

Contribution to Panel 1: Getting to a Treaty

The outcome of the Cuban missile crisis 1962 made it clear in Washington and Moscow that the two sides must engage politically and diplomatically with each other to prevent a break out of a full scale nuclear between them. Slowly the two sides developed contacts and in 1969 discussions on mutual strategic arms limitation (SALT) could be launched.

Gradually on this process Washington and Moscow came to the insight that while the now (together with London and Paris) disposed of nuclear weapons, there might be as many as fifteen, even twenty states that could acquire technical competence and capability, effective enough to produce such weapons by the end of the decade. It was then taken as a statistical danger in proliferation that the probability of nuclear war would increase in geometric progression. In other words, with an increase in the number of nuclear weapons powers, the probability of nuclear war would expand exponentially.

With this perspective a reality, the nuclear weapons states, United States, Soviet Union and Great Britain started a diplomatic and political process aiming at preventing the proliferation of nuclear weapons, while at the same time preserving their own holdings of the weapons, defining their own status as a nuclear weapon state as a State which has “manufactured and exploded a nuclear weapon or other nuclear weapon or nuclear explosive device prior to January 1967.

This definition was to enter the Treaty on the Non-Proliferation of Nuclear Weapons adopted 1968 and entered into force 1970, with the United States, the Soviet Union and Great Britain as the depository Governments.

When thus the international negotiations on a nuclear non-proliferation treaty started, it became clear already from the beginning that a number of States which had not yet acquired any nuclear weapons, but which had a technical competence to do so, could not accept to make a binding undertaking not to acquire nuclear weapons, if the nuclear weapons states on their side did not declare themselves ready to engage in serious nuclear disarmament negotiations.

However it is interesting, yes even surprising, to note, that the two major nuclear weapon states, the United States and Soviet Union, did not turn up as completely negative to this. They appeared to see this demand as political opportunity to halt and reverse the nuclear arms race between them which by then, the late sixties, had reached dimensions of alarming proportions. Thus during the preparatory talks about the NPT, the two sides, the nuclear and the non-nuclear – reached an early agreement on a Preambular text, namely an expression of the parties intentions to achieve at the earliest possible date the cessation of the nuclear arms race and to undertake effective measures in that direction. With that agreed intention the governments could finally decide upon Article VI as it was formally proposed in January 1968 by the Soviet Union and the United States. Thus it was stated

that the nuclear weapon states were made responsible and obligated to pursue negotiations on effective measures relating both to the cessation of the nuclear arms race, at an early date, and a treaty on general and complete disarmament under strict and effective international control. The “early date” was a response to Sweden’s insistence on adding urgency to the cessation of the nuclear arms race.

To that one-sided undertaking by the nuclear weapon States came the fundamental nuclear bargain between the nuclear and non-nuclear weapon states. That bargain involved in addition to Article VI, two basic elements of the NPT.

One is laid down in Article I that prohibits the nuclear weapon States from a) transferring nuclear weapons or their control to anyone, and from b) assisting non-nuclear weapon States in acquiring nuclear weapons. The other element is that the non-nuclear weapon States are prohibited by the Article II from receiving or seeking nuclear weapons technology or assistance.

The International Atomic Energy Agency.

In 1953 president Eisenhower spoke in the UN General Assembly and set forth his plan for an International Atomic Energy Agency, IAEA, which would “device peaceful uses for fissionable material”. And in 1957 the IAEA became a reality.

The IAEA did not formally become a Party to the NPT, but it has been tasked with the full responsibility to realize safeguards inspection, thus controlling the implementation by the NPT non-nuclear weapons parties of their obligations under the Treaty. As Article III of the Treaty regulated: each non-nuclear State Party to the Treaty had accept safeguards, in the form of an agreement with the IAEA/Agency about the control of fissionable material in all its peaceful nuclear activities.

The IAEA safeguard system appeared to function beautifully, even if many of the non-nuclear weapon States hesitated over a considerable time space join the deal. In the 1980’s the IAEA reported that Iraq was one of the non-nuclear weapon States with an excellent record with regard to fulfilling its obligations under its safeguard agreement. This turned out to be a serious mistake, when, after Iraq’s attack on and occupation of Kuwait, and later Kuwait’s liberation, the UN Security Council’s organization UNSCOM, together with IAEA, initiated intrusive inspections of Iraq’s non-declared facilities. These inspections disclosed that Iraq had been under way to develop a nuclear weapons program, an activity which had been kept a secret from the IAEA’s safeguard inspectors.

However, this serious setback for the credibility of IAEA got a constructive international response. Thus, within the IAEA, the Governing Board developed an Additional Protocol to the standard safeguard agreement. In 1997 the Protocol was approved by the IAEA Board. This meant that the IAEA’s safeguard inspectors were given a much wider range of facilities to inspect in addition to those declared by the inspected State, though not those with a military dimension. The additional protocol has become something of a success as the overwhelming majority of the non-nuclear weapon state, parties to the NPT, have signed up. The status of the additional protocol, also got something of a boost, when it became a component of the Iran nuclear deal, the JCPOA, signed in 2015. One can even stretch the praise that far, as saying that the additional protocol saved the IAEA as the major

international instrument for nuclear arms control. In this context it is also interesting to note that the success of UNSCOM in disclosing Iraq's weapons secrets has inspired calls to form in the future a nuclear weapons expert team attached, like UNSCOM, to the Security Council for exploring and investigating potential violations of the NPT and of a potential future Convention on the Prohibition of Nuclear Weapons.

Review Conferences

An important component of the Treaty is the provision regarding Review Conferences. Which have come to keep the idea on non-proliferation on the multilateral scene. Thus a first review of the Treaty took place in 1975, five years the entry into force, to be followed by a functioning process of reviews, every fifth year. Each of these review conferences has been prepared in preparatory committee meetings outlining agenda and organizational arrangements in meetings in which all Parties to the Treaty have been free to participate.

A special place in the history of NPT has to be taken by the 1995 Review and Extension Conference, chaired by Jayantha Dhanapala of Sri Lanka. The principle co-drafters of the Treaty (United States and the Soviet Union) supported by the European States were pushing hard for the indefinite duration of the Treaty, while the majority of the non-aligned states met this with some resistance having difficulties to find a justification for an on definite extension in the absence of real and concrete steps towards disarmament and specifically nuclear disarmament. They feared that by agreeing to the indefinite duration, they would leave it to the nuclear weapons States themselves to decide exclusively how to live up to their treaty commitment to disarm, without any possibility for the non-nuclear States to break their own obligation under the Treaty to remain non-nuclear weapon States. Moreover, the Arab States, supported by the non-aligned, demanded as a condition for their support of the extension, that negotiations should be launched on the establishment of a zone in the Middle East free from weapons of mass destruction, obviously with the nuclear weapons of Israel, a non NPT-state, in mind.

The Review Conferences have turned out to keep alive the NPT and its bargain between nuclear and non-nuclear weapon States. That does not mean that they have been mostly successful. One review conference (in addition to the extension conference in 1995) should however be mentioned, namely the one year 2000, where the parties adopted a review document that included a 13-steps action plan for complete nuclear disarmament. Two steps should be noted, 1) the entry into force of the Comprehensive Test Ban Treaty, CTBT, and 2) the starting of negotiations in the Conference on Disarmament, CD, Geneva, on a treaty banning the production of fissile material, FMCT. There are now almost twenty years since that action plan was agreed upon, unanimously, and nothing has been done to realize this agreement, which could cause no harm to anyone, but which would give a really positive boost to the common non-proliferation efforts in our time.

Now fifty years after the NPT Depository Conference it is time to start to think together, identify what is possible and enter into a period of constructive and creative dialogue to preserve the NPT, a Treaty so vital for the wellbeing and existence of humanity.