
Action Despite GW Bush: Pursuing Nuclear Disarmament In the Face of Sovereign Unilateralism

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The Argument

This paper argues that there are productive paths open to governments which oppose US ‘unilateralism’. In arms control and disarmament, environmental policy, and world law the GW Bush administration has turned a blind eye to global governance. Instead, it would follow policy, unhindered, which advanced the short-term interests of its economic and political base in the United States. This paper introduces this problem and suggests several strategies, which can be used in combination:

- *One: Wait for a New President*
- *Two: Develop Global Governance, Even Without the United States*
- *Three: Replace Global Governance with Bilateral Arrangements*
- *Fourth: Move to Other Forums*
- *Fifth: Make Focused Responses to Unilateralism*
- *Sixth: Insist on the Integrity of the United Nations Charter*
- *Seventh: Enact Domestic Legislation*

• *Eighth: Speak Up in the United States*

• *Ninth: Insist that the GW Bush Administration Explain Itself*

The problem of ‘unilateralism’ is broader, more general, than the specific problem posed by GW Bush. A central obstacle to negotiation of serious disarmament is the hold-out state, the one which refuses to take the last step required for agreement. On the other hand, once an agreement has been reached and taken effect, a ‘defector’ may turn against the agreement, choosing now to go it alone: and while the problem of ‘defection’ is in some respects unlike pursuit of ‘unilateralism’, it springs from a unilateral preference and many fruitful responses are similar. So this discussion could be extended to the general case of the ‘hold-out’ and the ‘defector’.

It speaks, too, to the structural place of the ‘veto’ in the United Nations Security Council.¹ The veto is inherently unilateral, subject to the two significant political restraints that (i) its use would almost certainly have been discussed with the other P5 prior to use, and (ii) its use invites retaliation. The veto is a constraint *on the Security Council* and on Permanent Members who seek its consent to proposals, but does not constrain P5 who choose to take unilateral measures *outside the UN structure*. Some of the views developed here could be translated into comment on the veto problem, though that is not done in this paper.

Background.

George W. Bush was sworn in as President of the United States on 20 January 2001. His term runs until 20 January 2005. The next US presidential election will take place in November 2004, on the same day that all members of the US House of Representatives and a third of the members of the Senate will also be elected. In November 2002, at a ‘midterm election’,

¹ Specialists are well aware that the Charter does not mention a ‘veto’, but states that the *concurrence* of the five Permanent Members of the UNSC is required for action by that body. In practice the P5 have relaxed this requirement, sometimes not concurring but with the stipulation that their non-concurrence is not a ‘veto’.

voters will choose all members of the House and a third of the Senate.

The disputed presidential election of November 2000 led to Supreme Court action directing, in effect, Bush's election. His principal opponent, Al Gore, obtained more popular votes than Bush; and there is strong evidence that without manipulation of voter access to the electoral process in Florida, where Bush's brother Jeb Bush is Governor, Bush would not have carried that deciding state.

Despite this imperfect mandate, once sworn in Bush and his political allies have restlessly pursued policies favored by the 'right wing' of the Republican Party and serving the party's large corporate sponsors. High approval ratings in polls among US voters, in the wake of the World Trade Center attack of 2001.09.11, cannot obscure Bush's choice to be an agent of corporate influence, religious fundamentalism, and unaccountable Executive power.

There is growing tension between the Congress and the Executive (President), marked by repeated refusal of the White House to explain itself to the elected Congress. For example, while the White House continues to beat the drums of possible war with Iraq, members of Congress from both the Republican and Democratic Parties have cautioned against such action without a convincing demonstration of reasons why.

When Bush was sworn in, he could have anticipated fairly easy sailing. Although the Republican majorities in both House and Senate were small, more narrow than usual, they were Republican majorities, enabling the Republican caucus in each house to organize committees and the agenda. The minority Democrats had little room to maneuver. However, an unexpected turn took place in June 2001: an elected Republican Senator declared himself an Independent, and voted with the Democrats on organizational matters. In effect, then, Republicans control the House but since June 2001 Democrats control the Senate. The critical importance of the forthcoming November 2002 elections lies in which party shall control the House, and which the Senate, and by what margin. That will

determine the latitude Bush enjoys during the last two years of his term.

What Do We Mean by ‘Unilateralism’?

In foreign affairs, a state which seeks to work with other states and shape major policy frameworks collaboratively is *multilateralist*. Its relations with allies and adversaries alike is *political*, marked by negotiation. It chooses goals and policies as expressions of *domestic purposes*, but it recognizes it may need to adjust both in order to gain the greater advantage of collaborative projects with others. Where a subject concerns many states—world trade rules, global environmental protection, disarmament—its bilateral discussions with other governments may become centered on a formal international negotiation, leading to a broadly-subscribed treaty or convention.

On the other hand, a state which does not take its political relations with others seriously, and which instead relies on its own capacities to pursue policies of its own choice, is *unilateralist*. It chooses goals and policies as expressions of its *domestic purposes*, like multilateralists, but it does not modify them or adjust them in light of others’ requirements and natural justice. Instead, it closes its eyes to others’ aims and objections, unless they suit it, and simply deploys its own capabilities to obtain its ends. Although a subject may concern many states, the unilateralist is suspicious of formal international negotiations, which might constrain its freedom of action, and it therefore undertakes to scatter and break up efforts among multilateralists who are trying to concert their policies and actions.

When a unilateralist has extraordinary capabilities at its disposal, and is willing to use them to impose its policies on others, we term its policies *hegemonic*.

The following actions taken by the GW Bush administration since 20 January 2001 express its fundamental commitment to acting alone and undermining joint action by others:

Environment

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- Refusal to agree to the Kyoto Protocol to the Framework Convention on Climate Change

Arms Control

- Refusal to sign the Land Mine Convention
- No intention to pursue ratification of the Comprehensive Test Ban Treaty, despite the United States' having signed during the Clinton Administration.
- Refusal to sign the proposed Protocol to the Biological Weapons Convention, and a blatant effort to undermine and block completion of the Protocol.
- Withdrawing from the Anti-Ballistic Missile (ABM) Treaty.
- End of meaningful bilateral strategic weapons process with Russia: effective abandonment of START II and objectives expected for START III, substituting (i) postponed and non-binding strategic warhead reductions and (ii) retention of many warheads in a 'hedge' stockpile. In effect, the United States is no longer pursuing binding negotiated reductions in strategic nuclear weapons.

Global Governance

- Refusal to ratify the instrument establishing the International Criminal Court, and then taking actions which critics charge were designed to undermine the Court.

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- Refusal to provide small sums previously designated for the UN Fund for Population Activities, citing [apparently mistaken] claims that the funds would support coercive abortion.

Use and Threat of Force

- Posture toward ‘terrorism’ seen as hostile to Muslims; and a policy toward the Israeli-Palestinian dispute which adopts Israeli justification of occupation, seizure, and war against the Palestinians.
- Iraq. [But note that as poll data has turned hostile to a unilateral war against Iraq, mainstream and center-right Republicans are urging Bush to reconsider a mainly-US attack on Iraq.]²

In adopting these positions, the GW Bush administration is running against the weight of opinion in the world, and even opinion among almost all of its customary allies. It ignores the protests of its friends, and seems to make policy in a vacuum.

There is now ample evidence of a fundamental cleavage within the Administration. Key figures Vice-President Richard Cheney and Secretary of Defense Donald Rumsfeld adhere to the ‘hard’ positions, while Secretary of State Colin Powell endeavors to sustain some credibility in working with other states. At this writing Powell appears embattled, and only the coming forward of some Republican Senators to question the proposed war on Iraq impedes the Cheney-Rumsfeld group’s apparent implacability.

² A Gallup poll released on 23 August 2002 found that only 20% of Americans would support an attack on Iraq if undertaken without “allied support”, and 75% would oppose such a war. *International Herald Tribune*, 26 August 2002.

Where Did US 'Unilateralism' Come From?

The United States lies an ocean away from Europe. In the 1800s the US promulgated the 'Monroe Doctrine' as a unilateral measure to bar European 'interference' in the Western Hemisphere. There were strong pressures within the United States against involvement in World War I, but in the end the United States did become a belligerent and sent forces to Europe. However, when President Woodrow Wilson returned to seek Congressional approval of US membership in the League of Nations, Congress balked, and the United States only joined the League in the 1930s.

The United States was fully involved in formation of the United Nations. The founding UN conference took place in San Francisco. But even then Congressional suspicion of obligations which the United States might assume led it to pass the UN Participation Act, which stipulated that US membership in the United Nations would not shortcut the necessity for Congressional approval of US participation in military actions under UN auspices or in response to UN resolutions.

A tradition of *isolationism* nurtured itself within the Republican Party, and among the American public, even before WWII. The United States did not go to the aid of the European democracies in 1939, or 1940: did not, in fact, until Hitler took the initiative and declared war on the United States in December 1941.

Then through the 1950s and 1960s—the height of the Cold War—the Republican right adopted the two somewhat inconsistent policies of anti-Communism and isolationism. There remained suspicion of the United Nations, especially after its membership grew to include new countries of Asia and Africa, which often opposed US positions. For example, the United States during Nixon's presidency opposed Beijing's being accorded the seat of China in the UN and its Security Council, accepting it as a fact only after the vote was lost. But Nixon also took the initiative to establish official relations with China.

It was also in 1968 that the Nuclear Non-Proliferation Treaty (NPT) was signed, and in the early 1970s that bilateral US-Soviet talks led to initial agreements to control nuclear weapon inventories. The decision to codify agreements in treaty law confirmed a long-standing US declaratory position favoring 'the rule of law'. Advocates of international law as a process favoring stability and war-avoidance had urged throughout the 1900s that commitment to law be strengthened, including especially acceptance of 'compulsory jurisdiction' before the International Court of Justice. States could declare that they would agree to the Court's jurisdiction in any case brought by another state which reciprocally accepted 'compulsory jurisdiction'. The United States made such a commitment.

Breaking with Law and the Treaty Process: The Reagan Administration 1981-1989

Our thesis is that the right-wing administration of Ronald Reagan (1981-1989) brought to office vigorous opponents of agreed negotiated limits on US action, setting the stage for the even more extreme positions of GW Bush in 2001. Three high-profile actions by Reagan's defense and foreign policy officials show how they turned away from multilateral political agreement.

- The UN Convention on the Law of the Sea (1983)

Having participated fully in the Law of the Sea negotiations, the US delegation having been headed by a prominent Republican³, the Reagan Administration sought first a delay in bringing the Convention to a conclusion and then refused to sign. Critics pointed out that the terms of the Convention, a complex result of a long negotiation, reflected many concessions to the United States.

³ Elliott Richardson

- The Anti-Ballistic Missile Treaty (ABM Treaty)

After Reagan's March 1983 call for national missile defense, his lawyers and advocates claimed that they could go ahead with their plans without violating the ABM Treaty. Critics insisted that the plain language of the Treaty said 'no'.

- International Court of Justice

Nicaragua, which had accepted 'compulsory jurisdiction', brought suit against the United States, charging that the United States had planted mines in its harbor as part of an anti-Sandinista campaign.⁴ The United States abandoned its commitment to compulsory jurisdiction and rejected jurisdiction of the Court in this case.

These three examples show the Reagan Administration turning its back on negotiated agreement and a reliable fabric of reciprocal commitments.

Before GW Bush Took Office

From 1994 the Republican Party had a strong voice, then a controlling voice, in the Congress, even though Bill Clinton was President (1993-2001). Their control meant strictures on the United Nations and refusal to move forward on some key arms control steps. The personal, obstructionist role of Senator Jesse Helms ensured that Congress did not appropriate the monies required to pay US obligations to the United Nations, with the result that the United Nations was on a short financial leash. Helms also successfully opposed the Senate's approving

⁴ The 'mining' was a CIA action, using explosive devices but not 'mines' capable of sinking ships in the harbor. Their plan was more devious: to create the illusion of mining, whereupon world marine insurers would insist on such high premiums that shipping companies would not trade with Nicaragua. Nonetheless, the United States had assumed an obligation to answer charges before the Court, which it refused to honor.

ratification of the Comprehensive Test Ban Treaty; and his blocking of adjustments to the START II Treaty, some to recognize the breakup of the Soviet Union, meant that ratification of START II failed to be completed. (Under the US Constitution, two-thirds of Senators voting must ‘consent’ to ratification of a treaty before the president may ratify it.)

Strategies to Break the Impasse, or to Navigate Around It

Governments confront a problem: how can we collaborate on global policy *despite* the GW Bush administration’s unilateralism?

In the remainder of this paper, I will sketch several approaches and assess their strengths and weaknesses.

- *One: Wait for a New President*

The next US presidential election will take place in November 2004. Candidates of both major parties are already positioning themselves. Whether GW Bush or Dick Cheney, the vice-president and generally-acknowledged central figure of this administration, is simply indiscernible today. Of the last six US presidents to seek a further term, three—Ford, Carter, and GHW Bush—won the candidacy and lost the election. Three others—Nixon, Reagan, and Clinton—won the candidacy and the election. The only sitting president who sought and was denied candidacy for a second term was Lyndon Johnson ... and he had the good sense to withdraw cleanly from the race at an early stage, recognizing the many critics of the Vietnam War. But if past experience were taken as a guide, the Republican Party would accord GW Bush a further candidacy, unless some electoral weakness becomes clear before 2004. Note that Nixon ran and won in 1972 despite growing evidence of his crimes.

A Democratic presidency from January 2005 could tilt the United States back to practices of negotiation which acknowledged global interests. At that juncture, the important

question would be whether the Congress would support a Clintonesque effort to engage the United States with other governments, or would—as the Republicans in Congress have for the last ten years—seek to sabotage and impede collaboration.

Is ‘waiting’ a good strategy? Yes, opportunities for work with the United States may improve. But they may not, and waiting is not a strategy at all. The world takes its future in its own hands, as it always has, and must do so whether the United States is a good-faith partner or not.

• *Two: Develop Global Governance, Even Without the United States*

A treaty signed by all, or almost all, is very different from a treaty which key states refuse to join. A *universal* or *near-universal* treaty establishes a powerful norm. Leaving the treaty, or defecting from its terms, opens the door to political costs.

Four states (Israel, Cuba, Pakistan, and India) remain outside the NPT. Of the 44 states which must sign and ratify the CTBT for it to come into effect, at least two—India and Pakistan—are not considered likely to sign, and India used the unanimity requirement of the Conference on Disarmament to block approval of the CTBT text at Geneva, forcing its advocates to move to the UN General Assembly. US refusal to joint the Kyoto Protocol might not be sufficient to block its coming into effect, but because of the large US role in producing greenhouse gases would certainly limit its force.

Nonetheless, there is a strong case to build a ‘coalition of the willing’ when many believe timely collaborative action is required. On the current agenda, the Kyoto Protocol and the proposed protocol to the Bacteriological and Toxin Weapons Convention address such issues. It would be far better to go ahead without the United States than to abandon the issue. Even advocates of Kyoto and the BWC protocol grant there are unresolved issues and uncertainties. But they argue that these can be addressed politically *as implementation takes place*, and that delay only postpones political adjustments which may, in implementation, come to be seen as desirable.



- *Three: Replace Global Governance with Bilateral Arrangements*

Part of the GW Bush strategy to undermine global governance is to insist that bilateral arrangements, country-to-country, are a suitable and adequate substitute for broadly-negotiated measures. This was the US approach to the UN Convention on the Law of the Sea after 1983; and it is the device by which Washington now seeks to undermine the International Criminal Court.

Consider the case of agreements with the GW Bush White House. States may be drawn to bilateralism, if the terms are attractive. And there is nothing inherently wrong with making bilateral agreements. Much depends on the terms and conditions. A government coerced by threats of denial of aid, of course, might object to the means used. But a government must also consider the opportunity cost when a broader, multilateral forum is abandoned. And it must consider whether it wants to confirm and reinforce the precedent that a major player can not only walk away, but may then actively assault an agreement, which had otherwise broad acceptance, without costs.

On the other hand, there doesn't seem to be any good reason why governments which would have signed an international agreement should adopt bilateralism as an alternative *faute de mieux*, since they do have a better option: the 'coalition of the willing'.

And two can play this game. Advocates of enhanced global governance can build a fabric of bilateral and regional commitments, even if the United States successfully blocked sought-for treaties.

- *Fourth: Move to Other Forums*

The case of the CTBT, mentioned above, is a good example how moving to another forum can maintain momentum. Blocked in the CD at Geneva, because of its unanimity requirement, CTBT advocates turned to the UN General Assembly. The

UNGA in turn approved the text and opened a window for signatures and ratifications. India's objections were bypassed.

And this is also the strategy which countries calling for serious moves to denuclearization have adopted. In the UN General Assembly, they successfully sought an opinion from the International Court of Justice on the legality of the use and threat of use of nuclear weapons. When in the past a single country has blocked action in the Security Council, exercising the five Permanent Members' power to withhold assent, countries have turned to the General Assembly, where no veto operates.

• *Fifth: Make Focused Responses to Unilateralism*

Unilateral steps typically suggest responses. They need not be 'retaliatory', though the script of responding to tariffs—such as the GW Bush administration's steel tariffs—is well-understood and inherently retaliatory. In other arenas, such as disarmament, the response may be a move to show the futility of autistic unilateralism.

On 20 August 2002 General Nikolai Solovtsov, commander of Russian nuclear forces, announced that Russia had decided to modernize 144 MIRVed SS-18 and SS-24 missiles, most with ten warheads. These were to have been dismantled under START II; but after modernization, they could serve until 2014.⁵ This move answered GW Bush's abandonment of START II and, as well, US withdrawal from the ABM Treaty, since Russia had argued that an effective counter to a missile shield, if one that worked could be built, would be additional warheads.

• *Sixth: Insist on the Integrity of the United Nations Charter*

Every member of the United Nations has a duty to insist that the Charter be respected. And the Charter is unequivocal in according the Security Council "primary responsibility for the maintenance of international peace and security." While the

⁵ *Le Monde*, 23 August 2002.

Charter also acknowledges and accepts the right of self-defense, claims to self-defense cannot be allowed to make a nullity of the Security Council's obligation to deliberate and act whenever there is time. It is in the interest of every Permanent Member of the Security Council that its authority not be undermined by vigilantism.

• *Seventh: Enact Domestic Legislation*

Subject to the specifics of sought-for global arrangements, governments may be able to demonstrate their commitment to purposes frustrated by Bush 'unilateralism' by legislating domestic enactments. For example, many provisions of the proposed Protocol to the Biological Weapons Convention would be smart moves even if the Protocol were not brought into effect, and could be undertaken and given force in domestic law. It should even be possible to impose some regulation on US companies acting outside the United States.

States could choose to define and adopt common language to be included in their respective national laws.

• *Eighth: Speak Up in the United States*

Join the debate *inside* the United States. Speak up! If you choose your forums sensibly, you will not be considered interferent. On the contrary, your voice will help people understand the context. The 23 August 2002 Gallup poll data reported above illustrates the effect which public discussion can have, restraining an intemperate government. Unwillingness of 'allied' governments to support war against Iraq clearly made a difference to the US public.

• *Ninth: Insist that the GW Bush Administration Explain Itself*

Government should not permit the GW Bush administration to 'get off the hook' by glib pronouncements and partial truths.

No government is homogeneous. Posing questions, publicly and privately, which demonstrate to officials within the US government that US policy is not persuasive, strengthens officials who are not well-disposed to the 'unilateralist' position.

Insisting on explanations also gives grist to the Congress, to domestic political critics, and to the press. An example of a specific explanation which should be pursued, and made public, is the explanation of withdrawal from the ABM Treaty which is required by the treaty itself;⁶ but to my knowledge neither the GW Bush administration nor Russia has released the required "statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests."

Conclusion

All of these paths, some confronting, some evading, the GW Bush Administration can be pursued at the same time.

Not only was GW Bush named president without an adequate mandate, but he displays a readiness to act without reference to the elected Congress. Bruce Ackerman, writing on Bush's Iraq intentions, describes a "double unilateralism":

freed from the restraints of the Security Council abroad and Congress at home, the imperial presidency claims the authority to strike preemptively at any danger.⁷

⁶ The Treaty provides:

Article XV.

1. This Treaty shall be of unlimited duration.

2. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests. It shall give notice of its decision to the other Party six months prior to withdrawal from the Treaty. Such notice shall include a statement of the extraordinary events the notifying Party regards as having jeopardized its supreme interests.

⁷ Bruce Ackerman, "But What's the Legal Case for Preemption?", *Washington Post*, 18 August 2002.



and he asks:

Will the president leave the final decision on war to Congress, or will he attempt to marry unilateralism abroad with unilateralism at home?

To be sure, the president has promised “to consult” with Congress, but this can mean many things -- hurried briefings just before the bombs start to fall, some committee hearings after the fact. Such half-measures aren’t remotely sufficient. As in the first Gulf War, the Constitution requires each senator and representative to stand up and be counted, after soberly considering how unilateral intervention will shape the future of international law. The American people, and the people of the world, deserve nothing less.

Congress’s involvement is not something to be avoided, as the administration seems bent on doing, but to be revered. To make our way in this new and unsettling world, we must hold fast to our old and most valued principles.

In an important speech on 26 August 2002 Vice-President Cheney made the case for war against Iraq. Under the US Constitution it is the Congress alone which declares war; and to take account of modern requirements for immediate action, Congress has passed a War Powers Act which gives the President authority to act first and seek Congressional approval later in some defined circumstances. But this discussion about war on Iraq has been going on for months. “I know our president,” said Cheney

will proceed cautiously and deliberately to consider all possible options to deal with the threat that an Iraq ruled by Saddam Hussein represents. And I am confident that he will, as he has said he would, consult widely with the Congress, and with our friends and allies before deciding upon a course of action. He welcomes the debate that is now being joined here at home, and he has made it clear to his national security team that he wants us to participate fully in the hearings that will be held in Congress next month on this vitally important issue.⁸

What is significant in Cheney’s remarks is that there *is no mention of seeking a declaration of war from the Congress*. This point was made immediately by political figures commenting on the speech. Even a leading Republican Senator, Arlen Specter, commented that

⁸ Dick Cheney, speech to the Veterans of Foreign Wars 103rd National Convention, 26 August 2002. *The New York Times*, 27 August 2002.



It's a matter for the Congress to decide. The president as commander in chief can act in an emergency without authority from Congress, but we have enough time to debate, deliberate and decide.⁹

No one can say with certainty that GW Bush's unilateralism will disappear in January 2005. After all, he has widespread popular support in the United States, and—as pointed out above—US unilateralism has a long history. But against this, and on balance, the prospects are optimistic.

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⁹ *The New York Times*, 27 August 2002.



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