

I - WMD VERIFICATION AND COMPLIANCE: THE STATE OF PLAY

Introduction

This study considers the current state of play of verification and compliance arrangements in respect of multilateral arms control and disarmament agreements relating to so-called weapons of mass destruction (WMD). The study covers the principal WMD agreements and the means by which compliance with them is monitored and verified, along with the means by which compliance is ensured in case of a suspected violation. It is assumed that WMD comprise nuclear, radiological, chemical and biological weapons and their means of delivery. The study does not deal with export/import controls on WMD or their components, international controls on ballistic or other types of missiles, or multilateral treaties dealing with the deployment of weapons in outer space.

Verification

Verification is the process of gathering and analyzing information to make a judgement about compliance or non-compliance with a treaty or agreement. It aims to build trust between the parties or participants, assuring them that their agreement is being implemented effectively and fairly. Verification achieves its objectives by three means: detection; deterrence; and confidence-building. Increasingly verification systems are being expected to take account of the non-compliant activities of non-state actors, whether they base themselves in the territory of a state party or engage in activities which have an impact on a state party. Monitoring, which is sometimes equated with verification, is in this study meant to refer to the technical process of gathering information, whether by technology or by humans.

The role that judgement plays in any verification process is often murky, sometimes deliberately so. In some systems verification clearly involves verification professionals making a judgement about the evidence obtained by their monitoring systems or other means such as inspections. These conclusions are then passed to a higher, political body which makes the definitive judgement about compliance or non-compliance, in addition to considering what steps might be necessary to bring a non-compliant state into compliance. In other cases professional staff simply forward the information they have obtained to a higher treaty authority to make the compliance judgement. Even here, however, there will usually be some sorting and selection of data, which may involve judgements, explicit or implicit, about the likelihood that non-compliance has occurred.

Compliance

When a party is abiding by its obligations under an agreement it is said to be in compliance. 'Compliance' is also used to describe the process used to deal with questions relating to compliance and non-compliance, which, for some, runs the whole spectrum from monitoring at one end through to attempts to enforce compliance at the other. Complicating the picture, a non-compliance case may require verification additional to that which exposed the non-compliance question in the first place. For instance a more targeted inspection might be necessary. At the other extreme, a compliance process may simply involve consultations between the parties to resolve the question at issue. Such questions can include: