



Are Our Old Concepts of Verification Obsolete?

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Thank you for the opportunity to speak to this forum on a critical but often overlooked topic--"Are Our Old Concepts of Verification Obsolete?"

The topic is critical because how we decide to approach verification of arms control, nonproliferation and disarmament agreements and commitments among states can affect not only the substance and pace of negotiations but also our long-term ability to achieve our fundamental objectives for which we engage in these pursuits--namely, strengthening U.S. and global security and, thereby, reducing the need for recourse to force to protect that security.

The topic is often overlooked because questioning whether contemporary verification constructs facilitate or impede achievement of our ultimate objectives and changing these constructs to fit the needs of the times does not come easily to national or international bureaucracies.

Many of you know the difficult battles that were waged in the nineteen sixties, seventies and eighties, first over the idea of enshrining in bilateral arms control agreements, the concept of noninterference with national technical means of verification and later, over incorporating concepts of on-site inspection and detailed data exchanges. I daresay that changing concepts today would be any easier.

As the U.S. Assistant Secretary of State for Verification and Compliance, my Bureau and I are charged in the Department of State with overall supervision, including oversight of policy and resources, of all matters relating to verification of and compliance with international arms control, nonproliferation and disarmament agreements and commitments.

This includes assessing, analyzing and reviewing planned or ongoing policies, programs or actions that have a direct bearing on verification or compliance matters and serving as the principal policy community representative to the intelligence community on verification and compliance matters.

It also includes participating in interagency deliberations and international negotiations to achieve our verification and compliance objectives, assessing other states' compliance with agreements and working to enforce compliance when other states violate their commitments.

It is also our responsibility to assess whether the concepts that underpin our approach to verification and proposed verification measures enable us to achieve our goals or require updating.

Because this Administration's approach to verification, compliance assessment and compliance enforcement is not always well understood, let me share with you our thinking about these processes and how they interact

The U.S. View of Verification, Compliance Assessment and Compliance Enforcement

Verification, compliance assessment and compliance enforcement are the three components of a policy process wherein information about a state's actions is weighed against its obligations and commitments, and if it is determined that the state is not fulfilling its obligations and commitments, steps are identified and taken to induce or enforce compliance.

As a general rule, the first step of this process is to assess the extent to which an agreement can actually be verified. This step is undertaken in the United States before we enter into negotiations for a new agreement, during its negotiation as changes to the agreement are considered, and after an agreement has been concluded.

The second step in this process is an assessment of the compliance or noncompliance of parties to the agreement, once the agreement has entered into force.

The final step in this process is compliance enforcement: determining what can or must be done to bring a party that is judged to have violated its obligations back into compliance or to otherwise respond to that party's noncompliance. It includes acting on that determination.

Many consider these factors--verification, compliance, and enforcement -- as separate and separable activities. However, like the legs on a 3-legged stool, they are interdependent: remove one or two and the stool will topple over.

How Do We Reach Noncompliance Judgments?

The U.S. process of reaching noncompliance judgments is grounded in U.S. law. The U.S. Congress has established specific institutions--my Bureau, most notably--to ensure that the compliance assessment process is rigorous, systematic and objective.

Initial indications of a potential problem of noncompliance can come from a broad array of sources, beginning with information that is already available to States Parties, such as declaration data or inspection reports. We use and assess information from various sources, both technical and non-technical.

While all nations have or could have sources of valid or validateable information for reaching their own noncompliance judgments, some states have expressed concern that they lack the technical capabilities that commonly have been associated with verification--satellites, for example, to watch the activities of their treaty partners. My response has been that the means by which states parties can acquire relevant information for reaching noncompliance judgments are far more extensive than has been generally acknowledged and was true in the past. The old verification concept--national technical means of verification--fails to capture the totality of resources available to states parties. The updated concept of National Means and Methods

acknowledges that every state has access to information that can be relevant to reaching compliance judgments--whether from its international diplomats overseas, reports from dissident groups that reveal the noncompliance of their governments, reports from international inspectorates, commercial satellites, or other means.

While all information, whatever its source, warrants evaluation, information that can be independently confirmed is considered to be the strongest information, especially when it can be confirmed from multiple sources.

When the information available to us suggests that there may be a compliance question, one of the first steps we take is to look at the international agreement or other commitment in question to see what States Parties are obligated to do.

International agreements and other commitments are made up of words, and it is always important--and sometimes decisive--clearly to establish what the precise obligation is in the case under review. While the review of obligations and commitments is underway, we seek all possible additional information regarding the activities of concern. Multiple sources of information are especially important when the matter is grave.

If an issue was raised in a previous U.S. compliance assessment and has been discussed with the party in question, we will also closely examine that party's statements to determine if they resolve our concerns or can help narrow the range of outstanding questions.

Ultimately, we weigh the best available evidence regarding the actions and activities of a country against our understanding of that country's obligations to form our compliance assessments, and finally propose a finding to the U.S. President, who is the ultimate arbiter of U.S. noncompliance judgments.

In cases where the information is not sufficient to reach a firm finding of violation, we will "caveat" it by explicitly noting uncertainties or ambiguities in the evidence. Whenever we can, we distinguish between inadvertent violations and deliberate ones, because this distinction can have an important bearing on what action will need to be taken in order to rectify the problem. We also endeavor to communicate the degree of seriousness of a violation, and to identify the steps that might be needed to bring the party back into compliance, or to respond in other ways that satisfy the concern.

Let me underscore, making a determination as to when another state is in violation with its international obligations is not a simple matter. The process is time-consuming, rigorous and systematic. However, as a State Party to arms control, nonproliferation and disarmament agreements and commitments, we rest our safety and security in part upon other countries' compliance with those agreements and commitments. Therefore, the compliance assessment process is, for us, a key component of our national security and a necessary early warning call to action.

When Is Verification Effective?

The compliance process that I have just described not only informs our judgments as to whether we are facing noncompliance that requires a response; it also informs our judgments as to whether future treaties are effectively verifiable.

Determining the extent to which an agreement can be verified necessarily involves a number of variables, both technical and contextual, that vary from one proposed agreement to the next--and which sometimes hinge upon specific nuances of phrasing, the nature of the constrained activities, or the nature of the relationship among the prospective states parties.

I am often asked if the U.S. demands "perfect" verification. The answer is, of course, NO. There is no such thing as perfect verification. The term "effectively verifiable" does not, and should not be taken, to mean that there is, or can ever be, *certainty* that a violation will be detected. This phrase indicates the aspiration to achieve *reasonable confidence*--under the circumstances--that detection of noncompliance will occur in time for appropriate responses to be undertaken.

The U.S. considers an arrangement or treaty to be effectively verifiable if the degree of verifiability is judged sufficient given the compliance history of the parties involved, the risks associated with noncompliance, the difficulty of response to deny violators the benefits of their violations, the language and measures incorporated into the agreement and our own national means and methods of verification. The degree of verifiability must be high enough to enable the United States to detect noncompliance in sufficient time either to have the violation reversed or, particularly in the case of intentional noncompliance, to reduce the threat presented by the violation and to deny the violator the benefits of his wrongdoing.

Please note that the degree of verifiability is not judged on the basis of whether or not the agreement contains detailed provisions for data exchanges, on-site inspections or other types of cooperative arrangements. Such measures are tools that may help to increase our confidence that other states are complying or may facilitate detection of noncompliance--but their efficacy is limited. Verifiability assessments are informed by this much broader array of factors.

It is also important to understand that the challenge of making verifiability and compliance assessments is a national as well as an international challenge.

International organizations and mechanisms such as the IAEA and OPCW Technical Secretariats and their executive organs can provide useful and essential input to nations for their consideration in making these assessments. They can provide useful fora for sharing other information, for sharing judgments and for deliberating response options. But, international organizations are not parties to agreements, and do not make compliance judgments absent a collective decision by their member states. States are parties to agreements. Through their national compliance assessments, states are ultimately responsible for evaluating the compliance of other States Parties.

It is a common misperception that a combination of international data declarations, international cooperative measures (including technical measures) and on-site inspection regimes by themselves will be sufficient for detecting noncompliance. In fact, data declarations, cooperative measures and on-site inspections can provide useful and often invaluable information. They are useful tools for investigating indications of non-compliance--as we've seen the IAEA do in Iran, for example--and they are useful tools for detecting inadvertent violations. However, inspections provide information according to the agreed access and collection capabilities negotiated by the parties, and only provide such information as is available at the specific time and place of the inspection. Even cooperative measures, such as remote cameras and seals for continuous monitoring--while quite powerful -- are limited to the locations where they are employed.

If, however, significant prohibited activities can take place outside of declared locations or times, the contribution of inspections to verification of compliance or noncompliance is severely limited.

Inspections can be an important means of assuring states that an agreement is operating as anticipated. However, we must never lose sight of the fundamental truth of all inspections--the absence of evidence is not necessarily evidence of absence. Time and again, determined cheaters have proven

capable of evading inspectors.

Some agreements provide for challenge or suspect site inspections in an effort to address these challenges. Many nations seem to believe that challenge inspections are the answer to our concerns about compliance. Some also seem to believe that such inspections can be deemed "successful" only if they find incontrovertible evidence of noncompliance or can issue a "clean bill" of full compliance.

Neither set of assumptions holds up to scrutiny. The facts related to a challenge inspection may be difficult to determine, depending on the nature of the concern, the degree and nature of access provided, whether the inspectors are looking in the right place and whether they have the means to determine whether the activities at that location are permitted or prohibited. Failure to appreciate the inherent limitations of on-site measures and to presume that they can do more than they can will only build a dangerous and false sense of security.

After Detection--What?

In January 1961, in an article in *Foreign Affairs*, Dr. Fred C. Ikle, who later became Director of the U.S. Arms Control and Disarmament Agency, grappled with the issue of compliance in a seminal article that you all might find as fascinating as I have. That article was entitled "After Detection ... What?" In the article, Dr. Ikle made the critical point that detecting violations is not enough. What really counts is to ensure that there are sufficient consequences to a violation once it has been detected. Dr. Ikle pointed out that these consequences alone will determine whether or not the violator stands to gain in the end. His words are as true today as when he wrote them: only by making violators face consequences for their violations can they be expected to take compliance seriously, and only by making them face such consequences will other would-be violators be deterred. These consequences may be political, economic or other actions taken by international organizations or States Parties, including, ultimately military.

If arms control, nonproliferation and disarmament agreements and commitments are to support the security of all nations, then all nations must respond when confronted with noncompliance. Unilateral U.S. action to encourage compliance is not enough. Detecting a violation is not an end in itself: it is a call to action. Without strict compliance and without the concerted action of all parties to insist upon strict compliance--and to hold violators accountable for their actions--the national security of all nations will erode and global stability will be undermined.

States must take seriously--more seriously--their role in this effort and not acquiesce quietly in violations of fundamental obligations. They must devote the resources that they have in the past devoted to devising agreements to enforcing agreements.

In practical terms, in the context of what we as a nation can do to encourage and induce compliance, this means that diplomacy cannot end with the conclusion of arms control, nonproliferation and disarmament agreements.

CONCLUSION

As I conclude my remarks, let me return to the question posed at the beginning of my remarks--"Are Our Old Concepts of Verification Obsolete?"

In my considered judgment, the concepts of the past retain relevance, but--as I have suggested--they require updating.

There is a need to recognize, much more than we have in the past, that verification, compliance assessment and compliance enforcement are closely related and indeed, intertwined processes. Failure to pay due attention to any one element of these intertwined processes will undercut significantly our collective ability to achieve the security benefits we all seek from arms control, nonproliferation, and disarmament agreements--and could be destabilizing.

There also is a need for international acceptance of the limitations of what have been traditionally termed to be "verification measures"--data declarations, on-site inspections and such. When resort to such tools will not enhance verifiability--and/or when their adoption would simply result in a false sense of security--the international community must be prepared to turn away from them even if it means acknowledging that a desired treaty is not effectively verifiable.

There also is a compelling need for all states to recognize that responsibility for compliance assessment and compliance enforcement is a national responsibility of all states parties to an agreement. It is not the sole province of any one state or group of states, and certainly not the province of any multilateral implementing organizations' technical secretariat.

Further, and as I obliquely suggested in my earlier remarks, there is a need for international acceptance of the fact that not all agreements need to take the form of the arms control, disarmament and nonproliferation agreements of the 20th century.

The INF, START and CWC models--extensive, detailed provisions delineating obligations and processes will remain valid, particularly for agreements with states whose compliance would otherwise be questionable. These models could be especially relevant, for example, to any future agreements with the DPRK or Iran related to their complete, verifiable and irreversible renunciation of their nuclear weapons programs.

On the other hand, the Moscow Treaty model and our experiences with Libya--which reflect less detailed and extensive negotiated regimes--offer other models for consideration in situations in which the relationship is one of partnership and/or there is a genuine, accepted strategic commitment to change.

And, finally and perhaps most importantly, there is a need for sustained diplomatic effort to achieve and maintain international support for enforcing strict compliance.

In conclusion, to the question of "Are Our Old Concepts of Verification Obsolete?" I would repeat my comment at the start of this discussion. No, they are not obsolete but they do require updating to reflect the new realities in the strategic environment and--most importantly, the reality that no nation any longer has the luxury of years and decades to confront or reverse noncompliance if it wishes to maintain and strengthen its security.

Thank you.



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