

Heritage Lectures

No. 829

Delivered March 30, 2004



Published by The Heritage Foundation

April 19, 2004

President Bush's Global Nonproliferation Policy: Seven More Proposals

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Among post–Cold War presidencies, the Bush Administration is unique and deserves credit in emphasizing nonproliferation enforcement—particularly in the cases of North Korea, Iraq, and Libya. In fact, the example the Bush Administration has set in these cases has prompted the most significant debate about how to strengthen nonproliferation since India exploded its first bomb in 1974. We need to exploit this window of interest to toughen nonproliferation enforcement, close as many loopholes as we can, and do so in as country-neutral a fashion as possible.

To this end, the Administration itself has proposed a new, tougher set of nonproliferation rules. By far, the most important of these have to do with preventing the spread of nuclear weapons. Nearly all of these suggestions can be found among the seven specific proposals the President made on February 11, 2004, in an address at the National Defense University (NDU). These proposals are significant. Properly understood, they recommend an accurate reading of the Nuclear Nonproliferation Treaty (NPT)—one that is truer to the NPT's original intent and one that deflates mistaken treaty interpretations that have enabled North Korea, Libya, Iran, and, earlier, Iraq to acquire much of what is needed to make bombs.

President George W. Bush rightly characterized these misguided views as a “cynical manipulation” of the NPT. Specifically, those who want to acquire or share nuclear weapons technology have twisted the NPT's call for the sharing of peaceful nuclear technology into an unqualified right to “the fullest possible

Talking Points

- The Bush Administration's new nonproliferation proposals would strengthen international efforts to interdict nuclear shipments; reduce accessibility to nuclear weapons–usable materials; and streamline procedures at the International Atomic Energy Agency (IAEA).
- In addition to providing enforceability to the Nuclear Nonproliferation Treaty (NPT), these proposals further insist that no nuclear supplier should export equipment to any state that has not yet signed the IAEA inspections agreement known as the Additional Protocol.
- Building on the Bush Administration proposals, next logical steps are presented. These include specific suggestions for promulgating a series of country-neutral rules concerning violation or withdrawal from the NPT, the sharing of nuclear weapons, and attempts by new states to acquire worrisome nuclear capabilities.

This paper, in its entirety, can be found at:
www.heritage.org/research/nationalsecurity/hl829.cfm

Produced by the Kathryn and Shelby Cullom Davis Institute
for International Studies

Published by The Heritage Foundation
214 Massachusetts Ave., NE
Washington, DC 20002–4999
(202) 546-4400 heritage.org

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exchange of equipment, materials and scientific and technological information.”

This it clearly is not. As the NPT’s first article makes clear, no nuclear weapons state that is a party to the NPT (the United States, Russia, China, France, or the United Kingdom) is permitted to “in any way...assist, encourage, or induce any non-nuclear-weapon state to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices.” Similarly, the NPT’s second article prohibits all other members of the treaty from “manufactur[ing] or otherwise acquir[ing] nuclear weapons” and from “seek[ing] or receiv[ing] any assistance in the manufacture of nuclear weapons.” When the NPT speaks in Article IV about “the inalienable right” of NPT members to develop nuclear energy “without discrimination,” it explicitly circumscribes this right by demanding that it be exercised “in conformity” with the first and second articles.

For years, too little effort has been made to define what “in conformity” means. This is what President Bush tackled in his February 11 address. He rightly emphasized that nations seeking to develop peaceful nuclear energy have no need for either materials that can be used directly to fuel bombs—separated plutonium and highly enriched uranium—or the uranium enrichment and plutonium reprocessing plants required to produce these materials. As such, he proposed that the world’s leading nuclear suppliers of relatively safer lightly enriched uranium fuel only supply this fuel to nuclear energy-developing states that are willing to renounce trying to build enrichment and reprocessing facilities themselves. He further proposed that nuclear supplier states should refuse to sell enrichment and reprocessing equipment or technology to any state that does not already “possess full-scale functioning enrichment and reprocessing plants.”

Beyond this, the President proposed to strengthen international efforts to interdict illicit nuclear shipments and procurement networks; do more to reduce the accessibility to nuclear weapons–usable materials; and tighten procedures at the U.N. nuclear watchdog agency, the International Atomic Energy Agency (IAEA). Finally, President Bush urged that within a year, no nuclear supplier should export nuclear equipment to any state that

has not yet signed the new, tougher IAEA inspections agreement known as the Additional Protocol.

All of these proposals constitute a needed departure from nuclear “business as usual.” They all give teeth to the NPT’s prohibitions against the export and acquisition of nuclear weapons. They also constitute a useful extension of the calls by former Presidents Gerald R. Ford and Jimmy Carter, nearly 30 years ago, to discourage the use of nuclear weapons–usable fuels for commercial purposes.

President Bush’s proposals, though, should not be seen as being all that is required, but rather as first steps. In fact, several additional measures logically follow from the President’s seven proposals and will be needed to assure their success. Building on the Bush proposals, the U.S., other nuclear suppliers, and like-minded states will also need to:

1. **Suspend** efforts now to sell controlled nuclear goods to countries that export nuclear commodities in defiance of the Nuclear Suppliers Group (NSG) guidelines;
2. **View** large civilian nuclear projects—including nuclear power and desalinization plants, large research reactors, and regional fuel cycle centers—with suspicion if they are not privately financed or approved after an open bidding process against less risky alternatives;
3. **Starting** with the U.S., but including Pakistan and India, formally get as many declared nuclear weapons states as possible to agree henceforth to not redeploy nuclear weapons onto any other state’s soil in peacetime and to make the transfer of nuclear weapons–usable material to other nations illicit if the transfer is made for a purpose other than to dispose of the material or to make it less accessible;
4. **Refuse** to buy or sell any controlled nuclear items or materials from or to new states attempting to develop enrichment or reprocessing plants;
5. **Demand** that states that fail to declare nuclear facilities to the IAEA (as required by their safeguards agreement) dismantle them

in order to come back into full compliance and disallow states that are not clearly in full compliance from legally leaving the NPT without first surrendering the nuclear capabilities they gained while NPT members;

6. **Support** U.N. adoption of a series of country-neutral rules that track the above recommendations to be applied to any nation that the IAEA and the United Nations Security Council cannot clearly find in full compliance with the NPT; and
7. **Build** on the successful precedent of Libya's nuclear renunciation by getting its neighbors—starting with Algeria—to shut down their largest nuclear facilities.

What do these proposals entail? How do they relate to the President's efforts? Why do they deserve attention now? To answer these questions, each proposal is examined more closely below.

1. **Suspend efforts now to sell controlled nuclear goods to countries that export nuclear commodities in defiance of the Nuclear Suppliers Group (NSG) guidelines.**

Nearly half of President Bush's seven nuclear nonproliferation proposals were aimed at restricting what nuclear suppliers can export under the guidelines of the NSG—a multilateral nuclear control regime. One of the most important of his proposals is “that by next year, only states that have signed the Additional Protocol be allowed to import equipment for the civilian nuclear programs.”

This is a sensible restriction, but it ought not to wait. Indeed, its credibility may be undermined unless we speak up and act to back it now. In this regard, a clear test case is China's recently announced reactor sales to the world's worst proliferator, Pakistan—a nation that has neither allowed full-scope IAEA safeguards (as required by the NSG) nor signed the Additional Protocol. China announced January 27, 2004, that it intends to become a full-fledged member of the NSG. Yet, only weeks later, news reports emerged detailing Chinese plans to build Pakistan two large power reactors.

The NSG guidelines proscribe such sales: NSG members are not allowed to sell any such controlled nuclear items to states that do not allow the IAEA to

inspect all of their nuclear facilities. Technically, of course, China may claim it can make these sales because it is not yet formally a member of the NSG. Yet this hardly recommends U.S. silence. Certainly, if we can't find anything sufficiently wrong to publicly protest these reactor sales to Pakistan—a country that would have difficulty justifying the financial extravagance of two new nuclear power plants, has the world's worst proliferation record, and is the least bound by nonproliferation pledges or agreements—on what basis could we protest any other nation's nuclear imports?

Yet, to date, there is no evidence that the U.S. or any of its allies have protested. Instead, our government apparently is preparing to do all that it can during Vice President Dick Cheney's April visit to Beijing to sell China a heavily U.S.-subsidized Westinghouse reactor design known as the AP 1000. This pitch could not be more poorly timed. Admittedly, the French and the Japanese are also trying to sell reactors to China, so competition exists. Still, it would make far more sense for the U.S. to protest China's sale to Pakistan and to urge Japan and France to join us in withholding nuclear sales to China until it drops its proposed Pakistani reactor bid.

China should at least be urged to hold off until Pakistan reveals its proliferation activities. Such an appeal is clearly within our power to pursue. To fail to do so now simply suggests that we are not serious about the President's proposal, about backing or strengthening the NSG, or about promoting nuclear restraint in general.

2. **View large civilian nuclear projects—including nuclear power and desalinization plants, large research reactors, and regional fuel cycle centers—with suspicion if they are not privately financed or approved after an open bidding process against less risky alternatives.**

Among the most important of President Bush's proposals are those that would restrict fresh reactor fuel exports to nations that fail to renounce enrichment and reprocessing, and to ban reprocessing and enrichment exports to states that do not already have “full-scale functioning enrichment and reprocessing plants.” As the President noted in his February 11 NDU speech, these steps are essential to prevent new states from making nuclear weapons fuel.

This is not because we can detect covert reprocessing or enrichment activities in a timely fashion. As our experience with covert enrichment and reprocessing activities in Iran and North Korea demonstrates, we cannot. Nonetheless, it is still important to make new reprocessing and enrichment activities illicit, if only to prevent discovered covert reprocessors and enrichers from legally excusing themselves by claiming—as Iran did—that they merely “forgot” to notify the IAEA of their activities.

Making the mere possession of such facilities illicit should at least make exposed covert reprocessing and enrichment activities clearly out-of-bounds. However, the only surefire technical safeguard against suspect nations quickly acquiring nuclear weapons is to prevent them from acquiring significant amounts of fresh, lightly enriched fuel or from generating significant quantities of spent reactor fuel. Lightly enriched uranium can be fed into a covert enrichment line to make a bomb’s worth of highly enriched uranium in a matter of days: Spent fuel can be covertly reprocessed to extract a bomb’s worth of plutonium just as quickly. Both of these materials are part and parcel of nearly any large reactor’s operation. This means that not only will we need a rule that will help make suspect reprocessing and enrichment-related facilities illicit, but we will need a country-neutral way to spotlight suspect nuclear reactors as well.

How might this be done? Fortunately, Adam Smith’s “invisible hand” of free markets and competition can help. As it turns out, many large commercial nuclear projects and all suspect nuclear projects in less developed nations are demonstrably uneconomical compared to less risky options. Nuclear power and desalinization plants have significantly higher capital costs than their non-nuclear alternatives. In poorly developed countries, the performance of these plants has been abysmal.

Given the surfeit of isotope-producing research reactors—nearly 300 are in operation in 69 countries worldwide—there is scarcely any economic justification for the further construction of additional large research reactors: One can import medical, agricultural, and industrial isotopes from existing machines and send one’s scientists to do research much more cheaply than one can build a large research reactor. Virtually all of the existing reactors can be converted to run on non-weapons-useable fuels.

As for recent Department of Energy (DOE) and IAEA proposals to create regional reprocessing and enrichment parks, these too are a bad buy. Right now, we have more than enough enrichment capacity to supply lightly enriched fuel to the on-line civilian reactors. If anything, the lack of demand would suggest the need to further downsize existing enrichment capacity.

Reprocessing, meanwhile, is an uneconomical answer to a problem that doesn’t exist: It makes much more sense, from a security and economic perspective, to store spent fuel in casks and to use fresh reactor fuel rather than to recycle weapons-usable plutonium for civilian reactor use.

What this suggests, then, is a simple tenet: Any large civilian nuclear project that is started before considering safer alternatives in an open international bidding process should be regarded as suspect. Certainly, Iran’s power reactor and enrichment activities, as well as North Korea’s entire program, Pakistan’s import of Chinese reactors, Algeria’s large research reactor, and Brazil’s proposed uranium enrichment undertaking, would all fail this test. To make this guideline credible, however, the U.S. and its allies will have to apply it to their own civilian nuclear undertakings as well.

The good news is that we are well on our way to doing this. Germany and the United Kingdom have either terminated state support of their nuclear industry or established clear deadlines for doing so. Recently, the U.S. Congress refused to pass an energy bill that contained billions of dollars in guaranteed loans to utilities that might buy new reactors and also put aside hundreds of millions of dollars more to build a commercial-sized hydrogen-producing reactor. This year, the Department of Energy quietly killed plans to build commercial-sized versions of its Generation IV reactors.

We need to continue this sensible trend. Further federal funding of commercial-sized undertakings such as the Westinghouse AP1000 and the ill-starred \$6 billion-plus mixed oxide plutonium disposition program should also cease. This should not be seen as anti-nuclear, but rather as anti-subsidized commercialization. Certainly, if it made sense for Congress and Ronald Reagan to oppose federal funding of such large and potentially dangerous energy projects on economic grounds 20 years ago, it

makes even more sense today—after 9/11 and the clear lag now in nuclear demand.

3. Starting with the U.S., but including Pakistan and India, formally get as many declared nuclear weapons states as possible to agree henceforth to not redeploy nuclear weapons onto any other state's soil in peacetime and to make the transfer of nuclear weapons—usable material to other nations illicit if the transfer is made for a purpose other than to dispose of the material or to make it less accessible.

One of the most nettlesome nonproliferation challenges President Bush discussed in his February 11 NDU speech was reining in the nuclear proliferation activities of non-NPT states such as Pakistan. Islamabad's blatant proliferation activities technically broke no law. Even worse proliferation, however, is possible: There is reason to worry that a future Pakistan might transfer nuclear weapons to another country. Saudi Arabian officials are reported to be studying how they might acquire nuclear weapons from another country such as Pakistan.

What makes these plans plausible—besides Pakistan's and Saudi Arabia's close security ties—is that they could be carried out legally under the NPT. The treaty, in fact, allows nuclear weapons to be transferred to non-weapons state members (e.g., to nations like Saudi Arabia) so long as the weapons remain under the control of the exporting state. This loophole was explicitly inserted into the NPT in the 1960s by U.S. officials who were anxious to continue deploying U.S. tactical nuclear weapons on NATO's and Pacific allies' soil.

Today, keeping this loophole open no longer looks so attractive. In fact, the U.S. has already withdrawn its tactical nuclear weapons from foreign allied bases it had in the Pacific, including South Korea, Japan, and Taiwan. The reason is simple: With air- and sea-launched cruise missiles, nuclear-capable carrier-based aircraft, stealth bombers, and accurate submarine-launched and land-based intercontinental ballistic missiles to quickly deliver nuclear weapons, there is no longer any need to base tactical nuclear weapons on foreign soil.

The U.S. is now withdrawing much of its military from Europe. As these troops are withdrawn and as

concerns about nuclear terrorism and proliferation grow, the rationale for keeping U.S. tactical nuclear weapons in places like Germany will become weaker, and the desire to prevent other states from redeploying their nuclear weapons onto other states' soil will increase. To address this concern, it would be useful to close the loophole in the NPT that allows this.

The question is how. Some have suggested that we simply make these nations nuclear weapons state members of the NPT. The problem with this approach is that such a move would appear to reward states that have stayed out of the treaty and violated its tenets. A sensible alternative would be for the United States to work with as many nuclear weapons states as possible to get a formal agreement that, henceforth, no nation will redeploy nuclear weapons onto another nation's soil during peacetime. The U.S. could also try to get other nuclear weapons states to agree to make the redeployment of such weapons or the transfer of nuclear weapons-usable materials illicit so long as the transfer was for purposes other than disposing of these materials or making them less accessible.

If the U.S. agreed to impose such limits on itself, it could help persuade other nuclear weapons states—including those that have not yet signed the NPT—to agree to do so as well. Finally, one could match such diplomatic efforts with initiatives to get as many non-weapons states as possible to agree not to *receive* nuclear weapons in peacetime.

4. Refuse to buy or sell any controlled nuclear items or materials from or to new states attempting to develop enrichment or reprocessing plants.

President Bush proposed that nuclear supplier states not sell fresh fuel to nations that are unwilling to renounce reprocessing or enrichment, and that they should refuse to sell any enrichment or reprocessing technology and equipment to states that do not already possess “full-scale functioning enrichment and reprocessing plants.” Implementing these rules would certainly help establish a norm against the further spread of commercial reprocessing and enrichment plants. What would be more effective in deterring new states from developing reprocessing or enrichment, however, would be to cut off the nuclear commercial inter-

course with such states by getting the NSG membership, and as many other states as possible, to refuse to buy or sell *any* controlled nuclear commodities from or to new states attempting to develop enrichment or reprocessing plants.

Who would this rule hit hardest? Iran is a prime example. Nuclear officials in Iran claim that they intend to export reactor fuel from their uranium enrichment and fuel fabrication facilities.

If the U.S. is firm about what constitutes “full-scale functioning plants,” Brazil and Argentina could also be affected. Brazil is about to launch a commercial enrichment effort at Resende. Officials there concede, however, that their effort would not be able to supply even 60 percent of Brazil’s own fuel requirements until the year 2010. They have not even reached an agreement with the IAEA about the proper safeguarding of Brazil’s enrichment facility. Still, Brazilian officials have already announced that they intend to export enriched uranium by 2014.

Certainly, if the U.S. and other like-minded nations grandfather Brazil’s enrichment effort as being “full-scale and functioning” while demanding that Iran shut its facilities down, the hypocrisy would be more than just clumsy: It would undermine the credibility of the President’s enrichment and reprocessing restrictions for any other country. As for Argentina, it is considering offering reprocessing services to states that buy its large export research reactors.

Neither of these countries’ nuclear programs could survive in the short run without nuclear imports. More important, neither could credibly push their enrichment and reprocessing efforts without customers. If the U.S. is serious about achieving the President’s goal of freezing the number of states that have reprocessing and enrichment plants, pursuing this complement to the President’s proposals would be useful.

5. Demand that states that fail to declare nuclear facilities to the IAEA (as required by their safeguards agreement) dismantle them in order to come back into full compliance and disallow states that are not clearly in full compliance from legally leaving the NPT without first surrendering the nuclear capabilities they gained while NPT members.

The Bush Administration, indirectly by its actions and words in North Korea, Iraq, and Libya, has gone a long way toward establishing the rule that whenever a violating nation fails properly to declare nuclear facilities to the IAEA, it must dismantle them in order to come back into full compliance with its NPT obligations. What the U.S. should do now is to propose this requirement explicitly.

This would certainly be a helpful, country-neutral rule to have in place when dealing with countries like Iran. The U.S. should also make it clear that no nation that the IAEA and the U.N. Security Council is unable to clearly find in full compliance with the NPT will be allowed to leave the treaty legally without first surrendering all the nuclear capabilities it gained while a member of the NPT. The idea behind this is that one cannot enter into a contract, gain the means to violate it, proceed to do so (or announce the intent to do so), and not be held accountable.

Some U.S. government legal counsels have objected to this commonsense requirement out of fear that it might somehow raise questions about the legality of the U.S. withdrawing from treaty obligations, such as the ABM Treaty. Their concerns, however, are unfounded: The U.S. is a law-abiding nation that complies with its treaty obligations. If it takes actions inconsistent with a treaty, it only does so *after* it is no longer a member or because it has formally chosen not to be a party. This certainly was the case with the ABM Treaty.

6. Support U.N. adoption of a series of country-neutral rules that track the above recommendations to be applied to any nation that the IAEA and the United Nations Security Council cannot clearly find in full compliance with the NPT.

The idea here would be to take advantage of something that, so far, has frustrated U.S. and allied diplomats—the difficulty that the IAEA and the U.N. Security Council have in making definitive determinations. Rather than wait upon either of these bodies actually to find a specific country in clear violation of the NPT and then try to get a consensus to sanction, it would make far more sense to delineate in country-neutral terms and in advance what the minimal consequences should be for any country the IAEA and the U.N. Security Council cannot clearly find to be in full compliance. This

approach has the clear advantage of being country-neutral and of forcing the IAEA and the U.N. Security Council to reach consensus only if they want to prevent action.

7. Build on the successful precedent of Libya's nuclear renunciation by getting its neighbors—starting with Algeria—to shut down their largest nuclear facilities.

President Bush has rightly spotlighted the success he has had in getting Libya to renounce its nuclear weapons program. The challenge now is figuring out how to establish this precedent as a practical nonproliferation standard that can be applied again in at least one other case. In this regard, neither North Korea nor Iran seem particularly promising prospects, since they are resisting cooperation—much less denuclearization.

The prospects, on the other hand, look much better closer to Libya itself. Specifically, now that Tripoli no longer has a nuclear program, it would seem reasonable for its neighbors to reciprocate by at least shutting down their largest nuclear plants.

Questions have been raised about Algeria's need for a second large research reactor. This reactor can make nearly a bomb's worth of plutonium per year; is located at a distant, isolated site; is surrounded by air defenses; and only makes sense if it is intended to make bombs. In fact, Algeria already

has a second, smaller, less threatening research reactor in Algiers. Shutting down the larger plant at Ain Ousseara would save Algeria money and make everyone breathe easier.

Additionally, there is Egypt's large research reactor purchased from Argentina. It, too, can make nearly a bomb's worth of plutonium annually. Perhaps Egypt could offer to mothball this plant in exchange for Israel shutting down its large plutonium production reactor at Dimona. The latter is so old that it will take hundreds of millions of dollars to refurbish it just to keep it operating. Israeli critics opposed to the continuing operation of the Dimona reactor have publicly called for its shutdown in the Knesset.

Certainly, progress on any of these fronts would be helpful in addressing other proliferation problems in the Persian Gulf and elsewhere.

The point here, as with the other proposals above, is to build on the clear nonproliferation successes we now have. Certainly, if we do, we will be safer. If we don't, it is just as certain that we will be buying far more trouble than we can afford.

—Henry Sokolski is Executive Director of the Nonproliferation Policy Education Center in Washington, D.C. These remarks are based on his testimony before the U.S. House Committee on International Relations on March 30, 2004.