

Galloway Wording Report Day 2

I was asked to look into two questions:

1) Is obligation or commitment the best word in the resolution?

Honestly, these two seem like synonyms. The only tie-breaker is that Obama refers to these as commitments (see Gordon's paper). I included evidence from authors using the phrases interchangeably.

2) Is "substantial compliance" the way to go?

Not a term of art. The phrase "substantial change in its nuclear posture" to be more consistent with seems better. Evidence referencing "substantially" in the context of compliance with commitments uses the phrase "acting in good faith" which seems to get us almost nowhere in terms of Topicality.

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Review of Lit: “Obligations” or “commitments”

These two really seem like synonyms. The same authors use them back to back all the time. Here’s an example:

Reference to obligation to eliminate their nuclear arsenals:

George **Perkovich, 2009** (April 1, <http://www.thebulletin.org/web-edition/op-eds/reexamining-disarmament-obligations>)
Next week, government officials and experts from around the world will gather in Washington, D.C., for the 2009 Carnegie International Nonproliferation Conference. The meeting will focus on the health of the global nonproliferation regime and current nuclear disarmament efforts. A central, ongoing debate within these policy arenas, and one that is likely to feature prominently in the conference's proceedings, is the nature of nuclear-armed states' obligation to eliminate their nuclear arsenals.

Same article uses the word “commitment” to refer to Article VI of the NPT:

George **Perkovich, 2009** (April 1, <http://www.thebulletin.org/web-edition/op-eds/reexamining-disarmament-obligations>)
Article VI of the Nuclear Non-Proliferation Treaty (NPT) obligates all parties, particularly the nuclear-weapon states, to pursue nuclear disarmament. This commitment contains no deadline by which nuclear disarmament must be complete, and it is combined with a separate obligation on behalf of all NPT member states to conventional disarmament.

Also referred to as commitments:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>,
NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

In 1995, the year that the NPT was due to expire unless extended, the United States and other nuclear weapon states pressed for the treaty to be extended indefinitely. The other NPT parties agreed to the indefinite extension provided that nuclear weapons states committed to a statement of "Principles and Objectives for Nuclear Non-Proliferation and Disarmament." The Principles and Objectives, which were unanimously agreed to by all parties to the NPT, explicitly set forth measures regarding the implementation and fulfillment of the Article VI obligation of nuclear disarmament. These included, among other commitments, the "determined pursuit by the nuclear-weapon States of systematic and progressive efforts to reduce nuclear weapons globally, with the ultimate goal of eliminating those weapons, and by all States of general and complete disarmament under strict and effective international control."⁸ The specific immediate commitments included completion of a comprehensive test ban treaty by 1996. Although the Principles and Objectives are political, and not legally binding in the same sense as the treaty itself, they constitute an elaboration of the process of the achievement of the central disarmament goal of the treaty. They have political weight because they are commitments tied to a binding legal decision to extend the treaty indefinitely, and were made in furtherance of the nuclear disarmament goal of the treaty.

Reference to commitments toward disarmament:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>,

NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

In sum, recent policy decisions of the United States - including the Nuclear Posture Review, the Strategic Offensive Reduction Treaty with Russia, the explicit opposition to CTBT ratification by President Bush, and the unilateral withdrawal from the ABM Treaty - emphasize the continued reliance on and, indeed, expansion of the options for using nuclear weapons. These policies are in contravention of the more and more explicit commitments to nuclear disarmament that have evolved since 1995. These commitments are legal obligations of the United States. Rejecting them undermines the global efforts to enhance security through a multilateral framework.

Disarmament obligations:

Daryl Kimball, 2005 (April 20, http://www.armscontrol.org/events/20050420_Kimball_NPT_Remarks)

Instead the U.S. delegation and some others will argue that the Review Conference should focus on the "crisis of compliance," which is highlighted by the North Korean, Libyan, and Iranian nuclear programs. While the conference does need to seriously confront the disturbing activities of these states, it does not excuse the nuclear-weapon states' record of inaction and lost opportunity on their Article VI related disarmament obligations.

Dictionary Definitions of Commitment/Obligation

The dictionary definitions don't provide much room to prefer commitment over obligation. The two appear to be synonyms. The only tie-breaker seems to be the argument that Obama uses the phrase commitments (see Stables paper Day 2).

Dictionary definitions of commitment

Commitment means a pledge or a promise:

Dictionary.com, 2009 (<http://dictionary.reference.com/browse/commitments>)

com·mit·ment

/kəˈmɪtmənt/ Show Spelled [kuh-mit-muhnt] Show IPA

–noun 1.the act of committing. 2.the state of being committed. 3.the act of committing, pledging, or engaging oneself. 4.**a pledge or promise; obligation: We have made a commitment to pay our bills on time.**

Other definitions: pledge to do so seems to make the only sense with the wording of the topic:

Dictionary.com, 2009 (<http://dictionary.reference.com/browse/commitments>)

com·mit·ment

com·mit·ment (kə-mīt'mənt) n. 1. The act or an instance of committing, especially:

1. The act of referring a legislative bill to committee.
 2. Official consignment, as to a prison or mental health facility.
 3. A court order authorizing consignment to a prison.
 4. A pledge to do.
 5. Something pledged, especially an engagement by contract involving financial obligation.
- 2.
1. A pledge to do.
 2. Something pledged, especially an engagement by contract involving financial obligation.
 3. The state of being bound emotionally or intellectually to a course of action or to another person or persons: a deep commitment to liberal policies; a profound commitment to the family.

Dictionary definitions of obligation

Obligation is something by which a person is bound or obliged to do certain things:

Dictionary.com, 2009 (<http://dictionary.reference.com/browse/obligation>)

ob·li·ga·tion

/ˌɒ blɪ ˈɡeɪ ʃ ən/ Show Spelled [ob-li-gey-shuhn] Show IPA

–noun

1. something by which a person is bound or obliged to do certain things, and which arises out of a sense of duty or results from custom, law, etc.

2. something that is done or is to be done for such reasons: to fulfill one's obligations.

3. a binding promise, contract, sense of duty, etc.

4. the act of binding or obliging oneself by a promise, contract, etc.

5. Law.

a. an agreement enforceable by law, originally applied to promises under seal.

b. a document containing such an agreement.

c. a bond containing a penalty, with a condition annexed for payment of money, performance of covenants, etc.

6. any bond, note, bill, certificate, or the like, as of a government or a corporation, serving as evidence of indebtedness.

7. an indebtedness or amount of indebtedness.

8. a favor, service, or benefit for which gratitude is due.

9. a debt of gratitude: He felt an obligation to his teacher.

10. the state of being under a debt, as of gratitude, for a favor, service, or benefit.

Warrants for Referencing the 2000 NPT Review Conference/13 Steps

Reference to disarmament obligations—argues that the 2000 NPT Review Conference created specific and measurable steps to mark progress toward that goal¹:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>,

NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

Chapter I. **Disarmament Obligations and the NPT** As parties to the NPT, all NATO states have agreed to undertake a process toward nuclear disarmament, as set forth in NPT Article VI. Although the provision was **traditionally viewed as vague and aspirational**, beginning in 1995, Article VI has been interpreted as a clear undertaking to nuclear disarmament -- as the International Court of Justice held -- "in all its aspects." At the 1995 NPT Review and Extension Conference, **and the 2000 NPT Review Conference, states parties agreed to undertake specific and measurable steps to mark progress toward that goal.** One key element to achieve disarmament that was emphasized in these declarations was the **entry into force of a nuclear test ban.**

The specific reference under NPT Article VI for disarmament goals:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>,

NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

The NPT includes five nuclear weapon states (three of which are in NATO) and 182 non-nuclear weapon states.⁷ As part of their bargain with non-nuclear parties to the NPT that renounced the acquisition of nuclear weapons, the five nuclear weapons states parties agreed to achieve complete nuclear disarmament. Specifically, under NPT Article VI, parties **agree 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."**

¹ And, Greta, CTBT is topical.

Potentially allows renewable that are non-nuclear: Note, however, that none of these would change our "nuclear posture:"

Lawyers' Committee on Nuclear Policy, Greenpeace International, and the Arms Control Association
<http://www.google.com/#hl=en&q=%22commitments%22+%22disarmament%22&btnG=Google+Search&aq=f&og=%22commitments%22+%22disarmament%22&aqi=&fp=2lnaafc1UxE>

It is necessary to remain steadfast in the commitment to the commencement, without delay, of negotiations on a global comprehensive fissile materials treaty. These negotiations should not be linked to the initiation of negotiations on effective measures for the prevention of an arms race in outer space. Further, as the Seven Nation draft outcome text proposes, it should be a commitment to commencement of negotiations "without preconditions." We also urge governments to hold firm on the commitment to maintaining the moratorium on nuclear test explosions pending entry into force of the Comprehensive Nuclear Test Ban Treaty and to bringing the treaty into force. This goal has been repeatedly endorsed by the vast majority of states at the UNGA, the NPT Review Conference, and the CTBT entry-into-force conferences (the next of which will convene in September). If one or another state cannot at this time endorse this goal, that state should not be allowed to silence the vast majority that do, and the document should note that state's perspective as the recent OAS resolution endorsing CTBT entry-into-force does. We make these recommendations in the larger context of the urgent need for verified reduction and elimination of nuclear arsenals globally together with global control and disposition of weapons-usable fissile materials. The current draft outcome document represents only a minimal set of commitments, and should not be diluted further. In its current form, the document fails to refer to imperatives recognized in the Nuclear Non-Proliferation Treaty context of applying the principles of verification and irreversibility to reduction and elimination of strategic and tactical nuclear arsenals, diminishing the role of nuclear weapons in security policies, and reducing the operational status of nuclear forces. Commitments concerning these imperatives would be highly desirable. As Secretary-General Kofi Annan said regarding the Summit in his May 30, 2005 op-ed in the International Herald Tribune: "I hope leaders will think seriously about what more can be done to reduce - irreversibly - the number and role of nuclear weapons in the world." The document also deletes useful language contained in the July 22 draft outcome document regarding the spread of uranium enrichment and plutonium separation technologies and facilities. It is widely recognized that this problem deserves serious attention and action. In his op-ed, Mr. Annan wrote that the non-proliferation "regime will not be sustainable if scores more countries develop the most sensitive phases of the fuel cycle, and are equipped with the technology to produce nuclear weapons on short notice." The Seven Nation draft outcome text also includes useful language. We emphasize, as governments so far have failed to do, that support of renewable, non-nuclear technology is an essential part of the solution.

2000 Final Document gives parties to the NPT explicit obligations to further the goal of complete nuclear disarmament:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>, NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

The mandate of Article VI was vague, however, and nuclear weapons states relied on that vagueness to ignore their disarmament commitments. Before the NPT-related developments of the 1995-2000 period, the non-nuclear members of NATO might have relied on the Cold War confrontation in Europe and the vagueness of Article VI of the NPT to avoid addressing their disarmament obligations under the treaty. That is no longer a tenable position. Having subscribed to the Principles and Objectives of 1995 and to the Final Document of 2000, there is now no question that NPT parties, and the nuclear weapon states in particular, **have explicit obligations** as parties to the NPT to further the goal of complete nuclear disarmament and to achieve it. These obligations include **specific, measurable, steady, and irreversible steps** towards that goal.

13 goals has additional literature supporting this as the obligation toward nuclear disarmament:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>, NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

C. Article VI Interpretation of the 2000 NPT Review Conference The April 2000 NPT Review Conference further interpreted the Article VI disarmament obligation. The Final Document of the 2000 NPT Review Conference included 13 "practical steps for the systematic and progressive efforts to achieve nuclear disarmament." 10 A key element was "an unequivocal undertaking by the nuclear-weapon states to accomplish the total elimination of their nuclear arsenals leading to nuclear disarmament, to which all states parties are committed under Article VI" (step 6). The language of step 6 reflects a reaffirmation of the interpretation of the ICJ that the parties to the NPT, and specifically those among them that possess nuclear weapons, must achieve complete nuclear disarmament. This was a considerable advance over the 1995 language of the Principles and Objectives, which stated that complete nuclear disarmament was an "ultimate goal" thereby leaving its achievement to the indefinite future.

Potential other commitments to disarmament that aren't the NPT Article 6 obligations:

Lawyers' Committee on Nuclear Policy, Greenpeace International, and the Arms Control Association <http://www.google.com/#hl=en&q=%22commitments%22+%22disarmament%22&btnG=Google+Search&aq=f&oq=%22commitments%22+%22disarmament%22&aqi=&fp=2Inaafc1UxE>

As civil society organizations working for nuclear disarmament and non-proliferation, we urge Governments and world leaders to retain essential commitments on "disarmament and non-proliferation" set forth in the August 5 draft outcome document for the Millennium + 5 Summit and to adopt further commitments that would strengthen the document.

Millennium + 5 Summit is an additional nuclear disarmament commitment [it is unclear how you could do any of these commitments and not also be complying under Article 6]:

Lawyers' Committee on Nuclear Policy, Greenpeace International, and the Arms Control Association
<http://www.google.com/#hl=en&q=%22commitments%22+%22disarmament%22&btnG=Google+Search&aq=f&oq=%22commitments%22+%22disarmament%22&aqi=&fp=2lnaafc1UxE>

The disappointing failure of the participants in the 2005 NPT Review Conference to reach agreement on a meaningful plan of action to strengthen the non-proliferation and disarmament system was largely due to the inflexibility of a small number of states. The Millennium + 5 Summit cannot afford to allow a similar pattern to weaken the outcome document. To quote Mr. Annan again: "Bold commitments at the September meeting would breathe new life into all forums dealing with disarmament and nonproliferation.... Solutions are within are reach; we must grasp them."

Does this make sending higher level officials to the NPT review conference “more consistent with its disarmament commitments?” Again, it should be pointed out that this would not change “nuclear posture” making the “upgrade the delegate” AFF not topical.

Lawrence S. **Wittner, 2005** (5-30-2005, Professor of History at the State University of New York
<http://hnn.us/articles/12185.html>)

Even many of Washington's traditional allies found the U.S. position unconvincing. Apparently referring to the Bush administration, Paul Meyer, the Canadian representative at the conference, remarked acidly: "If governments simply ignore or discard commitments whenever they prove inconvenient, we will never be able to build an edifice of international cooperation."
U.S. credibility was further undermined by the Bush administration's decision to send lower-echelon officials, rather than Secretary of State Condoleezza Rice, to represent it at the conference. According to observers, **this snub represented an attempt to undercut the significance of the review conference** and, thereby, **mute the criticism that would emerge there of the U.S. government's disdain for nuclear disarmament**—or at least for U.S. nuclear disarmament.

Things That Would Be Topical

Actions viewed as being inconsistent with US nuclear disarmament obligations:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>, NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

Prior to 1999, the United States had made progress on disarmament, including the Strategic Arms Reduction Treaties (START) with Russia, the test moratorium, the signing of the CTBT, and NATO's 85% reduction of its sub-strategic forces since 1991. However, the rejection of the CTBT by the U.S. Senate in 1999, the announcement of the NATO doctrine in 1999 (see below), the Bush administration's hostility to the CTBT, the U.S. withdrawal from the ABM Treaty, the U.S. Nuclear Posture Review of 2002, among other actions, point clearly to the conclusion that that the United States does not intend to fulfill its nuclear disarmament obligations and intends, on the contrary, to continue reliance on nuclear weapons for the indefinite future.⁴ Because the United States is the de facto leader of NATO, this conclusion will inevitably impact the NATO's nuclear policy. All NATO states, but particularly those that have forsworn acquisition of nuclear weapons, must assess how NATO military strategies may compromise their commitments made under the NPT.

Reference to how the US government has backslid from its disarmament commitments since 1999:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>, NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

With the Senate's refusal to ratify the CTBT in 1999, the U.S. government began a steady backslide from its disarmament commitments, including the Bush administration's hostility to the CTBT, the U.S. withdrawal from the ABM Treaty and, most recently, the positions articulated in the Nuclear Posture Review and the September 2002 National Security Presidential Directive (NSPD) 17. In our analysis, U.S. actions and planning violate many of the specific measures that NPT states parties undertook as recently as the 2000 Review Conference. We will discuss some of them here.¹¹

CTBT is obviously topical under this resolution:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>, NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

The ban against nuclear tests is inextricably linked to the NPT: it is referred to in the NPT preamble and has long been understood to be an essential element of the "cessation of the arms race" commitment under Article VI. As noted above, the ban (and the entry into force of a comprehensive test ban treaty) was also a commitment articulated as part of the 1995 indefinite extension package and was re-iterated in the thirteen steps in the Final Document of the 2000 Review Conference. The merits of a nuclear test ban treaty as an instrument of nonproliferation and, to a modest extent, as an instrument of disarmament are reasonably clear. While the design of some types of rudimentary nuclear weapons can be done without testing, it is essentially impossible to build an arsenal of the type that might be delivered accurately by intercontinental ballistic missiles without testing. Yet, despite its virtues and the fact that the legal commitment not to test has been deemed crucial to the future existence of the NPT, the United States prefers to maintain not only the right to indefinitely possess but also to further develop an already extensive nuclear weapons capability.²³

No retaliation for use of biological or chemical weapons is a topical AFF under this resolution:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>, NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

The 2002 Nuclear Posture Review (NPR), issued by the Department of Defense (portions of which were made available to the public) sets the course for U.S. nuclear strategy that includes renewed emphasis on the role of nuclear weapons in military planning, contrary to the commitments to nuclear disarmament.¹² The document marks a significant retreat from the disarmament commitments made at the 2000 NPT Review Conference principally because it enlarges the circumstances under which nuclear weapons could be used.¹³ The NPR spells out circumstances for nuclear weapons to be used in instances other than nuclear attack, including in retaliation for use of biological or chemical weapons and also calls for their use "in the event of surprising military developments."¹⁴

No first use is topical:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>, NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

As noted above, several non-nuclear members of NATO have voiced support for a diminishing role for nuclear weapons, and in 1998 (in anticipation of the 1999 NATO 50th Anniversary Summit) Germany specifically urged that a no-first-use policy be adopted to move NATO closer to nuclear disarmament.⁷⁸ The proposal, however, did not receive endorsement from any other NATO state. In sum, the refusal to abandon the possibility of first use violates the NPT commitment to a diminishing role for nuclear weapons; it increases the possibility of the use of nuclear weapons; it signals to other countries the political and military value of nuclear weapons and it goes against the negative security assurances pledged by the nuclear weapon NATO members Britain, France and the United States, in conjunction with the indefinite extension of the NPT.

Upholding the ABM treaty is topical:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>,

NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

The 2000 NPT Review Conference Final Document called for "The early entry into force and full implementation of START II and the conclusion of START III as soon as possible while preserving and strengthening the [ABM Treaty] as a cornerstone of strategic stability and as a basis for further reductions of strategic offensive weapons, in accordance with its provisions."²⁸ The ABM Treaty was created by the United States and the Soviet Union in 1972 in the context of their growing armories of missiles that had several warheads, each of which could be independently targeted. These weapons were perceived to raise the possibility of a surprise first strike whose goal would be to wipe out most of the strategic nuclear forces of the other side. An extensive defense system could then prevent the remaining nuclear warheads of the adversary from harming its territory. Such a possibility is the central reason that missile defenses are viewed as weapons that create an offensive capability that increases the danger of nuclear war. The ABM treaty was supposed to maintain the credibility of retaliatory deterrence based on the threat of a successful second strike, also known as the policy of Mutually Assured Destruction (MAD). The ABM Treaty was unusual in also putting limits on future technological development in the interest of preserving the "strategic balance" between the United States and the Soviet Union.

Things That Wouldn't Be Topical

Buildups aren't topical:

Article 6 commitments must be irreversible: no new weapons (eliminates the RRW AFF):

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>, NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

Another significant advance beyond the 1995 Principles and Objectives, which committed parties to the vague "systematic and progressive steps" towards complete disarmament, is the requirement that the steps be irreversible. In other words, nuclear weapons once eliminated from the arsenal must not be reactivated or redeployed. Reductions in numbers of weapons must not be reversed. And new developments in technology must not lead to development of new nuclear weapons. In furtherance of these general goals, the 2000 NPT Review Conference Final Document also noted the importance and urgency of gaining ratifications of the CTBT, and calls for maintenance of the test moratoria pending entry into force of the CTBT. Like the commitments undertaken in conjunction with the indefinite extension of the NPT, these steps are widely understood to be "political" rather than "legal" in nature. However, the steps were adopted without objection by the Review Conference and, as such, represent all NPT states' view of what Article VI requires as of the year 2000. When taken together, the achievements of 1995, 1996 and 2000 have converted the NPT into an unequivocal instrument for the complete and irreversible elimination of nuclear weapons, a commitment that must be met by all parties to the NPT.

Actions that are reversible aren't topical:

More evidence, the 2000 Review conference makes the NPT parties adhere to irreversibility in its nuclear disarmament commitments:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>, NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

In the 2000 Review Conference Final Document, the parties to the NPT agreed to apply "the principle of irreversibility...to nuclear disarmament, nuclear and other related arms control and reduction measures."¹⁹

Reversibility makes agreements like the SORT not topical:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>, NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

The reductions contemplated by the Moscow The current strategy for U.S. reductions, which is set forth in the Nuclear Posture Review and the 2002 U.S.-Russian Strategic Offensive Reductions Treaty (also known as the SORT, or the Moscow Treaty), does not comply with this undertaking. The Moscow Treaty requires both Russia and the United States to limit deployed operational strategic weapons to between 1,700 and 2,200 by the year 2012, but does not call for destruction of delivery systems, dismantlement of warheads, verification measures, or de-alerting measures to reduce the operational status of a dangerously large arsenal of weapons still left in place. Moreover, the United States has expressed its intention to maintain at least 2,400 of its removed warheads in a "responsive capability" ready for redeployment within weeks, months, or three years at the latest. This is the first time that a nuclear weapons reduction treaty explicitly allows reversibility of reductions. Also, the Treaty only has a ten-year duration and a simple right to withdrawal,²⁰ theoretically allowing for another build-up of arsenals at virtually any time after 2012.

Answers to: Bush Said We Don't Have Any Commitments Under the NPT:

Oddly phrased, but we have an obligation to the NPT even if we say we don't—the Vienna Convention on the Law of Treaties ensures:

John **Burroughs and Elizabeth Shafer, 2009** (Lawyers Committee on Nuclear Policy, <http://74.125.155.132/search?q=cache:H8kRybhJfcgJ:www.reachingcriticalwill.org/legal/npt/prepcom09/ngostatements/GoodFaith.pdf+%22substantially%22+%22disarmament+commitments%22&cd=9&hl=en&ct=clnk&gl=us>)

“Good faith is a fundamental principle of international law, without which all international law would collapse,” declared Judge Mohammed Bedjaoui, former President of the International Court of Justice, at a conference held in connection with last year’s PrepCom. 1 The Vienna Convention on the Law of Treaties provides: “Pacta sunt servanda: Every treaty in force is binding upon the parties to it and must be performed by them in good faith.” 2 The Vienna Convention is relatively young, dating back to 1969, but the concept is not. Thus the Roman jurist Justinian observed: “What is so suitable to the good faith of mankind as to observe those things which the parties have agreed upon.” 3 The International Court of Justice has elucidated the requirement, stating that the “principle of good faith obliges the Parties to apply [a treaty] in a reasonable way and in such a manner that its purpose can be realized.” The Court also said that “it is the purpose of the Treaty, and the intentions of the parties in concluding it, which should prevail over its literal application.” 4 In addition to implementation of existing obligations, good faith governs the creation of new ones, as we shall see later in this presentation. 5 Essentially, good faith means keeping promises in a manner true to their purposes and working sincerely and cooperatively to attain agreed objectives. The question of whether promises have been kept arises with respect to all obligations under the NPT. 6 Judge Bedjaoui stated that there is an “obligation to respect the integrity of the [NPT.] ‘[A] treaty must be considered executory in all its provisions. Good faith prohibits selectivity according to the interests of the moment.’”

Some Concerns With the Phrase (None of these are sufficient to deter me from wanting to use them)

Worry that the commitment is a mindset:

George **Perkovich, 2009** (April 1,

<http://www.thebulletin.org/web-edition/op-eds/reexamining-disarmament-obligations>)

In his response to Abolishing Nuclear Weapons, British scholar Sir Lawrence Freedman cut through the various arguments over nuclear-weapons states commitments by suggesting, "The problem is not that the nuclear powers are in breach of a binding promise to disarm; the legal requirement was never more than best efforts. [The problem] is more the impression of cynical disdain, as the nuclear powers insist that the non-nuclear weapon states strictly follow treaty obligations while showing indifference to their own."

Worry about breadth:

The NPR violated the NPT disarmament commitments by allowing the use of nuclear weapons against Russia, China, North Korea, Iraq, Iran, Syria, and Libya:

Arjun **Makhijani, 2003** (October, <http://www.ieer.org/reports/nato/ch1.html>,

NATO and Nuclear Disarmament: An Analysis of the Obligations of the NATO Allies of the United States under the Nuclear Non-Proliferation Treaty and the Comprehensive Test Ban Treaty)

5. Negative Security Assurances The U.S. policies claiming a right to a nuclear response to chemical and biological weapons and the targeting of non-nuclear weapon states also violate the U.S. negative security assurances. Those political assurances were part of the bargain underlying the NPT, and have arguably become legally binding, notably because they were reiterated in connection with the indefinite extension of the NPT in 1995.³⁰ The other four NPT nuclear weapon states made similar assurances.³¹ The 1995 U.S. negative security assurance reads: The United States reaffirms that it will not use nuclear weapons against non-nuclear-weapon [NPT parties] except in the case of an invasion or any other attack on the United States, its territories, its armed forces or other troops, its allies, or on a state toward which it has a security commitment carried out or sustained by such a non-nuclear-weapon State in association or alliance with a nuclear-weapon State.³² The use of nuclear weapons against any NPT-compliant state not acting in association with a nuclear weapon state would violate these assurances. The NPR reportedly contains contingency planning for use of nuclear weapons against Russia, China, North Korea, Iraq, Iran, Syria, and Libya.³³ The 2002 Presidential Directive appears to be consistent with the approach of targeting specific states: according to the Washington Post, classified portions of the directive name Iran, Syria, North Korea and Libya "among the countries that are the central focus of the new U.S. approach."³⁴ Of these states, Iraq, Iran, Syria and Libya have not been officially declared as nuclear weapon states, and so to target them is contrary to U.S. negative security assurances.³⁵

The question of whether or not you could be “substantially consistent/compliant with”

Honestly, substantially doesn't match up well. There are some phrases that go in that direction, but it's not a good term of art in the second half of the resolution. I prefer Stables' earlier approach of “substantial change its nuclear posture to be more consistent with its nuclear disarmament commitments”

Notion that you could “firmly commit” to pursue disarmament:

George **Perkovich, 2009** (April 1,

<http://www.thebulletin.org/web-edition/op-eds/reexamining-disarmament-obligations>)

If Russia and the United States were to reduce their arsenals to, say, hundreds of nuclear weapons, down from the thousands of weapons in current stockpiles, reduce the political salience of these arsenals, and firmly commit to pursuing complete nuclear disarmament according to Article VI, then momentum could develop. In the words of Achilles Zaluar, a Brazilian diplomat: "The change would be so enormous that its consequences would ripple throughout the international system, without the risks that some fear from the tidal wave of going to absolute zero. It would, moreover, provide the international community with a 'to-do list' that would take at least a decade--a decade in which the loss of credibility of the nonproliferation regime could be reversed." This analysis deserves attention and debate at next week's meeting.

Substantially might be consistent with “good faith” in this context—I'm not sure that does very much for debate, but the cards at least exist:

John **Burroughs and Elizabeth Shafer, 2009** (Lawyers Committee on Nuclear Policy,

<http://74.125.155.132/search?q=cache:H8kRybhJfcgJ:www.reachingcriticalwill.org/legal/npt/prepcom09/ngostatements/GoodFaith.pdf+%22substantially%22+%22disarmament+commitments%22&cd=9&hl=en&ct=clnk&gl=us>)

In this perspective, the failure to **substantially implement those commitments** constitutes non-compliance with Article VI. Whether or not this view is accepted, clearly implementation of the commitments would have evidenced good faith in implementing Article VI, and no such good faith has been shown. Good faith now can be demonstrated by reaffirming and implementing the commitments, or where appropriate, agreeing upon and implementing alternative means of fulfilling Article VI. To summarize regarding the general obligation to perform Article VI in good faith: negotiations must be pursued. **The first step is to commence them.** That follows from the International Court of Justice's unanimous conclusion, largely interpreting Article VI, that: “There exists an obligation to pursue in good faith and bring to a conclusion negotiations on nuclear disarmament in all its aspect under strict and effective international control.” Negotiations obviously cannot be brought to a conclusion if they are not even commenced!

There do seem to be degrees of distinction between levels of compliance:

John **Burroughs and Elizabeth Shafer, 2009** (Lawyers Committee on Nuclear Policy, <http://74.125.155.132/search?q=cache:H8kRybhJfcgJ:www.reachingcriticalwill.org/legal/npt/prepcom09/ngostatements/GoodFaith.pdf+%22substantially%22+%22disarmament+commitments%22&cd=9&hl=en&ct=clnk&gl=us>)

Article VI requires the pursuit of negotiations on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament. Has that obligation been performed in good faith? Judging by the record since CTBT negotiations were concluded in 1996, the answer must be a resounding no. Aside from the brief US-Russian talks resulting in the 2002 Strategic Offensive Reductions Treaty, there have been no negotiations, bilateral, plurilateral, or multilateral, on disarmament measures. Although the 1995 Principles and Objectives called for the immediate commencement of negotiations on a fissile materials treaty, and although the 2000 Practical Steps called for conclusion of negotiations on such a treaty by 2005, there have been no such negotiations. Although the annual General Assembly resolution on follow-up to the advisory opinion of the International Court of Justice calls for immediate commencement of multilateral negotiations leading to the early conclusion of a nuclear weapons convention, there have been no such negotiations. Nor have there been official deliberations or discussions of any kind on this subject, though the Practical Steps called for the establishment of a subsidiary body at the Conference on Disarmament to “deal with” nuclear disarmament. The Practical Steps called for implementation of the START process and endorsed the principle of irreversibility, and General Assembly resolutions – New Agenda, Renewed Determination, Nuclear Disarmament – call for further US-Russian negotiations on reductions in accordance with the principles of irreversibility, verification, and transparency. However, no such negotiations have taken place. Unlike previous US-Russian/Soviet agreements, the 2002 agreement failed to apply principles of verification and irreversibility, and comes into effect only at a single point in time, 2012. Thus, while Article VI requires the pursuit of negotiations toward nuclear disarmament, since 1996 essentially no such negotiations have taken place. At best, most NPT nuclear weapon states could claim that they have “pursued” initiation of negotiations on fissile materials, but that effort **has certainly not been vigorous. There can’t even be a plausible claim of “pursuit” on other fronts.**

Conclusion

I started out a bit skeptical, but Stables’ original paper is largely the way to go.

Commitment is very mildly preferred because of Obama’s use of the term, but neither the general literature base nor the synonyms do anything to distinguish the terms. Substantially is of little help in measuring the level of compliance, primarily because of its lack of use as a term of art. Substantially would be better served to measure the level of the change to make us more compliant.