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US Statement on Disarmament/Nonproliferation

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Statement by Paula A. DeSutter, Assistant Secretary for Verification, Compliance, and Implementation,
on Compliance with Nonproliferation, Arms Control, and Disarmament Agreements,

in the First Committee, October 17, 2005

Thank you, Mr. Chairman. As the U.S. Assistant Secretary of State for Verification, Compliance, and Implementation, I am grateful for the opportunity to address this body on a subject of great professional interest to me. As some may recall, I spoke on this matter last year, and I believe that it is critical that we continue our dialogue in light of progress made and challenges remaining since that time.

Mr. Chairman, the United States this year is sponsoring a resolution entitled "Compliance with nonproliferation, arms control, and disarmament agreements." This is not the first time that we have introduced such a resolution. We hope, however, that delegations will view our resolution as an opportunity for the international community to reflect upon the changing face of the global arms control and nonproliferation challenge we all face. The resolution is intended not only to bring the issue of compliance to the attention of the international community, but also to emphasize that compliance with international treaties and obligations is critical to international peace and security, and to exhort governments to seek common cause in pursuit of diplomatic means to bring intentional violators back into compliance.

Just this past August, Secretary Rice, on behalf of President Bush, submitted to the U.S. Congress the most recent noncompliance report prepared by my Bureau in full coordination with all the relevant departments and agencies of the United States Government. This report, the unclassified version of which is available to all interested persons on the State Department's website, lays out the findings of the United States regarding questions of noncompliance by other nations. It provides, in as much detail as possible in an unclassified document, the evidence and the reasoning behind our compliance judgments. The Noncompliance Report, which I believe is the only document of its type produced in the world, seeks to alert the Executive and Legislative Branches of the U.S. Government and the public, to both existing noncompliance and potentially emerging violations.

Mr. Chairman, the United States and most of the other nations represented here today, have sought to supplement our national efforts at strengthening security with multilateral tools. These tools have included arms control, nonproliferation, and disarmament agreements. The United States, however, generally does not join regimes or sign international agreements that constrain the freedom to exercise our national right to pursue our security when U.S. compliance is not going to be reciprocated. This is just common sense. Few of you sitting here today would be likely to enter into any agreement- be it multilateral or bilateral - if you believed that other parties were unlikely to comply with its terms.

Therefore, when the United States adheres to a treaty, we want to know whether the other parties also are complying, and 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. For example, verification has two purposes: detection and deterrence. If detection has no consequences for the violator, then verification has no meaning, and deterrence is unachievable.

Making Compliance Judgments

Mr. Chairman, the cases of North Korea and Iran illustrate vividly the importance of two concepts that are inherently part of compliance: compliance assessment and compliance enforcement. The U.S. process of reaching noncompliance judgments is defined in U.S. law, based in international obligations. Our Congress has established specific institutions—my Bureau, most notably—to ensure that the compliance assessment process is rigorous, systematic and objective. While the U.S. experience is in many ways unique, the methods we use are available to all.

While all nations have sources of valid or corroborating 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. The United States believes that the means by which states parties can acquire relevant information for reaching noncompliance judgments are far more extensive than has been generally acknowledged or that 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 modern concept of National Means and Methods recognizes 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 most reliable, 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 study the international agreement or other commitment in question to see what States Parties are obligated to do.

Mr. Chairman, it is always important—and sometimes decisive—to establish clearly 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.

In cases where the information is troubling, but insufficient to reach a firm finding of violation, we will "caveat" it by noting explicitly uncertainties or ambiguities in the evidence. Whenever we can, we distinguish between inadvertent and deliberate violations, because this distinction can have an important bearing on what action will need to be taken in order to address 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 rectify the concern.

Let me underscore, Mr. Chairman, that making a determination as to whether 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.

Verification

Along with compliance assessments and compliance enforcement, Mr. Chairman, we consider verification as the essential part of what we call the "compliance process." It is impossible to consider any of these three elements except as part of a whole.

I am often asked if the U.S. demands "perfect" verification. Let me be clear, there is no such thing as perfect verification. The term "effectively verifiable" does not mean, and should not be taken to mean, that there is, or can ever be, certainty that every violation will be detected. This phrase indicates the aspiration to achieve reasonable confidence that, under the circumstances, detection of noncompliance will occur in sufficient time for appropriate remedial 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 to reduce the threat presented by the violation and deny the violator the benefits of his wrongdoing.

It is a common misperception, Mr. Chairman, 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 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. 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 the locations where they are employed.

The degree of verifiability is not judged solely 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 but may or may not facilitate detection of noncompliance“but their efficacy is limited. Verifiability assessments are also informed by a much broader array of factors. These include, but are not limited to, the proven reliability of our negotiating partners in adhering to agreements, the incentives given parties may have to cheat on a given agreement, and the relative significance of cheating pursuant to the obligations.

The United States considered all these factors, for example, when we conducted our verification assessment of the proposed Fissile Material Cutoff Treaty. After two years of concerted effort studying the problem, we concluded that a quote "internationally and effectively verifiable Treaty" unquote, was not achievable, even with a highly intrusive inspection regime. Having come to such a conclusion, we believe that attempts to negotiate "good enough" 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, Mr. Chairman, that the United States urges our colleagues at the Conference on Disarmament to join us in concluding a normative FMCT that relies on each state using its own resources to verify compliance. Pending the conclusion of such a Treaty, we 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, have made such a commitment.

Why do I mention FMCT in a discussion of compliance? Simply to make the point that 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. For example, 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 where there is a genuine, accepted strategic commitment.

Enforcement

Mr. Chairman, the international community is facing significant proliferation challenges, none more dangerous than noncompliance with nuclear nonproliferation obligations. It is well known that the DPRK has a nuclear weapons program and concealed it while a party to the Nuclear Nonproliferation Treaty. I would note that the Board of Governors of the International Atomic Energy Agency did its duty in reporting the DPRK's noncompliance with its nuclear safeguards agreement to the UN Security Council on several occasions. The Agreed Framework signed in 1994 froze plutonium production; however, the DPRK by then had embarked on a covert uranium enrichment program. The DPRK then expelled the IAEA inspectors in late December 2002.

Reinforced by the concern of the international community, the last round of the Six Party Talks concluded with a public commitment by the DPRK to give up all its nuclear weapons and all existing nuclear programs and return to the NPT and its nuclear safeguards agreement. Obviously there is much work yet to be done, and again obviously given the DPRK's past record of disregard for its international commitments, the international community will expect sufficiently strong verification measures to ensure that North Korea is meeting its obligations. As Ambassador Hill stated in Beijing following the adoption of the Joint Statement, the DPRK must promptly eliminate all nuclear weapons and all nuclear programs, and this must be verified to the satisfaction of all parties by credible international means, including the IAEA.

Mr. Chairman, Iran's nuclear program marks another area of concern. Last month the Board of Governors of the IAEA formally declared what many of us have known for some time, that is, that Iran's breaches and failures of its obligations to comply with its Safeguards Agreement constituted noncompliance in the context of Art 12c of the IAEA Statute. As you know, by a simple reading of the IAEA Statute, such a finding requires a report to the United Nations Security Council. The Board will discuss the timing and content of that report at its next session. In that regard, it is important to note that such a report in and of itself will not resolve the Iranian nuclear issue. Resolution requires Iran's rulers to make the strategic decision to comply with their international obligations, not flaunt them.

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 this 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.

There is some good news in this regard, however. The international community in various fora is addressing the problem of proliferation and abuse of "peaceful cooperation." For example, the Nuclear Suppliers Group has developed new guidelines that support suspension of transfers of trigger list items to states, which have been found in noncompliance of their safeguards obligations. In these circumstances, a special plenary of the NSG would be called to review the situation and consider an appropriate response. In Iran's case, we look forward to participating in the extraordinary NSG Plenary to be held October 19th in Vienna.

What is to be done now, Mr. Chairman? How can the international community use its collective diplomatic resources to bring these countries back into compliance? How can we address these cases and others that may still be undiscovered in a way that strengthens deterrence of future and further noncompliance? If these countries benefit from their noncompliance, what lessons will other nations learn, and which of our other regimes will come under assault next? We cannot allow the violators to benefit from their violations. Doing so undermines the regime, our faith in the regime, and reduces security for us all.

Mr. Chairman, in conclusion, I believe that each of our countries will need to consider these questions. The challenge posed by noncompliance is great. There are no easy answers. The question is, are we up to the challenge? The United States believes that we are. Thank you, Mr. Chairman.