

Nuclear Policy and the Presidential Election

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During the 2004 presidential contest between President George W. Bush and Senator John Kerry, almost the sole issue upon which the two candidates agreed was that the spread of nuclear weapons and the risk that terrorists would steal or use nuclear technology were among the greatest threats to America's security. This time around, expect more of the same. Democratic Senator Barack Obama and Republican Senator John McCain have already taken positions on how best to block the bomb's further spread. Senator McCain has spoken to the issue of reducing nuclear stockpiles and Senator Obama has endorsed a series of nuclear threat reduction proposals. Each contender has also made statements about the role nuclear power should play in reducing carbon emissions and providing energy security for the United States.

To be sure, their views are still works in progress and likely to evolve as the presidential race continues. By late in the campaign season, these nuclear issues may well become points of contention. Four crucial questions will shape the debate.

First, is the key to reducing the further spread of nuclear weapons (and the threat of nuclear terrorism and theft) committing ourselves to the goal of eliminating nuclear weapons and reaching more agreements about the control and reduction of these arsenals?

Second, after Iran's recent behavior, should the United States continue to act as though all states have a *per se* right to make nuclear fuel and thus come within days of possessing a bomb?

Third, in light of the connection between nuclear power and nuclear weapons, should the United States address global climate change and energy security by creating nuclear-specific commercial subsidies—or should it instead take a market-oriented approach that would encourage cost competition to determine the “optimal” energy mix among both nuclear and non-nuclear alternatives?

Finally, should the United States strike nuclear bargains with North Korea, Russia, India, and Iran to improve those countries' proliferation

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behavior, or instead stigmatize their past nuclear misbehavior by requiring them to do more before new, nuclear-related bargains can be struck?

In answer to these questions, Senators McCain and Obama seem to be reading from the same sheet. They are both committed to negotiating additional nuclear arms reduction agreements with Russia. This could include some sort of nuclear test restrictions, a fissile material cut-off treaty, nuclear fuel assurances for non-weapons states, strategic weapons reductions, and extension of the Cooperative Threat Reduction programs that have dismantled so many Russian nuclear weapons systems. Both candidates have also endorsed finalizing U.S. civilian nuclear cooperation with India. With regard to Iran and North Korea, Senator Obama has backed holding direct unconditional talks, although after Senator McCain criticized this suggestion, Obama qualified his views by saying that there would have to be significant “preparations” before such direct negotiations could proceed. Both candidates say that nuclear power should be part of our energy mix.

What, then, separates the two candidates on nuclear issues? For the most part, only one thing: How they would achieve the goals they claim they share.

The Candidates on Nuclear Abolishment

The candidates’ support for the eventual goal of abolishing nuclear weapons can be traced back to a pair of op-eds published in the *Wall Street Journal* in January 2007 and January 2008. The authors were four senior statesmen, two Republicans and two Democrats: former Secretaries of State Henry Kissinger and George Shultz, former Secretary of Defense William Perry, and former Senator Sam Nunn. These graybeards of the foreign-policy establishment called for a push to eliminate nuclear weapons as a critical part of reducing the post-9/11 threats of nuclear proliferation and terrorism. Among the steps they specified are ratification of the Comprehensive Test Ban Treaty (CTBT), conclusion of a verifiable Fissile Material Cut-Off Treaty (FMCT), negotiation with the Russians on how and when to proceed to develop missile defenses, and sharing of “affordable” nuclear fuel and civilian power technology under a multinational plan—a scheme first attempted but not fully implemented in the 1950s under President Eisenhower’s Atoms for Peace Program.

Senator Obama was the first to voice support for the Nunn-Shultz-Kissinger-Perry nuclear manifestoes. Senator McCain seemed just as supportive in a May 2008 speech in Denver, but what McCain *didn’t* say,

however, was revealing. Whereas Obama would seek Senate ratification of the CTBT, McCain was more hesitant, saying only that he wanted “to identify ways we can move forward to limit testing in a verifiable manner that does not undermine the security or viability of our nuclear deterrent.” In 1999, McCain voted and spoke in the Senate against ratification of the CTBT. One of his key objections to ratifying the treaty was his concern that it could not be verified. In four key Senate votes from 2003 through 2005, McCain supported funding for new nuclear weapons. His key recommendation during these years regarding nuclear testing was to allow testing up to a one-kiloton yield to help modernize the nuclear arsenal. All of this suggests why, even now, McCain is unwilling to move to ratify the CTBT in its current form.

As for an FMCT, Senator Obama supports concluding an agreement that would “verifiably” ban the military production of new fissile materials in states possessing nuclear weapons. (The treaty would not apply to fissile materials meant for fuel and would have no effect on existing stockpiles.) Senator McCain also favors reaching an FMCT but has been silent on whether he believes such an agreement would be verifiable. Some observers believe that McCain backs the Bush administration view of the FMCT—that the treaty is a good idea so long as no effort is made to create a formal verification mechanism.

Both candidates support expanding existing U.S. efforts to work with Russia and other states to secure nuclear-weapons-usable fuels against possible theft. Yet both candidates also cosponsored legislation that would ban formal nuclear cooperation with Russia until it ceases working with Iran on its civilian nuclear program, on its missile programs, and on transferring advanced conventional defenses (like using Russia’s air defenses to protect Iran’s nuclear plants). Neither candidate has yet gone on record regarding what they think about the U.S.-Russia nuclear cooperation agreement that President Bush recently submitted to Congress.

Finally, unlike his opponent, Senator McCain has been a strong supporter of strategic and theater missile defenses, and has consistently voted in favor of funding their development.

What are we to make of these positions? Does one candidate do much better than the other in supporting the cause of nuclear restraint? The answer depends on what one makes of two premises central to the Nunn-Shultz-Kissinger-Perry manifestoes. First, is the reduction and elimination of the superpowers’ nuclear arsenals truly the crucial step needed to get other states to refrain from acquiring nuclear weapons themselves? Second, are Cold-War-style arms control measures—like a binding, verified CTBT

and FMCT, and negotiated missile defense agreements—truly sound ways to promote nuclear restraint?

The short answer to both questions is no. Rogue states like Iran and North Korea are likely to acquire nuclear arms no matter what the world's known nuclear weapons states do to reduce or eliminate their own arsenals. More important, U.S. nuclear guarantees—that is, promises to use nuclear weapons in the defense of others—are important not only to keeping Turkey, Japan, South Korea, and Taiwan content with the security alliances they have with Washington and NATO, but also to keeping them from wanting to go nuclear or ballistic themselves. This is not a positive argument for the United States acquiring or testing new nuclear weapons, but it does suggest that getting rid of existing nuclear weapons prematurely (or even seriously considering the possibility) could spook other states into acquiring their own.

Besides, we have to recognize that nuclear arms reductions have been driven more by military science than by negotiated settlements or acts of political will. With the increasing ability to hit targets precisely, indiscriminate weapons such as nuclear arms are less necessary. *That* is why, independent of any arms control agreements, the U.S. and Russian nuclear arsenals have shrunk by roughly 75 percent since the late 1960s. Additional nuclear reductions may improve U.S.-Russian relations, but the idea that there is any direct link between superpower nuclear reductions and nuclear nonproliferation otherwise is a stretch.

As for the Cold-War-style initiatives contained in the Nunn-Shultz-Kissinger-Perry op-eds, caution is in order. For example, the four eminences argue that cooperating with Russia on missile defense will reduce tensions and “enhance the possibility of progress on the broader range of nuclear issues.” But the original argument made for developing missile defenses in the 1980s was that they constituted a form of insurance against arms control failures. If this argument remains sound, we would want more missile defense systems deployed in the U.S. and in key allied states, not fewer—even if *Russia won't cooperate*. Perhaps we should try, as the Bush administration is attempting, to secure the assent of Moscow and even its participation in the deployment of missile defenses against Iran and North Korea; but if Russian support is not forthcoming, the argument for proceeding still stands.

The eminences' call to bring the CTBT into effect doesn't speak to that treaty's central flaw: the problem of verification. We can detect the gases that are sometimes released from an underground test, but the problem of detecting where and when a small nuclear test has taken place

(so we can focus our gas-sensing capabilities in a timely fashion) is still quite daunting. Certainly, before Senate critics of the CTBT would ever put aside their qualms about verification, they would want to be reassured that the prospect of nuclear proliferation had diminished since 1999, when the Senate last voted on the treaty. That year, the CTBT fell nineteen votes short of the two-thirds majority required for Senate approval. Fewer than half of the fifty-one Senators who voted against the treaty will still be in the Senate when the 111th Congress begins in 2009, and so the CTBT admittedly has a better chance of mustering Senate approval—but responsible critics will still be bothered by the treaty's shortcoming on verification, especially after the disturbing nuclear antics of Iran and North Korea.

Verification is also a major stumbling block for the FMCT. After the embarrassment of Iran's enrichment program admission in 2003, even the International Atomic Energy Agency (IAEA) conceded that there is no reliable way to detect covert nuclear fuel-making plants. Nor is there a reliable way to detect significant military diversions from civilian fuel-making plants in a timely manner. Finally, both the plants and their nuclear fuel products can be used to make bombs—in some cases, overnight.

Why do these FMCT verification gaps matter? Nuclear weapons states, it is argued, have little incentive to cheat on their FMCT obligations to make no additional fissile material for bombs, so long as they still have their existing nuclear weapons arsenals and can stockpile weapons-usable materials for "civilian" purposes. Perhaps, but the sloppy verification scheme an FMCT would establish for declared weapons states would surely be one that non-weapons states, like Iran, would point to as being "good enough" to "safeguard" their nuclear fuel-making activities as well. This would immediately put U.S. diplomats in a bind. They could hardly insist that the FMCT is sufficiently verifiable to ensure that states that already have nuclear weapons (like Russia) will only make fissile materials for peaceful purposes but that these same verification procedures are too loose to detect military diversions from civilian nuclear fuel-making plants in states that don't yet have bombs (like Iran).

Securing adequate verification and enforcement is also a concern for the continued viability of the IAEA itself. Currently, the IAEA technically cannot find covert nuclear fuel-making plants—and the production of fuel is the long pole in the tent for a nuclear weapon. Nor can the IAEA detect diversions of key nuclear materials with the kind of timeliness and reliability needed to assure we can intervene before the stuff is converted into bombs. The IAEA has even lost track of hundreds of kilograms of

plutonium—enough for many bombs—at the fuel-making plants it monitors in Japan and Europe. It is not a well-functioning agency, to put it mildly.

Both Senators McCain and Obama have spoken of the need to “strengthen” the Nuclear Non-Proliferation Treaty (NPT) and the IAEA. Obama recommends that international penalties for violators of these nuclear rules be made “automatic.” McCain goes a bit further. He believes that the IAEA budget for safeguards needs to be increased significantly and that the current burden of proof for acting against a state that is noncompliant should be reversed: Instead of requiring the IAEA Board of Governors to reach a consensus before sanctioning a possible violator, McCain recommends the IAEA members suspend any nuclear assistance to any state that they *cannot* clearly find to be in full compliance. Neither candidate, however, has yet addressed what the deficiencies of the IAEA’s safeguarding should mean for how much or how little the U.S. and other nuclear-supplying states should spread or share “peaceful” nuclear technology.

The Wrong Nuclear Rights

Both Senator McCain and Senator Obama have endorsed the proposal of creating an international nuclear fuel bank. Under this scheme, the United States would work with other countries to make nuclear reactor fuel and other assistance available to any state that seeks to develop civilian nuclear reactor programs. The aim would be to persuade these states to forgo making their own nuclear fuel—an activity that could bring them within days or weeks of having a nuclear bomb.

Senator McCain has not yet come out in favor of *subsidizing* such “peaceful” nuclear aid while Senator Obama has. This difference matters. It is difficult to see why nations would want to depend on an international nuclear fuel provider instead of the current crop of nuclear suppliers, much less to make any pledges of nuclear restraint for “assured nuclear fuel supply,” unless there were a clear price advantage for doing so. That’s why the promoters of this idea emphasize how “affordable” the bank’s fuel would be. Nunn, Shultz, Kissinger, and Perry are explicit about how much “peaceful” aid this scheme would afford: not just nuclear fuel at subsidized prices, but nuclear “financial,” “infrastructure,” and spent-fuel “management” assistance would be extended to any non-nuclear power country that requested it.

Just how this would reduce the further spread of nuclear weapons-making capabilities, though, is far from clear. The proposal’s proponents

seem to hope that providing all of this nuclear aid will eliminate any nation's need to acquire nuclear fuel-making plants of their own while fully reassuring them that the nuclear fuel-supplying states still respect their "right" to develop civilian nuclear energy. Such a hope flies in the face of history. In the 1970s, 1980s, and 1990s, Taiwan, South Korea, Egypt, India, Pakistan, Algeria, Iraq, Israel, and Brazil all claimed only to have "peaceful" nuclear programs and so received foreign help in their nuclear pursuits. Early on, none had a functioning, declared, commercial-sized nuclear fuel-making plant. Yet each engaged in covert activities related to making nuclear fuel.

Also, implicit to the nuclear fuel bank scheme is the notion that states have an inalienable right not just to *have* but to *make* nuclear fuel—a step, it bears repeating, that would bring them within a whisker of making a bomb. The supporters of the nuclear fuel bank proposal have repeatedly highlighted this supposed right; they believe that denying its existence would only encourage states to dig in their heels and exercise it on their own. Instead, they hope that by making available nuclear fuel and other civilian nuclear aid, we can quietly appeal to these states' economic self-interest and so get them to abstain from producing their own nuclear fuel.

In theory this seems sensible. In practice it's hash. Nuclear fuel costs are by far the least expensive part of owning and operating a large nuclear system. The savings that fuel subsidies would provide would be real but not necessarily significant enough to dissuade a country's leaders from making their own nuclear fuel—especially if they have an interest in obtaining a nuclear-weapons option. A state eager to secure a bomb-making capability would simply seek all of the "peaceful" nuclear assistance it could get and then, when ready, announce that it was exercising its "clear" right to make such fuel. This is what India, Pakistan, and Brazil did. Why wouldn't other states follow the same path?

So far, Senator Obama has not voiced concern about this possibility; nothing in his campaign material speaks to it. Senator McCain, on the other hand, has gone out of his way to raise this issue. In his major March 2008 *Foreign Affairs* essay, McCain noted that the NPT mistakenly assumed that it was possible to spread civilian nuclear technology without also spreading the means to make bombs. To dispel this misunderstanding, McCain called for an international summit of the world's leading powers to review just what these rights to "peaceful" nuclear technology are.

This would be an ambitious undertaking. The text of the NPT states that there is an "inalienable right . . . to develop research, production and use of nuclear energy for peaceful purposes." Most nations, including the United

States, have long insisted that this means that states have a *per se* right to any and all nuclear technology and materials, including nuclear fuel-making technology and weapons-usable nuclear fuels. According to this view, any NPT state may enjoy its right to these dangerous nuclear activities and materials so long as, first, they are openly declared and have some conceivable civilian application, and second, they are occasionally inspected by the IAEA. Iran only violated the first condition and so it might not have a right to make enriched uranium until it is clear that its nuclear declaration is complete and correct. After that, it's good to go. Under this interpretation of the NPT, any state that properly declares its nuclear activities and allows inspections has a legal right to make nuclear fuel.

The problem with this view is that once a nation's declaration of its nuclear activities and holdings is judged to be complete and correct by the IAEA Board of Governors, that country is presumably free to proceed to the very brink of acquiring nuclear arms—so that the final dash can be completed in a matter of hours or days. Before Iran's recent actions, few observers thought many nations would dare. Now, the worry is that many might.

It certainly won't be easy to persuade nations to adopt a tougher reading of what's permitted under the NPT; most nations are convinced of the reality of the right to make nuclear fuel even though the NPT makes no mention of it. In fact, when the treaty was being negotiated almost four decades ago, the participants explicitly rejected attempts to insert text that would make it a duty of nuclear power states to share fuel-making technology. There even were states that suggested at the time that nuclear fuel-making would have to be limited lest the bomb spread.

In part, this is why the NPT explicitly conditions the exercise of the right to "peaceful" nuclear energy on "conformity with Articles I and II" of the treaty—the prohibitions against acquiring nuclear weapons "directly or indirectly" or encouraging others to develop them. It may also explain why the NPT requires all peaceful nuclear activities to be subject to "safeguards," whose purpose is to "prevent" military diversions. We now know that not all nuclear activities can be safeguarded—that the IAEA cannot detect military diversions from some facilities (like nuclear fuel plants) early and reliably enough to assure we can stop or deter them before any bombs are made. This seems to suggest that nuclear fuel-making activities cannot be considered "peaceful" unless they are conducted in states that already have nuclear weapons. At the very least, it suggests that spreading fuel-making activities to new non-weapons states would be contrary to the NPT.

Would Senator McCain's suggested reconsideration of what counts as "peaceful" take into account our new recognition of the limits of safeguarding? What would each of the candidates make of these points? Would they conclude that some nuclear activities should be curtailed—and if so, which ones, and where, and why? The candidates and their campaigns have yet to say.

Subsidizing Nuclear Power—and Proliferation

These questions immediately raise the sticky issue of whether subsidies for nuclear energy should be expanded. Certainly, expanding them will have a direct negative impact on America's moral standing to criticize countries, such as Iran and North Korea, about how "uneconomic" their own nuclear programs might be.

The U.S. government currently subsidizes commercial nuclear power in a number of ways. In the case of possible nuclear accidents, U.S. law caps the industry's liability for damage done off the reactor site. Congress has spent hundred of millions of taxpayer dollars on designing the next generation of commercial nuclear reactors, and authorized billions more in tax credits, licensing insurance, and loan guarantees to help finance the next three to six new power reactors built in the United States. Finally, Westinghouse and other American nuclear designers have sought government-guaranteed Export-Import Bank loans to help promote the export of U.S.-designed reactor systems, while President Bush and Russian Prime Minister Vladimir Putin have urged international financial institutions to start awarding cheap loans for nuclear projects globally.

But the commercial nuclear industry isn't satisfied; it says it needs more government "incentives" to secure its commercial future. One suggestion is to create a federal "clean energy" bank, a source of funding free from routine congressional oversight, that could grant unlimited government loan guarantees to cover up to 100 percent of the construction costs of new reactors. The industry also privately favors receiving federal carbon credits for both new and existing reactors, and supports the creation of a \$100 billion slush fund (filled with money from taxing carbon emissions) that would be used to finance commercial "clean energy" projects, including nuclear power. Senator McCain has voiced support for most of these ideas.

Both Senators Obama and McCain support a cap-and-trade system to reduce carbon emissions. McCain, though, sees a major role for nuclear power in cutting these emissions. In 2007, he included specific subsidies for construction of new commercial nuclear power plants in his proposed

Senate bill to create a cap-and-trade system to reduce greenhouse gas emissions. McCain sees capping and taxing carbon as a way to “unleash market forces” to promote nuclear power’s reemergence. He argues that this is critical to reduce America’s dependence on oil from “Iranian mullahs and wackos in Venezuela.”

Obama’s support of nuclear power is less clear-cut. He says he supports “investing” in nuclear power—so long as the waste, proliferation, and safety issues can be resolved. Obama also is a keen supporter of taxing carbon and using the proceeds to promote the commercialization of more expensive alternative-energy options including solar, wind, and nuclear. His primary campaign received more money from nuclear interests than any other campaign—over \$200,000 from employees of Exelon, a nuclear utility company operating in his home state of Illinois—and he voted in support of the Energy Policy Act of 2005, which included major loan guarantees for new nuclear plant construction. (McCain voted against the act.)

If the United States continues to subsidize nuclear power, failing to identify the full costs of nuclear projects or to compare them against their non-nuclear alternatives, then it is missing a fairly clear opportunity to get the world to construe the nuclear rules correctly. Nobody should think that the Nuclear Nonproliferation Treaty is designed to promote money-losing, unsafeguardable nuclear projects that bring nations to the verge of getting a nuclear bomb. It’s up to the promoters of nuclear energy to show that nuclear power is economically superior to the alternatives.

Current and Past Proliferators: Penalize or Reward?

This brings us to the last nuclear question—should the U.S. strike nuclear bargains with Russia, Iran, North Korea, and India to improve their future proliferation behavior, or should it instead emphasize and stigmatize their past nuclear misbehavior?

As mentioned above, neither of the candidates has yet taken a position on the nuclear cooperation agreement with Russia that President Bush submitted to the Senate for approval in May 2008. On the one hand, both candidates have lavished praise on U.S. efforts to work with Russia to secure loose nuclear materials and both believe the United States needs to do more generally in cooperation with Russia to reduce the nuclear threat. (Senator McCain, though, has also been openly critical of Russian Prime Minister Putin and has proposed that the United States no longer include Moscow in the G-8 talks and work to expand NATO to Russia’s doorstep.) On the other hand, as already described, both candidates cosponsored

a bill (S.970, the Iran Counter-Proliferation Act) that would forbid the United States from formalizing nuclear cooperation with Russia until Moscow terminates nuclear, missile, and advanced conventional defense cooperation with Iran. Neither McCain nor Obama has sought to force action on this bill or to block the Russian nuclear cooperative agreement from coming into force.

As for Iran and North Korea, Senator Obama has emphasized the need for the United States to employ aggressive direct diplomacy and to consider the use of force only as a last resort. Both he and Senator McCain have stated that an Iranian attack against Israel would prompt an American military response.

Senator McCain, however, is skeptical that negotiating with North Korea or Iran is likely to mitigate the nuclear threats these countries pose. At a minimum, he would refocus the multilateral talks with North Korea on the issues of promoting human rights, resolving the Japanese abduction cases, and ending North Korea's continued proliferation and terrorist activities. He has criticized President Bill Clinton's Agreed Framework reached with North Korea in 1994, and during primary season he chided Democratic Senator Hillary Clinton for not backing the development and deployment of missile defenses to deal with North Korea and Iran. Senator McCain also favors leading not with talks but with tougher economic sanctions in the case of Iran and claims he could come to an agreement with the United Kingdom and France, at least, to impose tougher sanctions than Russia or China might allow.

Finally, there is the matter of India. Senator McCain has spoken out strongly in favor of sealing a nuclear cooperation deal with India in order to promote a strategic relationship with New Delhi. Senator Obama has made it clear that he would not oppose the deal—although he only supports it reluctantly, since most liberal arms controllers oppose the India deal, and Obama joins them in wanting to ratify the CTBT. If the United States ratified the current CTBT, it would immediately leave India and Pakistan the odd men out (neither has signed, let alone ratified, the treaty). It would seriously complicate U.S. and Indian cooperation on nuclear matters unless and until India made more specific pledges regarding nuclear testing.

Both Senators McCain and Obama, meanwhile, voted in 2006 for the Hyde Act, which requires the United States to suspend nuclear cooperation with India if it resumes nuclear testing—something that India claims is not required by the nuclear cooperation deal under discussion. The Hyde Act also requires India to declare which reactors it will allow international

inspectors to visit before Congress finalizes nuclear cooperation. India has so far refused to do this. In addition, it calls on the United States and other nuclear supplier states not to allow India to stockpile nuclear fuel as a hedge against a possible U.S. suspension of aid if India tests or otherwise violates its nonproliferation pledges; India believes that the nuclear deal *requires* the United States to help India secure such a nuclear fuel hedge. Neither Senator Obama nor Senator McCain has yet said whether he would force India to comply with the Hyde Act.

One would like to think that as the election season heats up, the presidential candidates' positions on these nuclear issues, and the differences between them, would become clearer. If, as the candidates seem to believe, preventing nuclear weapons capabilities from getting into the worst possible hands is a top national security priority, then the voting public and the press have an interest in getting Senators McCain and Obama to clarify their positions on these questions and to explain how their views still differ.