

The House Foreign Affairs subcommittees on Asia, the Pacific, and Non-Proliferation and the Middle East, North Africa, and International Terrorism Joint Hearing

“50 Years of the Non-proliferation Treaty: Strengthening the NPT in the Face of Iranian and North Korean Nonproliferation Challenges.”

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Good morning Chairman Bera, Chairman Deutch, Ranking Member Yoho and Ranking Member Wilson,

Thank you for holding this hearing on “50 Years of the Non-proliferation Treaty: Strengthening the NPT in the Face of Iranian and North Korean Nonproliferation Challenges.”

I am honored to be here.

The Nuclear Nonproliferation Treaty (NPT) is a central part of a global nonproliferation regime. As we examine how we can strengthen this treaty and what challenges exist leading up to the 2020 NPT Review Conference, we cannot, or should not, divorce those questions from U.S. actions on the overall arms control and nonproliferation regime. We should step back and understand how our actions have impacted the regime. In that same way, we should consider how our actions and policies regarding Iran and North Korea impact global nuclear nonproliferation.

Many experts who work in the arms control and nonproliferation field have been asking the following question: what is the U.S. strategy on nuclear nonproliferation? How do our actions regarding Iran and North Korea fit into that strategy?

The nonproliferation regime has as its foundation the NPT. However, the regime consists of a body of other related treaties and nonbinding agreements, United Nations Security Council Resolutions, regional agreements, multilateral organizations and initiatives, technology control regimes, and bilateral arrangements. This interlocking framework of agreements is under increasing stress and strain, in part as a result of U.S. policies.

- In the past two years, the U.S. withdrew from the 2015 Joint Comprehensive Plan of Action (JCPOA) with Iran, despite multiple reports by the International Atomic Energy Agency (IAEA) and the U.S. intelligence community that Iran was abiding by the terms of the agreement.
- Last year, the U.S. failed to pursue diplomatic options to bring Russia back into compliance with the 1987 Intermediate-Range Nuclear Forces (INF) Treaty and the U.S. government decided to withdraw from the pact in August 2019. The INF Treaty led to the elimination of 2,792 nuclear-armed missiles and banned the United States and Russia from fielding land-based missiles with a range between 500 and 5,500 kilometers.
- The future of the 2010 U.S.-Russian New Strategic Arms Reduction Treaty (New START)—the last remaining treaty limiting the massive U.S. and Russian nuclear arsenals—is in question because the treaty expires in 2021. Yet, there is still no decision to extend the treaty for an additional five years until 2026.
- The United States has not ratified the 1996 Comprehensive Nuclear Test Ban Treaty and has stated in the 2018 Nuclear Posture Review that it will not do so. This statement is significant because the U.S. is one of the few remaining countries that must ratify the treaty before the treaty can enter into force and because the conclusion of the CTBT is considered to be a key part of the NPT nuclear weapon states’ obligations under the NPT.

- The Trump administration has also stated that it is considering unilateral withdrawal from the 1992 Open Skies Treaty, a multilateral agreement that U.S. allies in Europe strongly believe is in their security interests.
- Several countries also have serious questions and concerns about costly and expansive programs of the U.S. and other weapons states to replace and upgrade their nuclear arsenals, and the impact of those programs on nuclear nonproliferation treaty obligations.
- Another challenge to the NPT regime is the disheartening fact that there were two summits between the U.S. and North Korean leaders that have, so far, failed to produce movement towards disarmament on the side of North Korea or easing of sanctions by the United States. North Korea may not be currently engaged in nuclear weapons testing or long-range ballistic missile flight testing, but it is prudent to assume they are building more missiles and manufacturing more nuclear warheads.

Some of these U.S. actions have violated the spirit if not the letter of the U.S. obligations under Article VI of the NPT, which commits states-parties to "pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control."

Taken together, these developments put U.S. diplomats in a problematic position as we approach the NPT Review Conference and seek to strengthen support for and implementation of the treaty.

How the U.S. handles Iran and North Korea at the NPT Review Conference and afterwards, must be viewed in this larger nonproliferation frame, and not in a vacuum.

Iran

Iran is a party to the 1970 Nonproliferation Treaty and was one of original 62 signatories to the treaty. Currently, 190 countries are party to the agreement.

In the lead-up to the JCPOA, there were numerous discussions and disagreements about the intention of Iran's nuclear efforts dating at least back to 2003 when the International Atomic Energy Agency (IAEA) concluded that Iran had not violated the NPT. The IAEA did note that Iran should have been more forthcoming about activities at the Natanz uranium enrichment facility and the Arak heavy water production plant. Disputes continued through the following years with the international community worried about how much closer Iran became to building a nuclear weapon under the guise of the country having a peaceful nuclear program. Disagreements finally gave way to negotiations between the U.S., Germany, the United Kingdom, France, Russia, and China (P5+1) and Iran that led to the JCPOA. Fundamentally, the agreement successfully limited Iran's nuclear capacity in exchange for nuclear-related sanctions relief. Those sanctions were lifted in January 2016 when Iran met key JCPOA nuclear restrictions.

Following a series of certifications by President Trump that Iran complied with the agreement, on May 8, 2018, President Trump officially withdrew the United States from the JCPOA, despite Iran's continued compliance with the deal. He also noted that the sanctions would be imposed as

a result. Interestingly, the U.S. did not make use of the existing dispute resolution mechanism within the treaty itself. This may be because the U.S. could not state that there was a breach of obligations on the part of Iran. The administration did note Iran's support for terrorism and ballistic missiles. Later that year, in November, the United States re-imposed nuclear-related sanctions on Iran.

Iran responded with phased reductions in its compliance with the JCPOA throughout 2019 and 2020. In July 2019, Iran began a series of steps away from the 2015 nuclear deal by exceeding limits on its stockpile of low-enriched uranium. Tehran's stockpile is limited to 300 kilograms of low-enriched uranium under the agreement. A generally consistent issue, even considering Iran's recent actions that step away from its agreement, is its willingness to remain in the agreement.

When the U.S. withdrew from the JCPOA, Iran expressed a desire to stay in the JCPOA despite the U.S. withdrawal, and all other P5+1 parties reiterated their commitment to full implementation of the deal. Iran has indicated that it would not seek additional steps if sanctions could be relieved. Iran continued to take a phased approach to step away from its treaty obligations. When in January 2020, following the U.S. assassination of Soleimani, Iran announced it would no longer be bound by the JCPOA's limit on centrifuges to enrich uranium, Tehran also emphasized that all its actions were reversible and that it would return to the deal if sanctions would be lifted and its interests could be guaranteed.¹

Europe has made many efforts to save the JCPOA. From the moment the U.S. withdrew, Europe showed a desire to do what is possible to maintain the treaty. Support has also come from both Russia and China.

The Iranian move in January led to Britain, France, and Germany meeting to find a way to persuade Iran to abide by the agreement. They were joined by both Russia and China, who were also working to save the deal. The Europeans spelled out steps in response to Iran's actions, one of them being notifying the UN Security Council, at which time sanctions would be applied. It was the most forceful action yet taken by European powers to enforce the JCPOA. If Iran does not return to compliance, the process could result in the imposition of U.N. sanctions.

Iran has said that it could withdraw from the NPT if its case is referred to the U.N. Security Council. "If the Europeans continue their improper behavior or send Iran's file to the Security Council, we will withdraw from the NPT," said Foreign Minister Zarif. In late January, after the European decided to notify the UNSC, a group of Iranian lawmakers called for a debate on whether Iran should leave the NPT. A proposal would need to be passed in two readings and then ratified by the Guardian Council to become a law, and the supreme leader has the final say on the nuclear program.

Unfortunately, the U.S. has preferred to stay away from discussions on efforts to find a solution to the current situation with Iran. Instead, the U.S. had admonished the Europeans for their efforts to keep the JCPOA intact.

¹ "Iran Warns of Strong Response If Europe Reimposes Nuclear Sanctions," January 14, 2020, <https://www.timesofisrael.com/iran-warns-of-strong-response-if-europe-reimposes-nuclear-sanctions/>

To have a successful Review Conference, which would also mean addressing the nonproliferation situation with Iran, the U.S. should be willing to take steps to get the JCPOA back on track. However, that means the U.S. must also be willing to give something in return, which we have not seen any indication the U.S. wants to do. If the goal is to strengthen the nonproliferation regime, the U.S. should be doing whatever it can to avoid another country from withdrawing from that NPT.

What should we be doing?

The first steps I would propose are not those most popular with the administration today. In my view, there is still an opportunity to save the JCPOA, and by doing so, take a big step towards strengthening the NPT. It would also go far to begin to open the door for dialogue and discussion on other issues of concern with Iran, like that of missiles. I lean on the side of discussing areas of conflict, not forcing countries to do what we want when there is still an open chance for an interim agreement. We want to avoid the international community from going back to where we regarding Iran's nuclear program before the deal.

I would also be more forthcoming with those who want to maintain the JCPOA, mainly the Europeans. Since the U.S. withdrew, the Europeans, as well as Russia and China, have been making efforts to maintain the agreement, and we have criticized them for their efforts. The U.S. has not been willing to meet anyone even half-way.

It is challenging to see how we can address this situation at the NPT Review Conference or elsewhere if the U.S. is not ready to talk about the problems and a positive way forward. A fundamental aspect of the NPT and with all treaties and conventions is the concept of diplomacy, of being willing to sit at the table and discuss how to find an agreed solution. That has not been occurring.

The U.S. has noted its concerns about Iranian missiles, which were never part of the JCPOA. In the view of the administration, missiles should have been part of the agreement, and since they were not, that fact provided another rationale for withdrawal. However, it is unlikely Iran would now want to agree to discuss any additional U.S. concerns when the U.S. withdrew from the JCPOA. How can the U.S. be trusted to stay in another treaty considering our current actions not only with the JCPOA but also regarding the INF Treaty?

If we want other countries to trust our commitment to international agreements and to nuclear nonproliferation, we need to take steps back towards the JCPOA. Here again, we do not see the bigger picture. When the U.S. assassinated Iranian commander Qasem Soleimani, Iran responded with a coordinated ballistic missile strike against U.S. assets. The missies are a weapon they had that can make a statement in their defense. If anything, we have provided Iran with another reason for them to see the value of their missiles.

North Korea

Now, let me say just a few words about North Korea.

North Korea signed and ratified the NPT but in 2003 it declared its withdrawal from the treaty—a move the United States and other NPT states parties have not officially recognized.

Depending upon the source, it is believed that North Korea has 30 nuclear weapons. The possession of these weapons is a challenge to the nonproliferation regime, but that alone is not enough to destroy the regime. That is because North Korea is not the only country to possess nuclear weapons or the means to deliver them. The threat is more in line with the concern the weapons in North Korea raises in South Korea as well as its other neighbors, and the historical dynamics of that relationship with those neighboring countries. It is also a constant threat for further proliferation in the region, with South Korea and Japan. Our goal should be not only to promote disarmament but to bring North Korea back into the Nuclear Nonproliferation Treaty and the broader nuclear risk reduction and elimination regime.

We all know the story. After several months of harsh rhetoric between President Trump and Kim Jung Un after the President took office in 2017, there were a series of exchanges between the leaders and two Summits, one of which failed. Since that failed summit, and despite a visit by President Trump to North Korea, leading to the President crossing the demilitarized zone (DMZ), progress has slowed significantly.

In fact, in January 2020, North Korea said it was "deceived" by the United States and would be ending its openness to discussions after a year and a half of broken-down denuclearization talks. North Korea said it would move on from what it viewed as "wasted time" in ultimately unsuccessful nuclear negotiations with the U.S. "We have been deceived by the United States, being caught in the dialogue with it for over one year and a half, and that was the lost time for us," top Foreign Ministry official Kim Kye Gwan wrote in a statement.²

North Korea continues to possess nuclear weapons, and the threat it poses to countries in the region remains a challenge to the nonproliferation regime. Though North Korea is not an NPT party, its possession of nuclear weapons and the failed attempts to convince North Korea to disarm casts a shadow on any possible success of the NPT Review Conference and to the nonproliferation regime.

What should we be doing?

The United States should be willing to negotiate with North Korea, but we can only hope to be successful if we adopt a smarter strategy. We should reengage the State Department to lead these negotiations and start with lower-level exchanges to set the parameters of what the talks will entail, including what disarmament looks like for the North Koreans and what possible sanctions relief looks like for the United States. We should refresh the whole of government approach, leading to a government strategy that includes fall back positions for different possibilities in

² "North Korea said it was 'deceived' by the U.S. in 18 months of nuclear talks," Business Insider, January 11, 2020, <https://www.businessinsider.com/north-korea-says-deceived-by-the-united-states-2020-1>

such talks. A meeting of heads of state is not a precondition of talks, and it is not the ideal starting point.

We also need to focus our negotiating strategy on achieving tangible, practical steps that halt, then reverse North Korea's nuclear and missile programs, in exchange for steps to ease some of the many sanctions against North Korea.

Solidifying the tenuous moratorium on North Korean nuclear testing and long-range ballistic missile flight testing is important. The North already has a proven high-yield warhead design, but additional tests could be used to achieve military and technical advances. Leaders in Washington, Seoul, Beijing, Tokyo, and elsewhere should seek to solidify Pyongyang's nuclear testing suspension by securing its signature and ratification of the 1996 Comprehensive Test Ban Treaty.

Solidifying a halt to further ballistic missile tests is also crucial because it can possibly stop the North Koreans just short of developing a reliable system to deliver their high-yield warhead. Halting production of fissile material and verifying the freeze is the next logical step, as it would put a ceiling on the potential number of nuclear devices North Korea could assemble.

The United States should also have a clearer strategy for the roles of other countries in the region. North Koreans ended the six-party talks in 2009, and with the end of those talks, a regional plan for how to deal with North Korea is now absent. As a result, we lost an opportunity for a unified approach.

The United States should also not base our negotiations on personalities of the leadership but on the strategies and goals that are developed by the government following interagency discussions and even from entities outside the government. As a North Korean stated recently, "...despite diplomatic acts like President Donald Trump's recent birthday greeting sent to the Korean leader Kim Jong Un, the leaders' "personal" relationship is not enough to persuade the state at large to return to the table with the U.S."³

There must also be a better appreciation for the difficulty of this issue. There should be no pronouncement of success before any negotiations have even started. We cannot assume we will wrap up a negotiation to dismantle nuclear weapons during or immediately after a Summit. These are long, drawn-out discussions.

Finally, if the administration is serious about denuclearizing North Korea, the U.S. should take steps toward negotiating a peace agreement and formally ending the Korean War. By doing so, the U.S. would be taking a more measured, holistic policy to reduce tensions and lay the foundation for trust.⁴

³ Ibid.

⁴ "A Peace Treaty Could be Essential to North Korean Denuclearization," Bonnie Jenkins, Axios, February 25, 2019, <https://www.axios.com/a-peace-treaty-is-essential-for-north-korean-denuclearization-dc691119-dacd-4072-a7d0-546e5451b44c.html>

Global support for the NPT is strong, but its long-term viability cannot be taken for granted. The current challenges facing the NPT demand much more than bland statements expressing support for the treaty. Instead, they require renewed U.S. diplomatic leadership to support all the key pillars of the treaty, particularly on disarmament and nonproliferation.