



The New U.S. Approach to Verification

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Thank you. I am pleased to have been asked to participate on this panel at this important conference. I am grateful to the Carnegie Endowment for arranging this extremely timely event. How we approach verification of arms control, nonproliferation and disarmament agreements and commitments is obviously a key component of meeting our core objective for our nonproliferation policies – namely preventing rogue states and non-state actors from obtaining nuclear, chemical or biological weapons and their means of delivery.

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 on-site inspection. I daresay that changing concepts today is not any easier. In my role of Assistant Secretary of State for Verification, Compliance, and Implementation, however, I am seeking to do just that. The changes we seek fall into four primary areas:

First, the United States has worked hard to make sure that our own house is in order when it comes to examining the concepts underlying verification, in organizing to take on this important work, and in ensuring that our ability to assess verification and compliance, is robust and rigorous.

Second, resulting from our own examination of verification concepts, we have concluded that the old term "National Technical Means of Verification," and the concepts and practical implications of that term needed to be replaced by the term "National Means and Methods" with a new conceptual approach. As a part of adapting the old concepts of verification, we have undertaken and urged a more balanced assessment of the relative merits of cooperative measures and the proper balance between such measures and National Means and Methods.

Third, we believe that consideration of verification requirements independent from consideration of the challenges of compliance assessment and compliance enforcement makes no sense.

Finally, we are trying to do a better job of articulating our views on these matters and the reasoning behind them.

U.S. Evaluation of Verification Concepts and Assessments of Compliance and Verification

One of the first elements that I should mention in describing the new U.S. approach to verification is the creation of the Bureau I lead. Creation of the Department of State's Bureau for Verification and Compliance was mandated by Congress when the U.S. Arms Control and Disarmament Agency, known as ACDA, was merged into the Department of State. Congress has long had a keen interest in, and been a key advocate for, verification, compliance, and enforcement issues. Congress believed strongly that the former Verification Bureau from ACDA needed to be retained as a separate entity lead at the Assistant Secretary level, and so created our Bureau in law and charged it with three key missions: assessments of compliance, seeking to make new agreements as verifiable as possible and assessing verification, and working with the U.S. intelligence community to urge collection capabilities to maximize verifiability. More recently, Secretary Rice enhanced the Bureau by moving responsibility for implementation of some existing agreements and for missile defense and some elements of space policy to the VC Bureau, which she renamed the "Verification, Compliance, and Implementation Bureau."

We have issued two reports on "Adherence to and Compliance with Agreements", commonly called the "Noncompliance Report" since I took my current position in 2002-- most recently in August of this year. We have sought to strengthen the rigor of these highly classified Presidential reports, which are submitted to Congress by the Secretary of State on behalf of the President, to make them more readable, and to try to ensure that the report is a solid document to explain how we assess other nations' activities against their obligations and commitments. The reports include our assessments of not just those activities that we believe violate agreements or commitments, but also activities about which we have compliance questions. In this way, the Report serves as an early call to action for policy makers. We have also tried very hard to include as much information as possible in the unclassified versions of the Report, and these are available to anyone interested on the Department of State web site.

Upon my arrival in the position of Assistant Secretary, it seemed to me that our concepts of verification and compliance needed to be reviewed and strengthened. In some cases this merely required revisiting the earlier articulations of verification concepts and policy. In some, it required adapting these to today's circumstances.

We still use two different terms to describe our assessments of verification. The first is the "degree of verifiability." This is a technical assessment in which we evaluate the wording of the agreement and what it seeks to govern and weigh it against our ability to detect noncompliance. The second term is "effective verification." In assessing whether verification is effective, 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 significant noncompliance or a pattern of noncompliance in sufficient time to counter the threat presented by the violation and deny the violator the benefits of his wrongdoing.

As I mentioned, our assessments of verification are informed by factors that go beyond technical and legal assessments, including: the proven reliability of our negotiating partners in adhering to agreements; the incentives given parties may have to cheat on a given agreement; the difficulty of responding to deny a violator the benefits of his violation; and the relative significance of cheating pursuant to the obligations. Significantly, this means that if we cannot get violations corrected and cannot deny violators the benefits of their violation, all of our verification assessments are likely to be negatively affected.

Verification Concepts: National Means and Methods and a Balanced Assessment of Cooperative Measures

In the early years of arms control, the use of satellite imagery for verification was controversial. The U.S. fought hard in our earlier arms control agreements with the former Soviet Union to include agreement that these forms of information collection, called National Technical Means, or NTM, could be legitimately used. Later, especially in the Intermediate Nuclear Forces, or INF, Treaty, we were able to agree on on-site and other cooperative

measures. These were significant elements that were then later included in the strategic arms treaties and in the Chemical Weapons Convention.

Over time, however, a common misperception developed that led many to conclude that a combination of international data declarations, international cooperative measures (including technical measures) and on-site inspection regimes by themselves would be sufficient for verification. Nations that did not have access to U.S.-style NTMs were inclined to reject NTM as a means of verification and advocated reliance on international inspectorates. 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 noncompliance -- as we've seen the IAEA do in Iran, for example -- and for detecting inadvertent violations. However, inspections provide information according to the agreed access negotiated by the parties, and only provide such information as is available at the specific time and place of the inspection. They provide, at best, a snap-shot in time. Even cooperative measures, such as remote cameras and seals for continuous monitoring -- while quite powerful -- are limited to those locations where they are employed.

The degree of verifiability should not, therefore, be judged solely on the basis of whether or not an agreement contains detailed provisions for data exchanges, on-site inspections or other types of cooperative arrangements. Recall that on-site inspections can only tell you what is happening at the time and place of the inspection, and only to the degree that inspectors have the access and capability to discover whether or not noncompliance is taking place at that time and at that location. When, for example, an agreement seeks to govern dual use activities, an inspector may be able to tell you that dual use activities are underway, but is not very likely to be able to gain salient information regarding the intention of the activity. On-site measures are tools that may let the inspected party demonstrate that the activities observed are consistent with a declaration and may provide some confidence that other states are complying. They may or may not, however, facilitate detection of noncompliance even at the time and place of the inspection. Moreover, if significant prohibited activities can take place at other times or at other locations, the efficacy of such measures may be quite limited.

Some have come to believe that the mere inclusion of 'anytime, anywhere' inspections will solve the verification challenge. The problem, in addition to the challenges associated with all on-site inspections, is that you have to know where to go and be able to get there at the time a violation is underway, and be able to confirm that the activity detected is noncompliant. Such challenge inspections, even those of the 'anytime, anywhere' variety, may have value, but again, they are not a panacea.

Such cooperative measures must therefore be supplemented by the best possible means of trying to determine what is happening at times and locations other than those subject to inspections. What is new in this regard, is that there are sources of potentially significant information well beyond what was imagined in the past. Commercial satellite imagery is available to all nations and to international organizations. Open source information is available in quantities and qualities that was not possible before the development and expansion of the internet.

Nations therefore have access to information that they didn't when they rejected the old concept of National Technical Means. We believe, therefore, that this term needs to be replaced with the new concept of National Means and Methods. This enables us to recognize that all nations can play a constructive role in conducting their own compliance assessments, either on a national basis or together with others.

The United States considered all these factors, for example, when we conducted our verification assessment of the proposed Fissile Material Cutoff Treaty (FMCT). After two years of concerted effort studying the problem, we concluded that an "internationally and effectively verifiable Treaty," is not realistically achievable, even with a highly intrusive inspection regime. Having come to such a conclusion, we believe that attempts to negotiate "good enough" cooperative means for verification, as some have suggested, are not only futile, but also harmful, delaying completion of the treaty. Furthermore, an ineffective regime could lull the international community into a false sense of confidence that obligations were being adhered to.

It is for this reason that the United States urges our colleagues at the Conference on Disarmament to join us in supporting an FMCT negotiating mandate that either does not refer to verification measures or that says that verification will be by National Means and Methods. Pending the conclusion of such a mandate and negotiation of an FMCT, the United States has and continues to call on all nuclear weapon states and states not party to the NPT to make a public commitment to not produce fissile material for nuclear weapons or other nuclear explosive devices. Four of the five nuclear weapons states, including of course, the United States, already have made such a commitment.

There has been a view for too long that nothing can be done without the creation of an international institution and long negotiated access agreements. We are trying to move to a new approach where we adapt our tools to the task at hand. Suppose verification were done by National Means and Methods, and one nation gets information of concern. Some have argued that without a negotiated arrangement for dispute resolution, nothing could be done. I think that this is old think. Suppose we simply asked a country if we, and perhaps we and a group of like-minded countries with additional tools, could come take a look at something that we have compliance questions about? They might say no, but they can do that even with agreed procedures. They might say "yes," and we might be able to resolve at least part of our compliance concerns. This, I believe, should be considered as part of our future approach to verification and compliance. But however verification is to be implemented, it loses its relevance if verification of noncompliance has no consequences.

Verification, Compliance, and Enforcement: Three Legs of a Stool

The United States and most other nations have sought to supplement our national efforts at strengthening security with multilateral tools. These tools have included arms control, nonproliferation, and disarmament agreements. When the United States adheres to a treaty, we want to discover noncompliance early enough to be able to deny violators any benefit from such noncompliance.

Thus, the United States views verification, compliance and compliance enforcement as critically interrelated, as being the three legs of a stool that cannot stand if one leg is removed. To put it simply: verification is designed for detection and deterrence of noncompliance. If detection has no consequences for the violator, then verification has no meaning, and deterrence is unachievable.

It is undeniable that today the international community is facing significant challenges to our nonproliferation regimes, none more dangerous than verified and intentional noncompliance with nuclear nonproliferation obligations by North Korea and Iran. In both of these cases, parties to international agreements undertook actions over years and even decades to cheat. Their noncompliance isn't what is sometimes called "technical." These weren't accidents or oversights. If they were, it would be reasonable to expect that expressions of concern would result in timely resolution. We have seen efforts at resolution of unintentional noncompliance work numerous times, including cases described in the U.S. noncompliance report I referred to earlier.

In Iran and the DPRK we are dealing with cases of intentional noncompliance. North Korea and Iran made strategic decisions to pursue programs and undertake activities that they knew full well violated their obligations. They invested vast national resources to pursue these covert programs -- resources their people may well have wished were being invested in other ways. These programs were pursued covertly. These regimes took advantage of the period before discovery to reap benefits, such as technical cooperation and assistance, which flowed from being parties to the Nuclear Nonproliferation Treaty.

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.

Much of our diplomacy is therefore focused on convincing States to take seriously--more seriously--their role in this effort and not acquiesce quietly in violations of fundamental obligations. Certainly, States Parties should be willing to devote at least as much time and effort in enforcing agreements as is

expended in devising and negotiating the agreement in the first place. In practical terms, this means that diplomacy cannot end with the conclusion of arms control, nonproliferation and disarmament agreements.

We believe that the diplomatic or operational tools that we use to bring about or enforce compliance should be dependent upon our strategic requirements. In the past we may have been too wedded to a particular tool or approach that may have been ill-suited to what we were actually trying to accomplish. For instance, this Administration has launched a major nonproliferation initiative called PSI --- the Proliferation Security Initiative. PSI is an additional tool in our nonproliferation tool box which also includes the Nonproliferation Treaty (NPT), and various export control regimes such as the Nuclear Suppliers Group. Our missile defense efforts, both nationally and with others, are also designed to deny those who have circumvented efforts to slow or stop missile proliferation, the benefits of their illicit trade and to deter such programs by ensuring that the missiles they develop will not be able to be used effectively to threaten peaceful nations.

This Administration believes that to secure our own national security interests as well as to lay a sound basis for international security, we need to develop a wide array of tools and be willing to employ them under the right circumstances. Relying upon one specific tool, particularly when its efficacy has been challenged, not only makes no sense, but is potentially dangerous.

Compliance Diplomacy

I believe that the recent resolution on compliance passed by the United Nations First Committee reflects a growing understanding of the importance of these issues. As for the United States, and my Bureau in particular, we are trying to do a better job of discussing these issues publicly and with our international partners. We call this our "compliance diplomacy" initiative, and we are trying to make ourselves available to our international partners for ongoing dialogue on these matters. My first such trip took me to Brazil, Argentina, and Chile, where I learned much about the perspectives of these nations. More work of this type needs to be done, however, and I think this Conference offers a useful venue for conversations and understanding of how we think about these matters and the directions we want to take in the future.

Conclusion

This Administration's approach to verification, compliance assessment and compliance enforcement is shaped by our concern that the proliferation of WMD presents opportunities for rogue states, perhaps working in conjunction with non-state actors, who may view so-called "asymmetrical warfare" as a viable option for altering the strategic landscape. A key to strengthening deterrence in today's international security environment lies in our ability to detect noncompliance and to mobilize robust compliance enforcement by the international community, so we have become more rigorous in our approach to verification, compliance assessment and compliance enforcement, and in our efforts to explain to our treaty partners why and how we have adopted this approach.

