

A Return to Arms Control and Non-Proliferation Process

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On April 1, 1999, a mainstay of United States national security policy since 1961, the U.S. Arms Control and Disarmament Agency (ACDA) went out of business. As part of a reorganization of foreign affairs agencies, the main functions of ACDA were absorbed by the State Department.

Was this a wise decision? Are America and the world safer with the arms control portfolio integrated into the range of foreign policy concerns that occupies State, rather than constituting the sole responsibility of a specialized agency?

Why ACDA Was Born

When President John F. Kennedy signed the legislation creating the Arms Control and Disarmament Agency in September 1961, the time was ripe for the establishment of such a body. John J. McCloy, the administration's sponsor of the legislation, said in effect in his Senate testimony that arms control and disarmament is too important a subject to be "buried in the State Department." Instead, a new agency should be created with a director who would have direct access to the President.

Previously, in the Eisenhower administration, the responsibility for arms control had been placed in the White House under former governor and frequent presidential

candidate Harold Stassen, but this had not worked well. There were serious conflicts with the State Department and Secretary of State John Foster Dulles.

By 1961, arms control had become a major national security issue for the United States. In the 1950s, the Soviet Union had developed its nuclear weapons and nuclear weapon delivery systems to such a degree that a nuclear arms race was in full swing. John F. Kennedy, during the 1960 presidential campaign, had warned of a possible “missile gap.” As a result of these developments, Kennedy decided to establish a separate executive branch agency for arms control and disarmament.

Kennedy’s Secretary of State, Dean Rusk, supported the draft legislation. Rusk testified, “Disarmament is a unique problem in the field of foreign affairs. It entails not only a complex of political issues, but involves a wealth of technical, scientific, and military problems which in many respects are outside the Department’s formal concerns and, in many instances, reach beyond the operational functions the Department is designed to handle.” The legislation received strong support from foreign policy leaders in both the Senate and the House. They understood the argument that arms control is just one of the tools of national security policy but, nevertheless, a separate and distinct arena. It is not an end in itself but it represents one of several alternative paths toward solution of national security problems.

The fundamental rationale for not subordinating the agency within State was that the pursuit of arms control and disarmament goals will often conflict with the primary mission of the Department of State, which is to foster good relations with other countries. For example, to press Pakistan on nuclear non-proliferation issues or criticize Russia for perceived arms control treaty violations can be contrary to pursuing improved relations with those countries and will often be opposed by the regional State Department bureau

responsible for relations with the country in question. Most often, in the competition of ideas within State, interests of improved short-term bilateral relations will prevail over arms control, disarmament and non-proliferation interests.

A Brilliant Beginning

The early years of the agency in the 1960s were prosperous and successful, as Secretary Rusk believed in and supported the role of ACDA. ACDA was effectively led by Director William Foster, a former Deputy Secretary of Defense, Deputy Director Adrian Fisher, a former State Department Legal Advisor, and General Counsel George Bunn, the drafter of the Arms Control and Disarmament Act.

Over strong opposition by State—which was pressing for the establishment of a multilateral nuclear force with our NATO allies in Europe—ACDA successfully pressed for the Nuclear Non-Proliferation Treaty (NPT), which is now considered a centerpiece of international security. ACDA almost single-handedly advocated this proposal within the U.S. executive branch and went on to play the leading U.S. role in the complex multi-party negotiations in Geneva. Indeed, if it had not been for an independent ACDA, this important agreement might never have come into being.

Over the years that followed, the post of ACDA director was filled by a series of distinguished public servants, and the agency had a number of significant accomplishments. Among the highlights: negotiation of the SALT I agreements by Director Gerard Smith; the negotiation of the Chemical Weapons Convention under Director Ron Lehman; the extension of the nuclear weapon test moratorium in 1993 (initially and for a long time advocated by ACDA alone), and the indefinite extension of the NPT along with the negotiation of the Comprehensive Test Ban Treaty (CTBT) under ACDA's last director, John Holum. (Holum, for many years a key staffer for Sen. George

McGovern, D-S.D., had also been on the policy planning staff at State.) These successes all depended to an important degree on the existence of an independent arms control agency, with a director who could take controversial issues directly to the President and the National Security Advisor.

More Controversy Per Capita

But there was another side to this history. I often used to say that on a per capita basis (ACDA was always very small) ACDA was the most controversial government agency in the history of the world. In the wake of criticism by Sen. Henry Jackson (D-Wash.) of the SALT I agreements, the Nixon White House in 1973 cut the ACDA budget by 30 percent and reduced it to, in the words of White House press spokesperson at that time, Ron Ziegler, “a research and staffing agency.”

Director Fred Iklé effectively restored the agency in the middle 1970s but there were many other attempts to reduce or eliminate ACDA’s authority over the years. But, for many years, the Congress, regarding ACDA as its creation, served as the agency's defender. Gradually, over time, this support began to cool.

In 1993, when there was great controversy within the executive branch as to whether ACDA should be terminated and its assets acquired by State, the support for ACDA in the Congress was not as strong as in prior years.

Why the decrease in congressional support? Many factors undoubtedly took their toll, including the end of the Cold War (hence less attention to the nuclear threat), and a Congress generally less interested in international issues.

Fortunately for ACDA in 1993, there remained substantial support in other government agencies. In an interagency exercise on the issue, the White House, the Central Intelligence Agency and the Office of the Joint Chiefs of Staff expressed

benevolent neutrality, and the Office of the Secretary of Defense and the Department of Energy supported the independence and strengthening of ACDA, with only the Department of State dissenting.

But even this changed after the 1994 elections. The attitude in the new Republican-led Congress toward the independence of ACDA switched from widespread neutrality with pockets of strong support to outright opposition. Sen. Jesse Helms (R-N.C.), the Chairman of the Senate Foreign Relations Committee, pressed for legislation that would eliminate at least two and preferably all three independent foreign policy agencies—ACDA, the Agency for International Development and the U.S. Information Agency—and merge them into State. Director John Holum fended off this effort for ACDA in 1995, with support from the President and Vice President.

However, in 1996, a new factor entered the equation—the Chemical Weapons Convention. The U.S. felt a pressing need to get the CWC ratified by early 1997: this was necessary if the U.S. was to be an original party to the convention and thus have maximum influence in shaping the treaty's verification regime. This gave Chairman Helms a significant bargaining chip, as he could hold up approval of the CWC. Action on the CWC was thus linked, among other things, to merger of the three independent foreign policy agencies into State.

Negotiate or Fight?

So in December 1996, ACDA Director Holum was informed by the White House that the ACDA “independent box” had to disappear. At the same time, senior State officials as well as some long-time congressional supporters of the agency told Holum that the political situation could no longer support an independent ACDA. Accordingly, he called his closest advisors at the Agency into his office and asked whether ACDA

should “negotiate or fight.” All of those officials supported the concept of negotiating the best arrangement possible, given the strategic situation: opposition in Congress, no support in the White House or elsewhere in the executive branch, and limited interest in the non-governmental community. The ACDA position was further weakened by the fact that all four assistant ACDA directors had left by early 1997 and there was no prospect of getting replacements named and confirmed given Senator Helms as Chairman of the Senate Foreign Relations Committee.

An opening position was prepared based an analysis of the 1961 Senate Bill which led to the Arms Control and Disarmament Act. (Unlike the House version which eventually prevailed, the Senate bill would have established an independent arms control agency within State.) Holum’s Executive Assistant did the nuts and bolts negotiations, with Director Holum setting overall policy and, advised by other key senior officials weighing in as needed with Secretary of State Madeleine Albright, Deputy Secretary Strobe Talbott, National Security Advisor Sandy Berger, and other officials.

Laying Out the Options

The ultimate decision was to be presented to the President in an options paper. ACDA officials knew that one option in the paper would be to retain an independent ACDA, which meant that if a suitable arrangement could not be negotiated with State, a last-ditch stand was still possible. With that alternative protected, ACDA set out to work with State to make the merger option as attractive as possible. The intent was to capitalize on what was favorable in the negotiating environment—especially Secretary Albright’s longstanding commitment to arms control, and her strong interest in presenting a consensus recommendation to the President.

The key ACDA officials involved in these discussions all had concluded that

certain things were absolutely essential to the independent arms control process if it was to be preserved. A central concern was that the responsible official in State—to be called the Under Secretary for Arms Control and International Security—had to have the right to attend all National Security Council meetings in any way connected with arms control, non-proliferation and disarmament, and to have the right to a vote independent of that of the Secretary of State. That is, his or her lack of consensus alone would be sufficient to send an issue to the President. Also, he or she must have the right to communicate directly with the President.

These steps, which Secretary Albright and Director Holum resolved positively at the very end of the negotiations meant that it would be possible to preserve within the State Department the independent advocacy role which, as in 1961, most studies had singled out as the main reason why a separate agency made sense. Additionally, it was concluded that all arms control non-proliferation and disarmament functions anywhere in the department should come under the Under Secretary's authority: there could be no competition elsewhere in State. ACDA's unique responsibilities for verification judgments and reporting had to be preserved as well, as did its special legal competence for arms control treaties and related issues.

And ACDA officials were determined that the new State Department, bolstered by the Agency's expert personnel resources, should have an enhanced interagency policy role. Thus it was argued that the interagency leadership of arms control as well as non-proliferation should be taken from the White House and put in the hands of the Under Secretary. Almost all of the above objectives were achieved during the negotiation which lasted until April 18, 1997, but their formal inclusion in the official government decision documents took a long time.

There had been strong resistance from the NSC to moving the interagency chairs of the arms control and the non-proliferation interagency working groups from the NSC to the Under Secretary. In an arduous negotiation early in April 1997, this was fought out. A compromise was achieved: The Non-Proliferation interagency working group would go to State, but the Arms Control working group would remain at NSC. However, it was agreed that the Under Secretary would share with the NSC chair the right to call a meeting and begin interagency consideration of a specific arms control issue.

A Presidential Decision Directive

The question of the Under Secretary's right to communicate with the President was very difficult. No State Department official, other than the Secretary, has this right. However, it was correctly regarded as essential to the independence of the arms control process. A compromise procedure was fashioned: the Under Secretary could communicate directly with the President through the Secretary of State, who must forward the Under Secretary's memorandum but may append his or her views. This right is implicit in the full title of the Under Secretary that was contemplated, namely, "Under Secretary of State for Arms Control and International Security Affairs/Senior Advisor to the President and Secretary of State for Arms Control, Nonproliferation and Disarmament."

After the agreement on the Agency's future, ACDA pressed to have the central elements of it memorialized in a Presidential Decision Directive (PDD). The White House replied asking why an announcement by the President, which had been made, was not sufficient. But it was believed to the extent possible this arrangement should be established not just for the Clinton administration, but for future administrations as well. After a long debate, this was accomplished in PDD/NSC-65 issued on June 23, 1998. It

provided inter alia that the Under Secretary “shall be invited to attend all National Security Council meetings concerning matters pertaining to arms control, non-proliferation and disarmament” and makes identical arrangements for all NSC Principals Committee meetings, as well as NSC Deputies Committee meetings.

The presidential directive also provides that the interagency working groups on non-proliferation shall be chaired at the assistant secretary level in the Department of State and that the NSC chair of the arms control working group shall convene a meeting of the group at the request of the Department of State. This means that the Office of the Under Secretary shared with the NSC the authority to introduce an issue into the interagency process—an important right.

However, a serious dispute broke out over conventional arms control in Europe. The agreement reached between the Secretary and the ACDA Director provided that all arms control functions in the Department of State, wherever they had been located before, would come under the authority of the Under Secretary. But State’s European Bureau (EUR) strongly resisted including the talks on the ongoing implementation and modification of the Conventional Armed Forces in Europe Treaty (CFE) in this understanding, because of the close association of the ongoing CFE Treaty adaptation process and NATO enlargement.

Eventually, after long negotiations, it was agreed that an exception would be made for CFE adaptation and directly related issues: EUR would continue to lead under the Under Secretary’s overall authority until 1999. That year, there was to be a review “with a view to consolidating the lead (for CFE) in the new functional bureau under the Under Secretary at the earliest practicable date.” In other words, the lead on CFE Treaty issues was to be transferred to the Office of the Under Secretary.

Another hard-fought issue was protecting the independence and integrity of ACDA's Verification and Compliance staff. That staff had resided, appropriately, in a separate bureau at ACDA for the previous 16 years. This setup reinforced one of ACDA's strengths—its independent take on verification and compliance questions. These questions have often been hotly argued, not only with foreign powers but also as domestic political issues.

But a separate bureau in State for verification and compliance in the merged entity appeared impossible to achieve in the negotiations. The end result was three bureaus reporting to the Under Secretary: Arms Control, Non-Proliferation and Political Military. So it was decided to insist on an Office for Verification and Compliance to be attached directly to the Under Secretary, a solution eventually included in the final report on State's reorganization plan. Under subsequent pressure from the Congress, however, this office was converted into a fourth bureau reporting to the Under Secretary.

On the question of maintaining a separate legal office for the Under Secretary, the effort was less successful. What was eventually achieved was that ACDA's General Counsel would become an associate legal advisor dedicated to arms control and non-proliferation issues under the jurisdiction of the Under Secretary. The Under Secretary would be able to draw on the views of the Associate Legal Advisor even when he or she disagreed with the State Legal Advisor.

Finally, the official State Department Reorganization Plan and Report set out guidelines for the Office of Under Secretary emphasizing the objective of pressing for the independence of the arms control, non-proliferation and disarmament process.

- The new Under Secretary will have a “unique role” reflecting authorities transferred from ACDA.

- The new structure within State is to “ensure that unique arms control and non-proliferation perspectives will continue to be available at the highest levels of the U.S. government, including the President.”
- An entity will provide “independent arms control and non-proliferation verification and compliant assessments.”
- The new Under Secretary will “provide oversight to State’s new interagency leadership role in non-proliferation.”

This report, which implements the law that authorizes the ACDA merger, is authoritative and was not to be modified without further legislation. Combined with PDD/NSC-65, the report sets forth as U.S. government policy that the independence of the arms control, non-proliferation and disarmament process is to be strengthened and preserved. The intent was that the arms control/non-proliferation alternative in policy debates on national security issues would continually be made available at the highest levels of the government, including the President, as was the case when there was an independent ACDA Director.

With these understandings and agreements it was believed that a reasonable job had been done in preserving an independent bureaucratic structure for arms control within the U.S. government in the hostile environment that existed at that time.

The effectiveness of the Director of ACDA over the years always depended on personalities and personal relationships. The relationships of the Director with the President, the national security advisor and the Secretary of State have been important to the reality of operating as an effective independent agency.

This personal dimension will always to be important. This new arrangement might have worked well if NSC and State had respected the authority of the Under

Secretary for arms control and international security, and if the current administration had appointed individuals for whom arms control and non-proliferation policies were truly important and to which they were dedicated.

But now, however, there was a difference. Previously, if an independent ACDA was marginalized, the structure was solidly in place; and the agency could be brought back, as Director Fred Iklé demonstrated. But if this new arrangement did not work properly, and, as a result, arms control, non-proliferation and disarmament considerations became buried in the Department of State bureaucracy—or disappeared entirely—it might be very difficult future to resuscitate an independent voice for arms control.

The Bush administration chose not to appoint officials to the arms control/non-proliferation structure who were committed to the success of arms control/non-proliferation policies. During the first few years of the new administration: The Anti-Ballistic Missile Treaty, referred to in the Final Document of NPT 2000 Review Conference as the “cornerstone of strategic stability” was rejected by the United States; the effort to create a viable verification system for the Biological Weapons Convention was destroyed by the United States; the second Strategic Arms Reduction Treaty signed by the first President Bush was abandoned; the Under Secretary indicated that—contrary to the pledges made in 1995 by the NPT nuclear weapon states in connection with NPT indefinite extension—United States’ policy under certain circumstances would be, if necessary, to use nuclear weapons against NPT non-nuclear weapon states; a Strategic Offensive Arms Reduction Treaty was agreed with Russia which called for no reductions and the taking of a number of weapons off alert status ten years in the future; suggestions were made that the first Strategic Arms Reduction Treaty would be allowed to expire in 2009; and it was announced that Comprehensive Test Ban Treaty (CTBT) ratification

would not be pursued. As a result of those and other similar policies the NPT was gravely weakened, made clear by the unprecedented complete failure of the 2005 NPT Review Conference.

And, on top of all this, in 2004 Secretary Powell proposed and on July 29, 2005, Secretary Rice announced, the implementation of a Department of State reorganization eviscerated the compromise solution of 1998 described above. The Arms Control and Non-proliferation Bureaus were eliminated and their functions merged into a new Bureau for International Security and Non-proliferation. The Verification Bureau remained separate. This decision subjugated and virtually eliminated arms control and mixed in non-proliferation policy development with other national security policy imperatives, thus making it less effective. Needless to say, there was no interest in a separate seat at the National Security Council or direct access to the President for the Under Secretary on arms control/non-proliferation issues, as little interest remained in the administration in such policies.

If the Congress hopes for a rekindling of interest in arms control/non-proliferation policies in the next administration, it is essential that a bureaucratic structure be re-established that is capable of carrying out such policies. For example, if the new administration intends to pursue CTBT ratification next year, it is not immediately clear from a procedural point of view where the policies to accomplish such an objective would be formulated and implemented in an effective manner.

New legislation needs to be adopted by the Congress, with the support of the new administration, either to:

re-establish an independent agency for arms control and non-proliferation—the best solution, or

enforce the terms of the 1998 compromise solution, specifically to mandate:

- the restoration of separate bureaus for arms control and non-proliferation
- the restoration of interagency leadership for these bureaus, and
- the restoration of the right of the Under Secretary to have a separate seat at the NSC for meetings on arms control/non-proliferation policy as well as direct access to the President.

And finally the Congress should insist in the future that only individuals thoroughly familiar with and supportive of arms control/non-proliferation policies be nominated and confirmed to either the head of the independent agency or the under secretary position, depending on the course chosen.

It is of the highest priority that the United States return to its traditional role of pursuing a world order built on rules and international treaties designed to enlarge international security and lead the world to a safer and more stable future. Only with a workable bureaucratic structure in place to support sound arms control/non-proliferation policies and agreements can this be accomplished.