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THE world's nations have made the Nuclear Non-Proliferation Treaty (NPT) into a proliferation treaty, rather than the break on the Bomb's spread that it was intended to be.

How did this happen? The United States and most other nations read the NPT's protection of countries' "inalienable right" to develop and produce "peaceful nuclear energy" as a *per se* right to acquire any nuclear technology that could conceivably have some civilian use (even if improbable or totally uneconomic) so long as it was "safeguarded" to see that it was not being used to make nuclear bombs. We should have known better. Certainly, our experiences in Iraq, Iran, and North Korea taught us that not all nuclear programs can be safeguarded against possible military diversion. More important, the plain text of the NPT demands that the right to "peaceful nuclear energy" be exercised "in conformity" with the treaty's other restrictions.

The nuclear project in question must not be part of an effort "in any way" to acquire nuclear weapons. It must be capable of being safeguarded or inspected to prevent any diversions to make bombs. Also, the project must be "beneficial"—in the case of commercial projects, it must be economically viable.

To shore up these rules, the United States and other key nuclear supplier states agreed that no controlled nuclear goods or technology should be given to states that did not have a bomb before 1967 unless all of their nuclear facilities are open for inspection in accordance with an International Atomic Energy Agency (IAEA) safeguards agreement.

We urged states to open their facilities to intrusive inspections under an IAEA understanding known as the Additional Protocol. The United States and many other nuclear supplier states also passed national laws requiring a suspension of nuclear aid to states that violated their pledges not to use the assistance to make bombs. Finally, President George W. Bush and IAEA Director General Mohamed ElBaradei in 2004 called for a freeze on the further expansion of nuclear fuel-making beyond those states already commercially engaged in such activity.

Unfortunately, our enthusiasm for nuclear energy and our desire for diplomatic calm too frequently kept us from enforcing these rules. The United States and Canada gave nuclear aid to India, which used it to make and explode nuclear weapons in 1974 and 1998. Rather than cut India off, though, we made sure that it continued to receive nuclear fuel. We now have decided to eliminate virtually all restrictions on civilian nuclear exports to India. We also allowed Japan, the Netherlands, Germany, South Africa, and Brazil to make nuclear fuel even though this can bring them to the very brink of having bombs. We then let Brazil proceed to make nuclear fuel without agreeing to the Additional Protocol, and now are giving Australia, Canada, and Argentina the green light

to make nuclear fuel even though the IAEA has determined that there already is a 10- to 20-year surplus of nuclear fuel-making capacity against current and projected demand.

What's worse, we caved to Iranian and North Korean arguments that the NPT recognizes all nations' right to engage in any nuclear activity so long as it is under some sort of IAEA inspection. We did this even though we know that the IAEA cannot detect diversions of many bombs worth of nuclear material from nuclear fuel-making plants early enough to prevent the material from being made into bombs. Thus, President Bush's national security advisor, in an awkward moment, explained that Iran, of course, had a right to make nuclear fuel; we were only trying to convince Iran that it would be in its interest to exercise this privilege in another country (i.e., Russia). Meanwhile, the United States, Russia, China, Japan, and South Korea agreed last year that North Korea had the right to develop "peaceful nuclear energy" and would discuss supplying large power reactors to it even though Pyongyang could not possibly produce nuclear power economically or safely, had violated the NPT, and claims to have acquired nuclear weapons.

What, then, should we do? The nuclear power industry will be with us for some time and might expand. But if a country is making nuclear fuel (whether covertly or overtly), there is no technical way to safeguard against it quickly making bombs. This leaves us with the current set of nuclear rules, which, until someone comes up with something better, is all we have to ensure security.

How should we enforce the rules? First, we have to start reading them as if nations could violate them, and be willing to punish those nations that do. The French recently suggested that any country that breaks the NPT's provisions should not be allowed to withdraw without being held accountable for its transgressions. They also contend that no country should be allowed to make nuclear fuel with foreign help without first demonstrating that the program can be safeguarded against diversions and is truly economically viable. Finally, they believe that states not in full compliance with their IAEA and NPT obligations should face automatic default penalties until the IAEA's Board of Governors gives them a clean bill of health. Adopting these sensible suggestions would go a long way to eliminating many of the self-defeating positions governments (including the U.S.) have been maintaining regarding Iran's and North Korea's nuclear rights.

Second, governments should stop subsidizing commercial nuclear projects. Safeguards and inspections are important, but their shortcomings, especially in monitoring nuclear fuel-making, are large. To gauge even before a plant is built whether it will have a peaceful, commercial purpose, it would be useful if such projects had to compete for the funding to be built in an open energy market, free of nuclear-power-specific subsidies. In such a world, uneconomic, dangerous, government-backed nuclear projects would stand out earlier and more prominently against the NPT's clear mandate only to promote the "benefits" of peaceful nuclear energy rather than unprofitable, weapons-related



Stop Subsidizing Nuclear Power;
Start Enforcing Nuclear Rules
By Henry Sokolski
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endeavors. If nuclear projects can stand the test of market profitability, this is a strong indication that they are not covert weapons endeavors.

Encouraging such a market is not unrealistic. Great Britain's recent inquiry on nuclear power suggested that the European Union's carbon tax credit alone should suffice to encourage private banks to back nuclear energy projects without further government subsidies. It also urged the nuclear industry to assume the full costs of nuclear power. These costs ought to include the monies required for financing, insuring, inspecting, physically securing, safeguarding, and decommissioning plants as well as disposing of any nuclear waste. The European Union, meanwhile, views the 1994 international Convention on Sustainable Energy as requiring the opening up of energy production and distribution markets internationally. This should encourage open bidding on electrical generation requirements in all nations such that only the most economical tenders—even non-nuclear ones—would win.

It would be useful if other regional trading unions besides the European Union adopted such ideas. The NPT, after all, was designed to encourage the spread and sharing of the "benefits" of "peaceful nuclear energy," not the Bomb. It's time we made this so.

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