

Department of State
Project 97
“After a finding of Noncompliance, What?!”

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EXECUTIVE SUMMARY: Treaties have long been the cornerstones of international relations. They can be seen as one of the sole mechanisms to formalize agreements between sovereign states. In principle, these agreements are legally binding. In practice, the result is less certain. Issues ranging from the how the country views itself on the international stage to the specific treaty terms and enforcement mechanisms can all effect prospects for compliance. What is certain is the disruption and uncertainty that noncompliance causes. If not addressed, a treaty's utility will eventually erode to the point where the agreement has no force. Other countries

would also perceive little value in treaty ratification if compliance cannot be sufficiently verified. This report focuses on current issues of noncompliance with Russia, Syria, Iran, and North Korea. Key themes arise across these cases and point to specific factors that impact treaty compliance. The report distills these key themes into general and case-specific recommendations for bringing a country back from noncompliance. They are:

1. More investment in multilateral treaties....
2. Determining the political personality of the nation state in treaties
3. The difficulties in determining compliance center on the nature of the treaty
4. Understanding Hard Law versus Soft Law is critical
5. Finding a common ground for each treaty in non-compliance using energy
6. Using international organizations to assist in treaty compliance
7. Using information sharing and transparency to assist in bring compliance
8. Finding an agreed verification process is critical to treaty compliance

Specific recommendations for each country to return it to compliance are:

Russia:

1. Stress communication and collaboration among stakeholders, which work to foster trust and cooperation as recommended by the Nuclear Threat Initiative (NTI) working group.
- 2) Expanding bilateral cooperative developments/evaluations with P-5 + 1 states;
- 3) Extending the development/evaluations to all nuclear weapon states;
- 4) Engaging major nations that employ nuclear power generation;
- 5) Evolving from bilateral to multilateral implementation;
- 6) Engaging in both hard law and soft law.

Syria:

1. Recommendation one is to force Syria back into compliance would be to change the leader and some of their government.

2. The second recommendation to get Syria back into compliance would be to provide long term assistance to help internally displaced persons Syrians and refugees.

3. The third recommendation is to reduce the influence of the loyalists Syria forces and their ability to create and obtain biological and chemical weapons by an increase of U.S. influence in Syria.

Iran:

1. In order to move forward in future negotiations with Iran it is our recommendation that the United States remain in compliance with the JCPOA.

2. Leverage China to assist with curtailment of missile testing and Russia as well, one regarding trade incentives and the other concerning additional sanctions.

3. If sanctions were to be again placed into effect, it is recommended that the United States maintain and continue to impose strict sanctions on Iran's Islamic Revolutionary Guard Core and its top-ranking officials....

North Korea:

1. It is recommended the U.S. should offer significant economic aid and security assurance if North Korea dismantles her nuclear program.

2. As a showing of good faith, we recommend that lifting current sanctions/ on: statue, coal, mineral, iron, seafood, textile exports, and caps on North Korean labor exports.

3. Leverage China and Russia to freeze development of the North Korean program via China sanctioning coal; and Russia ceasing trading through Vladivostok.

4. "The most realistic U.S. strategy for countering North Korea's exploitation of geostrategic divisions and halting its sprint toward nuclear development is to close the gaps with allies and neighbors of North Korea."

5. Lastly, probably the most unlikely and unwanted of the options would be to relent and allow North Korea to develop these weapons.

HYPOTHESIS: While treaty agreements should in no way be seen as monolithic, there can be several similar factors which animate treaty formation. The presence of these factors or variables impacts the terms and level of compliance of an agreement. How a country perceives the costs and benefits of agreement, socio-historical context, as well as characteristics of the treaty itself can be used to establish country-specific models of noncompliance. These models can then be used to establish roadmaps for bringing countries back into compliance. Potential solutions will often arise outside the well-defined boundaries of the hard law of treaties. Solutions require better recognition, understanding, and response to socio-historic contexts. Investments in collaborative research and development for innovative verification regimes are also critical. Such solutions can allow diplomacy to be more flexible than hard law solutions can in building trust and capacity. In an international environment inexorably moving toward multilateralism, investment and build-up of institutional capacity in compliance and verification regimes will foster from necessary --- trust, certainty, and fairness for sustainable levels of compliance.

INTRODUCTION:

Most understand treaties in their literal and direct sense. Beth Simmons posits one usable baseline definition: "A treaty is a formal agreement between sovereign states, usually documented in writing...(and) one of the oldest forms of communications among sovereigns crucial as documents for conducting international relations...(which) generally create legal obligations among states that are parties to them."¹ This general idea of what constitutes a treaty provides the predominant device and mechanism for individual countries to interact with one another with at least some modicum of certainty.

Treaties have undoubtedly been relied upon historically as one of the main vehicles for increased international cooperation. How one perceives a treaty can be shaped by a multitude of factors. Treaties can undoubtedly be seen as expressions of norms and values. Such a view can be quite useful in explaining why some parties might be more likely to violate treaty agreements.

¹ Simmons, Beth Ann, "Treaty Compliance and Violation," *Annual Review of Political Science* 13, no. 1 (2010): 1-2. (accessed 17 December 2017); available from <https://dash.harvard.edu/handle/1/11665828>

Compliance is a key component of treaties. Making sure parties to a treaty actually do what they have agreed to do is a critical issue in treaty formation. All treaties are, to varying degrees, “obligation-creating legal instruments.”² The stringency of a specific treaty obligations depend, in part, on the language utilized in the treaty. In mandatory language (“must”) would create far more obligation for a party than hortatory language (“should” or “ought”), and the decision to employ mandatory or hortatory language in a treaty ultimately reflects a preference for mandatory “hard law” requirements or the less stringent, hortatory “soft law”.³ These kinds of law will be discussed subsequently.

Reasons for a state’s noncompliance can sometimes be quite rational, albeit illegal. Similarly, individual parties can often develop (either in treaty formation or over time) different ideas about what treaty compliance looks like and their obligations under the agreement.

Any number of variables can impact a country’s ability and willingness to comply, and bringing a country back into compliance requires commitment to increasing knowledge bases, capacity, and the necessary tools.

Perhaps the only certainty with a party’s noncompliance is the uncertainty which it creates. When a party to an international arms treaty fails to comply, the uncertainty of the non-violating parties as to the measure and degree of non-compliance inexorably leads to uncertainty in how best to respond. If noncompliance continues unabated, confidence and trust between treaty parties as well as non-parties will erode. This creates even greater uncertainty about future viability of international agreements.

This cycle of uncertainty would be untenable under any type of international agreement, but it takes on added significance and urgency in the context of international arms treaties and

² Ibid., 2

³ Ibid., pps. 3-6.

nuclear nonproliferation. In these specific contexts, uncertainty about a country's level of noncompliance and subsequent uncertainty about an appropriate response can lead to disproportionately bad outcomes. Nuclear war, large scale military operations, and scores of civilian deaths could reasonably be imagined as likely consequences when treaty noncompliance is not effectively addressed and uncertainty dominates the discourse. Themes to bring nations into compliance are as below.

1. More investment in multilateral treaties....

The international community cannot afford to take a wait-and-see approach in addressing noncompliance issues and non-compliant parties. To tackle this problem of noncompliance, more investment into multilateral treaties could produce the desired outcome between nation states. Better recognition of socio-historical context can help underwrite the treaty to where a country does not feel its sovereignty is disrespected. Every country wants to feel equal on the world stage; showing immediate signs of disrespect are non-conversation starters and would hinder any would be compliance in agreed upon treaty. Treaties come to fruition because there is mutual ground for agreement and it would benefit both sides. Supporting movement of multilateralism and facilitating broader international involvement will help validate mutual compliance. Having means of compliance and verification built into the treaty are highly critical.

2. Determining the political personality of the nation state in treaties

George F. Kennan's "The Sources of Soviet Conduct" begins with a discussion of aspects that shape the "political personality" of power. Kennan ultimately sees the Soviet "political personality" as contingent on two things: ideology and circumstances.⁴

⁴ Kennan, George F. "The Sources of Soviet Conduct." *Foreign Affairs* 25, no. 4 (1947): 566-82 (accessed 17 December 2017); available from <https://www.foreignaffairs.com/articles/russian-federation/1947-07-01/sources-soviet-conduct>

While Kennan solely focused on the Soviet Union, his method can be readily imported into the process parties to a treaty use to bring a country back into compliance. Even though the four countries in this report likely have distinctly unique sets of political personality drivers, the recognition of this importance in tailoring solutions can have almost universal applicability.

3. The difficulties in determining compliance center on the nature of the treaty

In order to bring sovereign nations back into compliance with treaty agreements we must first understand the meaning of a treaty. Individual understanding of these meanings of treaties will differ to varying degrees. Even how a treaty establishes verification processes impacts how the parties view compliance.

Beyond the understanding of what a treaty is we must ask ourselves what it means to be compliant and if our understanding of compliance is consistent with that of other nations and the treaty itself. The United States must consider possibilities of rational non-compliance.

4. Understanding Hard Law versus Soft Law is critical

The United States must also consider the costs and benefits and the tradeoffs in implementing hard law solutions like treaties versus more flexible, easier-to-implement soft law solutions. Hard law refers to the actual binding legal instruments of law. Soft law refers to guidelines and policy declarations or codes of conduct. However, they are not directly enforceable.

Hard law may elicit a much higher cost than the benefits it produces whereas soft law may elicit many of the benefits of hard law at a much lower cost. If countries are reluctant to commit to a course of conduct in a situation where the future is uncertain then soft laws may provide them with a means to commit without the binding legal agreement to do so regardless of

what the future may hold. In this way, soft law may be better suited to the interests of both strong and weak states.

5. Finding a common ground for each treaty in non-compliance using energy

The United States will have to find common ground with each non-complying country respectively. One area of interest the United States can look at in an effort to find common ground is the pursuit into the distribution, storage and production of energy. Energy is important to each nation in non-compliance in this study. With Iran, it brought them to the table and the elimination of coal supplies to North Korea might do the same.

6. Using international organizations to assist in treaty compliance

In order for the United States to multilateral relationships with other countries “it is important that international organizations understand how to encourage participation in dispute resolution. International organizations can coordinate international interactions to increase the likelihood that states will submit to the authority of dispute resolution bodies.”⁵

7. Using information sharing and transparency to assist in bring compliance

An information sharing program can also aid in the United States’ effort in improving transparency in treaties. Transparency is a vital building block in the pursuit of trust. If the United States can partner with international third-party programs such as the UN or the IAEA to develop an information sharing program that can distribute transparent and informative data on the current state of nuclear non-proliferation around the world to citizens of non-compliant countries then it is possible that the citizens may begin to have a more rounded understanding of

⁵U.S. Legal.Com, "Soft Law and Legal Definition, from <https://definitions.uslegal.com/s/soft-law> and Guzman, Andrew, “International Organizations and the Frankenstein Problem,” *The European Journal of International Law* 24, no. 4 (2013): 999-1025 (accessed 17 December 2017); available from <https://academic.oup.com/ejil/article/24/4/999/606374>

the situation at hand and may then seek to regulate its country's actions from a domestic level. Many countries seek to direct the domestic narrative of international treaties at their population.

8. Finding an agreed verification process is critical to treaty compliance

Verification is arguably one of the most important processes in achieving sustainable compliance goals. The Verification Research, Training and Information Centre (VERTIC) states that “verification will play a central role in establishing and sustaining nuclear armament agreements.”⁶ Former U.S. Senator Sam Nunn—who during his tenure shepherded the “Nunn-Lugar Cooperative Threat Reduction Program” which stresses the centrality of verification in achieving an effective and sustainable compliance regime. He cites factors which foster this as certainty, trust, and confidence not only with countries whose activities are being verified but with non-possessing states and even non-parties:

When nuclear weapons or materials are involved, that lack of confidence undermines global security and can derail or stall the momentum of arms reduction or other nuclear threat reduction efforts. In short, verification can serve as the brake or the engine for arms control, and much greater capacity and participation a needed now and in the future for long term success.⁷

As stated above, successfully bringing a country back into compliance depends on every party agreeing what compliance looks like.

Verification can be defined as “a set of national and cooperative activities, tools, procedures, analytical processes, and fundamentally, judgments about what is happening with

⁶Verification Research, Training and Information Centre, “The IAEA and Nuclear Disarmament Verification: A Primer,” *Verification Matters*, no. 11 (2015). (accessed 17 December 2017); available from <http://www.vertic.org/media/assets/Publications/VM11%20WEB.pdf>

⁷Nuclear Threat Initiative, *Innovating Verification: New Tools & New Actors to Reduce Nuclear Risks: Overview* (Washington, DC: Nuclear Threat Initiative 2014) (accessed 17 December 2017); available from http://www.nti.org/media/pdfs/VPP_Overview_FINAL.pdf?_id=1405445582 and Nunn-Lugar Cooperative Threat Reduction Program, <https://www.csis.org/people/sam-nunn>

regard to specific activities defined in an agreement.”⁸ VERTIC provides a similar functional definition: “Verification is the process of gathering and analyzing information to make a judgement about parties’ compliance with an agreement.”⁹

These issues seem to arise from the partial political character of verification:

Each state, given its political and security situation, has to make its own judgment on what is the adequate verification of a given treaty or agreement. This could lead to, and has led to, situations where states have arrived at different judgements on the adequacy of the verification system for a particular treaty.¹⁰

Verification’s subjectivity problem has been, and still is, a major issue in assessing available evidence and making compliance determinations. A specific example is Iran which agreed to the Joint Comprehensive Plan of Action (JCPOA) along with the U.S., Russia, the United Kingdom, and Germany. Iran’s continued development of a ballistic missile program established the predicate for U.S. decertification of the agreement. This led to the U.S. argument that Iran is violating the *spirit* of the agreement even though the IAEA continues to certify Iran’s compliance with the *letter* of agreement based on U.N. Resolutions cited in the JCPOA.¹¹

⁸Nuclear Threat Initiative, *Innovating Verification*, 5.

⁹Verification Research, Training and Information Centre, “The IAEA and Nuclear Disarmament,” 13.

¹⁰Dahlman, Ola, “Verification: To Detect, To Deter and To Build Confidence,” In *Disarmament forum: Arms Control Verification*, no. 3, ed. Jane Linekar, 3-13 (Geneva: United Nations Institute for Disarmament Research, 2010) (accessed 17 December 2017); available from <http://www.unidir.org/files/publications/pdfs/arms-control-verification-en-320.pdf>

¹¹Council on Foreign Relations, *The Impact of the Iran Nuclear Agreement* (accessed 17 December 2017); available from <https://www.cfr.org/background/impact-iran-nuclear-agreement>

Increased U.S. investment in developing better verification methods could help nuclear inspectors with problems of trying to “prove the negative” in a situation where a country might withhold from their required baseline disclosures.¹²

RUSSIA

Situation:

INF Treaty

"The Treaty Between The United States Of America And The Union Of Soviet Socialist Republics On The Elimination Of Their Intermediate-Range And Shorter-Range Missiles (INF Treaty)" is a bilateral agreement of unlimited duration between the U.S. and Russia (Soviet Union) that required the destruction of both countries' “ground-launched ballistic and cruise missiles with ranges of between 500 and 5,500 kilometers, their launchers and associated support structures and support equipment within three years after the Treaty enters into force” and barred the production of any INF proscribed missiles in the future as long as both countries remained party to the treaty. The INF Treaty entered into force on June 1, 1988. In May, 1991, both countries eliminated the last of their respective missiles declared under the INF Treaty. The INF Treaty remains in force.¹³ Regrettably compliance does not.

New START

The Treaty between the United States of America and the Russian Federation on Measures for the Further Reduction and Limitation of Strategic Offensive Arms (New START) represents the most recent iteration of arms reduction treaty between the U.S. and Russia. New START establishes a total aggregate limit to U.S. and Russian strategic arms that must be met by

¹² Ibid., Council on Foreign Relations.

¹³ U.S. Department of State, *Treaty Between The United States Of America And The Union Of Soviet Socialist Republics On The Elimination Of Their Intermediate-Range And Shorter-Range Missiles (INF Treaty)* (accessed 17 December 2017); available from <https://www.state.gov/t/avc/trty/102360.htm>

February 8, 2018. New START entered into force on February 5, 2011, and its duration is 10 years unless superseded by a subsequent agreement.¹⁴

Most significantly in July of 2014, the Department of State determined “that the Russian Federation is in violation of its obligations under the INF Treaty not to possess, produce, or flight-test a ground-launched cruise missile (GLCM) with a range capability of 500 km to 5,500 km, or to possess or produce launchers of such missiles.”¹⁵

Challenges and Issues:

Russia’s continued noncompliance with the INF Treaty can be placed in the larger context of Russian brinkmanship abroad. Russian incursions in Georgia, Ukraine, and Crimea, as well as its program of disrupting elections show a Russia taking more risks and behaving more erratically. Syria and the Middle East can also be thrown into this equation.

Putin’s Leadership

Russia’s risky international behavior can be seen as a direct product of Vladimir Putin’s leadership. Though Russia certainly deserves to be involved as a major stakeholder in finding solutions for modern-day nuclear problems, Putin’s choices and his penchant for brinkmanship and creating chaos on the world stage have significantly diminished Russia’s viability as an international partner.

Anti-Western Sentiment

There is usually not a lot of moving forward with any issue that is brought to the table where the United States and Russia sit on opposing heads. With recent events, there is not a lot

¹⁴ U.S. Department of State, *New START* (accessed 17 December 2017); available from <https://www.state.gov/t/avc/newstart/>

¹⁵ U.S. Department of State, *Adherence to and Compliance with Arms Control, Nonproliferation, and Disarmament Agreements and Commitments*, July, 2014 (accessed 17 December 2017); available from <https://www.state.gov/documents/organization/230108.pdf>

of hope of improvement either. “From an historical perspective, two challenges have been making U.S.-Russia cooperative relations difficult. One challenge has to do with the actions of both sides. The other challenge involves how they describe what is going on in their relations.”¹⁶ This does not mean all hope is lost; it means US and Russia need to find common interests they can come to an agreement on and mutual trust can be fostered.

The strategic outcome with these negotiations is the New START treaty is due to expire in 2021. Those two historical and previous challenges mentioned above play a major role with those new proceedings. “The first (practical) challenge is that the United States and Russia have found it difficult or unnecessary to signal mutual intentions and have maintained uncertainty about those intentions. The second challenge to the U.S.-Russia relationship is epistemological. It has to do with the misuse of concepts to describe their conflict. The problem is the analytical impasse.”¹⁷

One of the other big concerns the United States and Russia face, is neither country wants to decrease the number of nuclear weapons they have. “In the nearly six decades since the advent of nuclear arms control, virtually all negotiated agreements to limit stockpiles of nuclear weapons have been concluded by the United States and Russia Federation. Even today the U.S. and Russian arsenals are many times larger than those of other nuclear weapons states.”¹⁸ In 2007, Russia voiced their concerns with reducing their amount of intermediate range missiles because; other European nations were acquiring them as well. China, North Korea, India,

¹⁶ Troitskiy, Mikail. “Two Challenges to U.S.-Russia Relations: Ontological and Epistemological” *PONARS Eurasia*. Accessed 17 December 2017. Available from <http://www.ponarseurasia.org/article/two-challenges-us-russia-relations-ontological-and-epistemological>

¹⁷ Troitskiy, Mikail.

¹⁸ Tyson, James L., and Steven Pifer, “Nuclear Arms Control Beyond the U.S. and Russia,” *Brookings*, August 29, 2016. (accessed 17 December 2017); available from <https://www.brookings.edu/blog/order-from-chaos/2016/08/29/nuclear-arms-control-beyond-the-u-s-and-russia/>

Pakistan, Iran, and Israel were acquiring the intermediate range missiles; all closer proximity to Russia than the United States.¹⁹

Current Actions:

Economic sanctions have been placed on Russia for their territorial incursions and for interference with the U.S. 2016 General Election. President Obama applied sanctions on Russia through four executive orders in March 2014 after Russia's illegal annexation of Crimea and Ukrainian incursions. The Russian Federation threatened Ukraine's peace, security, stability, sovereignty, and territorial integrity.²⁰ The U.S. Senate also passed legislation that codifies the Obama administration's executive orders in law and requires Congressional approval or a presidential waiver before sanctions can be lifted.²¹ This legislation also authorizes additional sanctions on Russia.

Recommendations:

As the world's two largest nuclear powers, the United States and Russia have a unique role to play, and in the best interest of both countries to constrain any nuclear buildup or proliferation.²² Both countries share a long history of shared norms in this realm, and this can be built upon again.

¹⁹ Pifer, Steven, "How to get Moscow Back to Compliance with the INF Treaty," *Brookings*. April 26, 2017. (accessed 16 December 2017); available from <https://www.brookings.edu/blog/order-from-chaos/2017/04/26/how-to-get-moscow-back-to-compliance-with-inf-treaty/>

²⁰ Pifer, Steven. "Order from Chaos: Trump, Russia, and Sanctions." *Brookings*. June 27, 2017. Accessed 16 December 2017. Retrieved from <https://www.brookings.edu/blog/order-from-chaos/2017/06/27/trump-russia-and-sanctions/>

²¹ Pifer, Steven. "Order from Chaos."

²² Nuclear Threat Initiative. *Innovating Verification: New Tools & New Actors to Reduce Nuclear Risks: Overview*. Washington, DC: Nuclear Threat Initiative, 2014. Accessed 16 December 2017. Available from http://www.nti.org/media/pdfs/VPP_Overview_FINAL.pdf?_=1405445582

1. Stress communication and collaboration among stakeholders, which work to foster trust and cooperation as recommended by the Nuclear Threat Initiative (NTI) working group. Particularly in the case of Russia, there seems to be a lack of understanding between the United States and Russia of the soft-law norms that are currently animating each respective country's ideas of nonproliferation and reductions; which are embodied in the hard law of treaties. Understanding the soft-law norms is critical to establishing new verification protocols and fostering compliance.²³ Similarly, the U.S. Department of Defense task force report outlines a four-phase proposal which includes:

- 2) Expanding bilateral cooperative developments/evaluations with P-5 + 1 states;
- 3) Extending the development/evaluations to all nuclear weapon states;
- 4) Engaging major nations that employ nuclear power generation;
- 5) Evolving from bilateral to multilateral implementation;
- 6) Engaging in both hard law and soft law.

This report encourages dialogue and the establishment of common soft-law norms among the permanent members of the United Nations Security Council. This places a focus on a movement from bilateralism to multilateralism, which has been a desire in constructing new nonproliferation agreements.²⁴

In order to understand the shifting norms underlying Russia's motivations, the United States should first seek to create constructive dialogue that can both help deescalate hostility as well as map out areas of common interest in which trust can be built. A key example where

²³ Nuclear Threat Initiative. *Innovating Verification*.

²⁴ U.S. Department of Defense, Defense Science Board. *Task Force Report: Assessment of Nuclear Monitoring and Verification*. Washington, DC: Department of Defense, 2014. Accessed 16 December 2017. Available from https://www.nti.org/media/pdfs/Assessment_of_Nuclear_Monitoring_and_Verification_Technologies.pdf

constructive dialogue can be used is working to understand Russia's interpretation of NATO's expansion toward its borders. Constructive dialogue in this area might not immediately resolve the issues, but it can certainly help to build rapport between the United States and Russia.²⁵ Tools that increase engagement and promote multilateralism, research, and dialogue could be the best means to reengage both countries in nonproliferation process and build an environment of trust.

It is our recommendation any model "should engage with both hard law enforcement remedies in tandem with soft law management methods."²⁶ As Williamson noted, "recognition and clear understanding of soft-law norms that animate both countries' ideas of non-proliferation and nuclear armament reductions contained in the hard law of the treaties is key to finding intersection bringing Russia back into compliance under the INF treaty". Working toward soft-law agreements between the United States and Russia that do not necessarily need ratification from the U.S. Senate or the Russian Duma can be beneficial, as the ratification process can often work against the agreement. Using such agreements, however, requires the United States to clearly define what it is willing to work with Russia on remedying and what it will not tolerate.

The United States and a diverse collection of other countries, whether they have nuclear weapons or not, need to convince Russia violating the treaties set forth will not benefit them more than abiding by the rules; as "the military and political costs of continuing to violate the treaty outweigh whatever gains the Russian military hopes to achieve."²⁷ According to the NTI, in order to manage and mitigate those threats, countries around the world need to continue to increase the nuclear material and weapons verification systems. The United States' efforts must

²⁵ Nuclear Threat Initiative. *Innovating Verification*.

²⁶ Williamson, Jr., Richard L. "Hard-law, Soft-law, and Non-law in Multilateral Arms Control: Some Compliance Hypotheses." *Chicago Journal of International Law* 4, no. 1 (2003): 59-82. Accessed 16 December 2017. Available from <http://chicagounbound.uchicago.edu/cjil/vol4/iss1/7/>

²⁷ Pifer, Steven. "How to get Moscow Back to Compliance with the INF Treaty."

go beyond incremental improvements of traditional approaches to monitoring, as it is no longer enough to monitor from treaty and agreement dictates for “point” compliance to the number and types formally agreed upon and geographically bounded.²⁸

The need for comprehensive monitoring, or addressing the problem as a whole, is particularly important as military and civilian nuclear applications are connected, in part through the global nuclear science and technology base. If the United States is to understand and effectively monitor part of such a global interconnected enterprise, it must understand it as a part of the whole. Understanding the whole means that the United States must monitor the whole, and the Assessment points out that not all that monitoring can be carried out through methods negotiated in treaties. Non-negotiated, “general purpose” monitoring will have to complement the negotiated monitoring for a particular treaty.²⁹ The Defense Science Board Assessment also states that one size will not fit all, and the United States must pay attention to details such as geography, access, and suspected stage of proliferation, when creating a strategy for monitoring.

SYRIA

Current Situation:

The current situation in Syria that the rest of the world is dealing with concerns the country’s ongoing and continued usage of chemical weapons in their civil war. Most countries in the world have signed treaties that require them to not use, harbor, or aid any type of chemical weapons. Syria happens to be one of the countries. However, it is a different matter that Syria does not follow the rules and regulations set by these treaties. Despite signing multiple

²⁸ Nuclear Threat Initiative. *Innovating Verification*.

²⁹ U.S. Department of Defense, Defense Science Board., https://www.acq.osd.mil/dsb/reports/2010s/ADA523661.pdf?zoom_highlight=Report+on+russia

treaties about the production, testing, and usage of chemical weapons, Syria continues to use and distribute these weapons to this day.

There are a few key players behind Syria's continued usage of these weapons. The President of Syria, Bashar al-Assad, has been calculated to be the one who encourages the creation and the usage of these weapons. Assad has been harboring chemical weapons in his country, even after signing the Chemical Weapons Convention in 2013. Some of the other treaties that Syria has signed include the Nuclear Nonproliferation Treaty, which was signed in 1968 and prevents the spread of nuclear weapons, as well as promoting cooperation in the peaceful uses of nuclear energy; the Biological Weapons Convention was signed by Syria in 1972 and it works to outlaw biological arms; Syria also signed the International Convention for the Suppression of Acts of Terrorism in 2005, which is designed to outlaw acts of nuclear terrorism and support police and judicial cooperation to prevent, investigate, and punish those acts.

After Syria signed the Chemical Weapons Convention in 2013, all Syrian chemical weapons were supposedly destroyed by the OPCW-UN Joint Mission. However, shortly after, Syria was accused of having a Ricin chemical weapons program was still in effect. Assad's administration claimed that it had fallen into the hands of the Syrian Opposition forces. Syria once again claimed that it had an additional four hidden chemical weapons programs.

Issues and Challenges:

Syria has been suspected of harboring biological weapons Syria believes it provides security and benefits; instead it represents a path to isolation and intense scrutiny from the global community. President Bashar al-Assad has been in denial of all these allegations.

The US finds itself in a cautious and difficult position. While the US is opposed to the Assad regime, it must remain attentive to defeating ISIS in Syria which it has.

Russia finds comfort using the Assad regime as a buffer against Sunni backed chemical weapons getting into the Caucasus. Putin will never change his position here. Iran has multiple stakes in Syrian stability...non-Sunni as well. Syria is where the Russians can hope to have a presence in the region and a return to their former world leadership role. Without Syria assistance, Iran is going to have major difficulties supplying Hezbollah with weaponry and supplies in their Sunni fight there.

Current Actions:

Syria is in a complex civil war. There are many actors participating in a variety of ways. Russia is propping up the Assad regime to protect their global interest. Iran is using their proxy group Hezbollah to grab for power in the region, ISIS is using the disarray of the country to plant their capitol, and United States are there to go after ISIS and Assad for his use of chemical weapons on his own people.

The destruction can be generalized with the mass exodus of the Syrian population to outlying countries. At Syria's peak population, it held roughly 20 million people (Population, Total, 2017). Shortly after the civil war started in 2011 the population started to leave the country to neighboring locations. The population started to rise in Iraq and Lebanon; Lebanon is home to Hezbollah. Hezbollah is a proxy terrorist organization. The common fear is that these refugees will radicalize to the Hezbollah flavor of extremism. To combat this global crisis, a global solution is needed. Countries from all around the world have come together to give humanitarian assistance to Syria. United States has given over 7 billion dollars, Japan has contributed \$852.7 million in assistance, and has Jordan given over \$100 million (USAID, 2017).

Four Cease fire zones have been established in Syria. One along the southern border, one on the north-west border, and one between Hama, and Homs, another one in eastern Ghouta (Syria war). Such deals were due to diplomacy; assuring an end to this war will be diplomatic solution and not a military one. “President Trump and President Putin confirmed the importance of de-escalation areas as an interim step to reduce violence in Syria, enforce ceasefire agreements, facilitate unhindered humanitarian access, and set the conditions for the ultimate political solution to the conflict.” Russia, Iran, Turkey, and United States, all came to agreement with these resolutions. Russians and Iran, Hezbollah support the Assad regime, and Turkey and United States support the rebels.

Cooperation with other countries and the UN are key to solving the Syrian complex. However, Russia on the other hand is critical component. In 2012 Syria stated they had chemical weapons. Shortly after there was a chemical attack in Ghouta, where there now is a cease fire agreement, and it was assessed that the Assad regime was highly likely of the attack. Russian Foreign Minister took Secretary of State John Kerry ad lib comment to heart and convinced Syria to turn over all their chemical weapons to the international community. This was a rare occurrence of cooperation from the Assad regime, but they were swayed by Russia to do so.

On November 11, 2017, President Trump and President Putin agreed to maintain open military channels, work towards a diplomatic solution, and maintain Syria’s sovereignty. The ideal solution is, “...full implementation of UNSCR 2254, including constitutional reform and free and fair elections under UN supervision, held to the highest international standards of transparency, with all Syrians, including members of the diaspora, eligible to participate.”

Millions of Syrians are displaced by violent extremism. Humanitarian aid key to help those are displaced. Cease fires are working to get refugees back into their home country.

Cooperation with the international community will get a diplomatic solution in place. Regarding the Syria Civil War and its five organized sides of opposition, the loser is the people of Syria.

With what has happened to them, this is a War where no tears are left.

Recommendations:

1. Recommendation one is to force Syria back into compliance would be to change the leader and some of their government. A method of influencing a nation is to sanction the state.

Sanctions could include trade embargoes or, as seen in some cases today, targeted sanctions on influential politicians and agencies from the offending country (Syria). Such targeted sanctions may include cutting off trade, asset freezing, or travel bans. As mentioned before, an implementation of UNSCR 2254 with an international force to ensure a safe and just political election. The international community must come together and promote Syria as a sovereign state rather than a proxy of the Shiite-Sunni War seen in Syrian, Yemen and other countries.

2. The second recommendation to get Syria back into compliance would be to provide long term assistance to help internally displaced persons Syrians and refugees. The assistance would provide critical and lifesaving support to millions of displaced persons or those unable to meet their basic needs in affected areas of Syria, including through operations across the international borders. The contribution would also include emergency food assistance, medical care, and shelter and safe drinking water. Providing assistance to ensure compliance will display the amount of concern US has for Syria.

3. The third recommendation is to reduce the influence of the loyalists Syria forces and their ability to create and obtain biological and chemical weapons by an increase U.S. influence in Syria. This will require some recognition of the Free Syrian Army and a withdrawal of Russian and Iranian influence. Connect that with a cease-fire and political agreement to include

seams in the zones that were formerly controlled by ISIS filling those by Free Syrian Army personnel. This measure needs to be in concert with the international community.

IRAN

Situation:

The Joint Comprehensive Plan of Action (JCPOA) is an agreement under the Obama Administration reached between Iran and the P5+1 (China, France, Russia, United Kingdom, United States, and Germany). It “establishes a strong and effective formula for blocking all of the pathways by which Iran could acquire material for nuclear weapons and promptly detecting and deterring possible efforts by Iran to covertly pursue nuclear weapons in the future.”³⁰ This plan sets restrictions on uranium enrichment, plutonium use, and centrifuge...time synched to particular site locations as well.

Under the Obama administration, both Iran and the United States wanted to keep the deal in place. The United States does not want Iran to build functional nuclear weapons, which is the reason that the JCPOA was drawn and ratified. Iran wants to continue with JCPOA because it means that the UN sanctions previously levied on Iran, are lifted under the terms of the agreement; sanctions Iran wants to make sure remain lifted include those related to “trade, technology, finance, and energy” (JCPOA 2). The JCPOA also stipulates that if it suspects Iran is violating the agreement; framers have the authority to withdraw and snapback some sanctions.

Challenges and Issues

³⁰ Kimball, Daryl, Kelsey Davenport, and Greg Thielmann. *P5+1 Nations and Iran Reach Historic Nuclear Deal*. July 14, 2015. (accessed 17 December 2017); available from <https://www.armscontrol.org/pressroom/press-release/2015-07-14/P5-Plus-1-Nations-and-Iran-Reach-Historic-Nuclear-Deal>

The Iranian economy faces many challenges to include reliance on oil exports for government spending, gasoline imports, economic mishandling, inflation, unemployment, poverty, and poor domestic policy, external sanctions from the US and the UN, and other US financial pressures.³¹ It is known that Iran's government funding is from oil exports, and quasi-state actors.³² The quasi-state actors are "semi-private charitable Islamic foundations or trusts" which hold extensive political power.³³

The IRGC is one of these quasi-state actors.³⁴ They are a powerful association comprised of current and former Iranian leaders.³⁵ IRGC military forces have supported Syrian President Assad's regime by sending troops to Iraq and Syria. The IRGC actions are funded through legitimate and illegitimate businesses seeking goods, services, and technology for the program. Additionally, the IRGC's Quds Force, a special unit dedicated protecting Iran's government, has a history of working with various terrorist groups, notably Hezbollah, and the Houthi in Yemen and money laundering for Sunni Hamas.³⁶

Current Supreme Leader, Ayatollah Khamenei, has a huge impact on Iran and its government. The current President of Iran, Hassan Rouhani, is a moderate whose plan is to improve the economy through ending international isolation. To do this, Rouhani needs to keep the nuclear deal with the US.

³¹ Ilias, Shayerah, "Iran's Economic Conditions: U.S. Policy Issues," *CRS Report for Congress*, April 22, 2010, 4-6 (accessed December 18, 2010); available from <https://fas.org/sgp/crs/mideast/RL34525.pdf>.

³² Ilias, Shayerah, 7.

³³ *Ibid.*, 7

³⁴ *Ibid.*, 8-9.

³⁵ Purdy, Walter. "Secrets of the IRGC." *The Counterterrorist*. September, 2013, 31-32.

³⁶ *Ibid.*, Purdy, 34-40.

President Donald Trump announced on October 13, 2017, his strategy to address the rogue nation of Iran. President Trump accused Iran of “multiple violations of the agreement” and “intimidating international inspectors into not using the full inspection authorities” as per the agreement. President Trump announced his decision to not recertify the Iran agreement, but to return it to Congress with a timeline to do so or not.

This is an important "tempest in a teapot" as Iran is in compliance with the JCPOA. Contentious issues concern that before the signing of the JCPOA Iran was barred under UN Security Council Resolution 1929 for any work on ballistic missiles capable of carrying nuclear weapons. With the treaty UN Security Council Resolution 2231 promulgates they are called only to abstain from this testing which remains within the spirit of the treaty, and the IRGC chooses not to do so. This is not a hard law violation.

Current Actions

In July of 2015, under the JCPOA, Iran has discontinued a vast amount of their nuclear program’s research and has opened itself up for international regulation and routine inspection into its nuclear and military facilities. In return, the United States, United Nations, and the European Union have lifted their sanctions on Iran. In accordance with the JCPOA, Iran’s uranium stockpile and its ability to enrich it was placed under restriction.³⁷ The intent of the JCPOA was to delay Iran’s nuclear program, so any decision to sprint toward producing nuclear material for a weapon would take at least a year.³⁸ Currently, Iran’s enrichment facilities are being monitored by the IAEA. Yukiya Amano, IAEA’s director-general, is responsible for issuing quarterly reports to the IAEA Board of Governors and also the UN Security Council on

³⁷ Council on Foreign Relations, *The Impact of the Iran Nuclear Agreement* (accessed 17 December 2017). available from <https://www.cfr.org/background/impact-iran-nuclear-agreement>.

³⁸ Council on Foreign Relations. *The Impact of the Iran Nuclear Assessment*.

Iran's implementation of its nuclear commitments.³⁹ While the U.S. has lifted its sanctions on Iranian oil exports, allowing Iran to trade on the international market once again following an extensive hiatus, there are still other U.S. sanctions that remain in effect. Specifically, current sanctions are restricting financial transactions which have the potential to fine and bar companies from trading on Wall Street.⁴⁰ Many officials oppose the JCPOA often cite many of the JCPOA's expiration dates in regard to its nuclear provisions. The IAEA's quarterly reports show that Iran has maintained compliance with the JCPOA. Early on Iran had twice exceeded the amount of heavy water it is allowed under JCPOA requirement but, Iran quickly resolved the issue. Without clear evidence of Iranian noncompliance this would be a breach of the United States commitments under the JCPOA.

Recommendations:

1. In order to move forward in future negotiations with Iran it is our recommendation that the United States remain in compliance with the JCPOA. While it is important to recognize the JCPOA's weaknesses in regard to its sunset clauses and limitations in verification processes it is vital that the United States demonstrates its willingness to uphold an agreement with Iran in order to maintain diplomatic leverage in future negotiations.⁴¹ If the United States chooses to decertify the JCPOA then it will struggle to gain support from other P5+1 members to use soft law management methods in an effort to keep Iran in compliance with nuclear nonproliferation, Particularly with China and Germany.

2. Leverage China to assist with curtailment of missile testing and Russia as well, one regarding trade incentives and the other concerning additional sanctions.

³⁹Council on Foreign Relations. *The Impact of the Iran Nuclear Assessment.*

⁴⁰ Council on Foreign Relations. *The Impact of the Iran Nuclear Assessment.*

⁴¹ Council on Foreign Relations. *The Impact of the Iran Nuclear Assessment.*

3. If sanctions were to be again placed into effect, it is recommended that the United States maintain and continue to impose strict sanctions on Iran's Islamic Revolutionary Guard Core and its top-ranking officials in an effort to decrease the funding and training of terrorist organizations such as Hezbollah.⁴²

NORTH KOREA

Situation:

North Korea is riddled with poverty and viewed as a rogue nation by most of its counterparts around the world. On the surface their willingness to build, test and threaten to use nuclear weapons has made many nations apprehensive about whether North Korea can be trusted. In fact, North Korea withdrew from the Nonproliferation Treaty in which it had resided in name only since 1994, in 2003 and has since been rapidly and extensively developing their nuclear program since.

Challenges and Issues:

North Korea is often defined as a rogue nation when it comes to policy, alliances and economy; which is what makes dealing with them difficult. An article written by Youngwon Cho in 2014, "Method to the Madness of Chairman Kim: The Instrumental Rationality of North Korea's Pursuit of Nuclear Weapons," he outlines the major challenges and issues associated with North Korea as follows: their economy; the welfare of their citizens; international structures in place which have led to anxiety; South Korea; and U.S. military power.⁴³

Economy

⁴² Op. cit., Purdy, 34-40.

⁴³ Cho, Youngwon, "Method to the Madness of Chairman Kim: The Instrumental Rationality of North Korea's Pursuit of Nuclear Weapons," *International Journal* 69, no. 1 (2014): 5-25. Accessed 18 December 2017. Available from SAGE.

North Korea has been an international welfare case for some time. That welfare has come from China chiefly and from Russia recently. According to Cho, "North Korea's entire annual output is generated by South Korea in slightly over nine *days*."⁴⁴ This economic gap between North Korea and their southern neighbors has created anxiety about their ability to stand up against attack from a neighboring country which has rooted their belief that they should build their up their nuclear arsenal.

Welfare of citizens

People in North Korea in recent years have literally starved to death. There is not enough food or money to provide what they need for their people. With that line of thought North Korea must hold a level of control over their population that would prevent anarchy. This makes them dangerous to the rest of the world, if they aren't even sure they have the loyalties of their own citizens.

International Structures in place have led to Anxiety

It is no secret that the entire world is fundamentally against North Korea developing any sort of weapons program. They have been sanctioned many times in the past and discussions are taking place with regards to sanctions which should expand if they continue their weapons program. With Kim Jung-Un as an unstable leader and possibly irrational also, they feel the need to develop nuclear weapons based on this fear of international structures and if pushed hard enough, they would most definitely use them.

South Korea

⁴⁴ Cho, 10.

As mentioned previously, North and South Korea were both at one time on level playing fields. The United States is aligned with South Korea and there are several bases located in South Korea with United States military readily available. The more North Korea feels threatened the more developed their nuclear program becomes.

Military Power

When looking at sheer volume and military per capita North Korea resembles a force to be reckoned with "heavy armored hardware...numerically equivalent to 10 US armored divisions."⁴⁵ Couple with the fact their air force is the numerical equivalent to 6 US wings it is easy to be concerned. Realistically, their actual capabilities are far less than they are given credit for. North Korea does not have a readily capable ground fighting force to sustain long and enduring military campaign. Simply put, they do not have the force structure to impose their will on the enemy for sustained campaigns. They choose to place their vision into using nuclear weapons program to hold counterweight on international structures.

Current Actions:

There are many sanctions on North Korea from various countries and organizations. Sanctions are having a desired effect but they find a way around them through underground economies. In early November 2017, China increased the amount and severity of sanctions against North Korea regarding finance and banking. Currently Beijing has reported they are complying with UN sanctions against North Korea.

⁴⁵ Cho, 16.

Recommendations:

1. It is recommended the U.S. should offer significant economic aid and security assurance if North Korea dismantles her nuclear program. The United States should send economic and humanitarian aid.⁴⁶ North Korea should provide definitive proof of ending their nuclear weapons program. This would be imperative of future compliance and verification measures.

2. As a showing of good faith, we recommend that lifting current sanctions/bans on: statue, coal, mineral, iron, seafood, textile exports, and caps on North Korean labor exports.

3. Leverage China and Russia to freeze development of the North Korean program via China sanctioning coal; and Russia ceasing trading through Vladivostok. Trade agreements regarding China are recommended for leverage; and sanctioning selected oligarchs for Russia.

“North Korea is dependent on China as a key benefactor, both in terms of diplomatic and economic support. North Korea also maintains friendly relations with Russia, although the relationship is not as robust as North Korea’s relations with China.”⁴⁷

4. “The most realistic U.S. strategy for countering North Korea's exploitation of geostrategic divisions and halting its sprint toward nuclear development is to close the gaps with

⁴⁶ Kim, Suk Hi, and Mario Martin-Hermosillo, “The Effectiveness of Economic Sanctions Against a Nuclear North Korea,” *North Korean Review* 9, no. 2 (2013): 109 (accessed 16 December 2017); available from ProQuest.

⁴⁷ U.S. Department of Defense, Office of the Secretary of Defense, *Military and Security Developments Involving the Democratic People’s Republic of Korea, 2012: Annual Report to Congress*, February 15, 2013 (Washington, DC: Department of Defense, 2013): 6 (accessed 18 December 2017); available from [https://www.defense.gov/Portals/1/Documents/pubs/Report to Congress on Military and Security Developments Involving the DPRK.pdf](https://www.defense.gov/Portals/1/Documents/pubs/Report_to_Congress_on_Military_and_Security_Developments_Involving_the_DPRK.pdf).

allies and neighbors of North Korea.”⁴⁸ This means a nuclear South Korea and possibly a nuclear Japan.

5. Lastly, probably the most unlikely of the options would be to relent and allow North Korea to develop weapons. In concert with this would be security agreements in hard law with several multinational signers, including the U.S. and North Korea.

This should show that the international community, namely the US, is serious about re-integrating North Korea as a compliant state. It should use soft power and engage both allies and some adversaries...in hard law and soft law.

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⁴⁸ Snyder, Scott A., *Confronting the North Korean Threat: Reassessing Policy Options*, January 31, 2017: 2 (accessed 18 December 2017); available from https://www.foreign.senate.gov/imo/media/doc/013117_Snyder_Testimony.pdf.

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