces from nuclear weapons efforts undertaken by countries which hide them behind the "cover" afforded by ostensibly "peaceful" nuclear work.

Iran signed the NPT in July 1968, and ratified it in February of 1970. Its full-scope Safeguards Agreement with the IAEA was signed in June 1973. Thereafter, Iran enjoyed the benefits of being an NPT Party in good standing, and it received international assistance bilaterally and through the IAEA’s Technical Cooperation (TC) framework. Some countries remain engaged in nuclear cooperation efforts with Iran even today.

The U.S. Government, however, has been warning for more than a decade that Iran wished to develop nuclear weapons, and was probably “in the early stages of developing a nuclear weapons program.” We have warned consistently about Iran’s secret nuclear ambitions ever since, concluding last year, for instance, that “Iran is pursuing a program to develop nuclear weapons...in violation of Iran’s NPT commitments.” Thanks to the public exposure of Iran’s secret work on gas centrifuge and laser uranium enrichment, plutonium separation, the production of polonium useable in nuclear weapons triggers, it is now clear that our worries were correct.

The Challenge

At its core, the NPT is an agreement based on the expression of the enlightened self-interest of countries insisting that all parties follow crucial nonproliferation rules. These rules, which are established by the Treaty, make all countries more secure by controlling the dangerous and destabilizing spread of nuclear weapons. They also incorporate the important principle that parties to the Treaty should be able to enjoy the benefits that nuclear power and research can bring to mankind, provided that they follow a set of rules designed to prevent the misuse of such technology to manufacture or otherwise acquire nuclear weapons.

The two components of this bargain, shared benefits and nonproliferation compliance, are inseparable. In the past, the international community has focused too much of its attention on benefit sharing while
devoting insufficient attention to NPT compliance. As a result, the entire scheme stands today increasingly in jeopardy.

Countries such as Iran that pursue their ambitions to develop nuclear weaponry under cover of an ostensibly "peaceful" nuclear program while outwardly pretending to be in compliance with the NPT, subvert the Treaty and threaten its viability. Countries which join the NPT and pay lip service to its core principles while secretly violating them are a huge challenge to the regime, and thus to the nonproliferation norms that underlie international peace and security. Such clandestine violators present difficulties in three respects.

**Difficulty of Detecting Violations**

First, the secrecy of violations concealed by allegedly "peaceful" activities provides excuses for the acquisition and maintenance of dual-use nuclear technology and expertise. This concealment makes the violations very hard to detect. The international community knew little about Iran's vast secret nuclear program until it was exposed to the public, and until much of it was described in alarming detail in a series of IAEA reports beginning in early 2003.

The NPT regime is attempting to help address this problem by encouraging the adoption of strengthened safeguards through the Additional Protocol. The Protocol imposes additional declaration requirements upon signatories, and permits the IAEA expanded inspection rights in order to verify the correctness and completeness of such declarations, including inspection of undeclared activities. The Additional Protocol is an important new tool and should help make it harder for countries to hide their nuclear weapons ambitions behind the smoke screen of "peaceful" nuclear development. Iran continues to refuse ratification and to restrict IAEA activity within its borders—even to the point of barring IAEA inspectors from Iran for a time last March.

**Difficulty of Recognizing Violations**

Second, the "dual-use" nature of so much of the technologies used in clandestine weapons programs gives spurious explanations of "peaceful use" a degree of seeming plausibility. Within the U.S. State Department, my
bureau specializes in compliance assessments, but such judgments are often quite tricky, and are not always easily understood nor easily discussed.

For example, we assess whether a non-nuclear weapons state Party has complied with its NPT Article II obligations—namely, not to manufacture, or to seek or receive any assistance in the manufacture of, nuclear weapons. The prohibition upon the "manufacture" of a nuclear weapon, as well as upon seeking or receiving any assistance in this regard, must involve an analysis of the purpose for which a country is developing nuclear technology that may have weapons applications. In explaining the NPT to the U.S. Senate prior to its ratification, for instance, the Director of our Arms Control and Disarmament Agency (ACDA) made it clear that in determining whether a specific nuclear-related activity constituted the prohibited manufacture of a nuclear weapon, "facts indicating that the purpose of a particular activity was the acquisition of a nuclear explosive device would tend to show non-compliance."

In this world of clandestine nuclear weapon development, this "purpose" approach is a necessary step in analyzing whether a party is in violation of Article II. A country's development or acquisition of nuclear technology capable of being used in peaceful nuclear applications, for instance, can be an Article II violation if the purpose of the activity was in furtherance of its effort to manufacture nuclear weapons. Such activity, undertaken for that purpose, would represent an attempt to "manufacture," or to "seek" or "receive" assistance in the manufacture, of a nuclear device.

Judgments as to the purpose of a Party's nuclear activities therefore lie at the core of Article II compliance assessments. Warning signs of a nuclear weapons purpose could include the presence of undeclared nuclear facilities, procurement patterns inconsistent with a civil nuclear program (e.g., clandestine procurement networks, possibly including the use of front companies and fraudulent documentation), security measures beyond what would be appropriate for peaceful, civil nuclear installations, a pattern of Article III safeguards violations suggestive not of mere mistake or incompetence but of willful violation, and/or systematic deception and denial efforts aimed at concealing nuclear activities from the IAEA. Such danger signals may be particularly important for supplier countries, which should take steps to verify the intent of their potential clients so that they do not place themselves in jeopardy of an Article I violation.
Reluctance to engage in making such assessments is a serious challenge to the credibility of the NPT regime. A nonproliferation regime willing to turn a blind eye to secrecy and deception while waiting for unchallengeable evidence of weapons intent is a regime that waits foolishly long to protect itself. This is the situation which, I fear, the international community risks finding itself with Iran. The head of Iran's Supreme National Security Council, Hasan Rowhani, said last month that "the international community has to accept Iran in the world nuclear club." Pretending there is no violation may seem an attractive way to escape having to take corrective action. Real challenges, however, will not disappear simply because we refuse to look at them.

Enforcing Compliance

Third, even if violations are detected early and are quickly understood as such, the regime can still be in peril if its members are unable or unwilling to address them as compliance challenges. The nonproliferation component of the NPT regime, after all, has several elements, of which an international monitoring mechanism and institution for detecting safeguards noncompliance - the IAEA - is only one part. For the regime to survive, detection is only part of the challenge; violations must have consequences.

The U.N. Security Council is an international body with enforcement powers that can be applied to help remedy both safeguards and NPT violations. National governments also play a critical role both in deterring and detecting violations, and in taking resolute action - individually and collectively - to enforce compliance and hold violators accountable for their actions. The NPT regime works when these elements act together to deter, detect, and remedy noncompliance. It will collapse if they do not.

Without something being done to make noncompliance more costly than compliance, we should not be surprised to find countries willing to try their luck and attempt to violate their obligations. If noncompliance is not detected, not understood, not admitted, or not addressed by the international community, what does a potential violator stand to lose? To refuse to address the challenges not just of detection but also of compliance analysis and of compliance enforcement is to consign the entire NPT regime to a lingering death. This is why it is so important for us here today to remember that ensuring full compliance is among our most important duties.
with its safeguards obligations. Most recently, the Board declared that it “deplores” Iran’s omission of advanced P-2 centrifuge work from its supposedly “complete” declaration to the IAEA in October 2003—a matter about which the IAEA Director General also expressed “serious concern.”

Rather than work diligently to help allay international concerns, as Libya has done, Iran has reacted with hostility. Caught publicly in lie after lie by the IAEA itself, Iran continues to react to exposure by dragging its feet, reneging on commitments made to the IAEA and European governments last autumn, and temporarily obstructing the work of IAEA inspectors. Iran, in other words, stands as a model of a country that has refused to come clean and work to return to compliance with the NPT. What the international community does about Iranian violations, therefore, is of enormous importance to the future of the NPT regime.

Compliance and the Future of the NPT

These two cases illustrate two very important lessons for the NPT regime as it struggles to adapt to the challenges of ensuring compliance with its core nonproliferation principles. The clarity and focus of the Libyan commitment contrasts sharply with the lack of any real commitment to NPT compliance shown by Iran—not to mention North Korea, and previously Iraq.

Compliance enforcement is about shaping the cost-benefit calculations of those who would consider engaging in proliferation. As President Bush said in February, continuing to seek weapons of mass destruction “will not bring security or international prestige, but only political isolation, economic hardship, and other unwelcome consequences.” On the other hand, as the President Bush also made clear, “Abandoning the pursuit of illegal weapons can lead to better relations with the United States, and other free nations.” We must insist that this message be clearly conveyed and well understood. The NPT can only be as strong as our will to insist that states comply with it.

We need to make it, in Colonel Qadhafi’s words, “big trouble” for the Iranians of the world to continue their shameless pursuit of nuclear weapons. Without hard work by all of us—individually and collectively—to change
the cost-benefit environment that proliferators face, even the best methods of
detection will not deter. We must enforce and strengthen our export control
systems. We must cooperate to prevent shipments of weapons-related or
dual-use technology from reaching states suspected of clandestine nuclear
work. We must work tirelessly to make it more costly for companies and
governments to engage in proliferation rather than in legitimate commerce.
We must detect violations early, clearly recognize and label them as such,
and take action to isolate and pressure those who commit them. We must
deny nuclear technology to those who refuse to accept mechanisms, such as
the Additional Protocol, designed to help prevent the misuse of such
technology.

We must, in short, take compliance seriously, so that all current and
would-be proliferators come to understand that noncompliance entails
prohibitive costs, and that the pursuit of weapons of mass destruction brings
not security but insecurity. Only through such advances in compliance can
future generations be assured of reaping the benefits both of peaceful uses of
nuclear energy and of a world made safer by controlling the proliferation of
nuclear weapons.

Thank you.