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THE TREATY ON THE NON-PROLIFERATION OF NUCLEAR WEAPONS: Fifteen years after entry into force

The need to halt a wider spread of nuclear weapons grew out of the realization that the increase in the number of countries possessing such weapons would increase the threat to world security. As the Treaty on the Non-Proliferation of Nuclear Weapons clearly states in its preamble, the proliferation of nuclear weapons would seriously enhance the danger of nuclear war.

The Treaty—also known as the non-proliferation Treaty—was concluded in 1968, at a time when there were already five nuclear-weapon Powers: the United States, the Soviet Union, the United Kingdom, France and China. The principle underlying the provisions of the Treaty is that the solution of the problem of ensuring security cannot be found in an increase in the number of States possessing nuclear weapons or, indeed, in a continuation of the nuclear arms race by the nuclear-weapon Powers. Non-nuclear-weapon States should, therefore, commit themselves not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, and the nuclear-weapon Powers should stop and reverse the nuclear arms race and pursue in good faith nuclear disarmament.

The Third Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons will be held at Geneva for a period of up to four weeks beginning on 27 August 1985, with a view to assuring that the purposes and provisions of the Treaty are being realized. This fact sheet is intended to provide background material on the Treaty, including the events that led to its conclusion, an overview of its provisions and the developments at the two previously held Review Conferences.

The role of the United Nations in laying the foundations of the Treaty

Soon after the United Nations was founded, the General Assembly, in its very first resolution—resolution 1 (I) of 24 January 1946—made recommendations on how to deal with the fundamental questions deriving from the discovery of atomic energy. The Assembly set as a goal the establishment of international systems of control of atomic energy to the extent necessary to ensure its use solely for peaceful purposes, as well as the elimination from national armaments of atomic weapons and all other major weapons adaptable to mass destruction. Subsequently, when it became evident that, in the absence of a concrete implementation of those recommendations, there was an increasing danger of nuclear proliferation, the question of preventing the further spread of nuclear weapons became a major focus of attention at the United Nations.

The first resolution of the General Assembly on the prevention of the further dissemination of nuclear weapons (resolution 1380 (XIV)) was adopted in 1959, at a time when there were still only three nuclear-weapon Powers, the United States, the Soviet Union and the United Kingdom. By that resolution, the General Assembly, recognizing that “danger now exists that an increase in the number of States possessing nuclear weapons may occur, aggravating international tension and the difficulty of maintaining world peace, and thus rendering more difficult the attainment of general disarmament agreement”, considered appropriate means whereby that danger might be averted, including an international agreement, subject to inspection and control, by which the nuclear-weapon Powers would refrain from handing over the control of nuclear weapons to any nation not possessing them and by which the Powers not possessing nuclear weapons would refrain from manufacturing them. It was the first concrete step towards the negotiation of a treaty on the non-proliferation of nuclear weapons.

Many other resolutions followed. For example, in 1961, the General Assembly adopted resolution 1665 (XVI) by which it called upon all States, and in particular upon the States then possessing nuclear weapons, “to secure the conclusion of an international agreement containing provisions under which the nuclear States would undertake to refrain from relinquishing control of nuclear weapons

and from transmitting the information necessary for their manufacture to States not possessing such weapons, and provisions under which States not possessing nuclear weapons would undertake not to manufacture or otherwise acquire control of such weapons”.

Another key resolution was adopted in 1965 (resolution 2028 (XX)), at a time when multilateral negotiations on a non-proliferation treaty had begun in earnest and the number of nuclear-weapon Powers had increased to five. By that resolution the General Assembly called upon the multilateral negotiating body—the Conference of the Eighteen-Nation Committee on Disarmament—to negotiate an international treaty to prevent the proliferation of nuclear weapons based on a number of principles, in particular the following: (a) the treaty should not have any loopholes which might permit the proliferation of nuclear weapons in any form, directly or indirectly; (b) the treaty should embody an acceptable balance of mutual responsibilities and obligations of the nuclear-weapon and non-nuclear-weapon States; (c) the treaty should be a step towards the achievement of general and complete disarmament, particularly nuclear disarmament. The resolution provided the conceptual basis for the prevention of not only “horizontal” proliferation (the spread of nuclear weapons to countries not possessing them) but also “vertical” proliferation (the continued accumulation of weapons and the development of new nuclear-weapon systems by the existing nuclear-weapon Powers).

Initially it was the concern about the further spread of nuclear weapons that generated support for the idea of a non-proliferation treaty, but, as the negotiations proceeded, the principle of an acceptable balance of mutual responsibilities and obligations of the nuclear-weapon and non-nuclear-weapon States came to play an increasing role in the negotiations. On that basis, the non-proliferation Treaty was successfully negotiated in the Eighteen-Nation Committee on Disarmament, under the co-chairmanship of the Soviet Union and the United States, with the General Assembly continuing to provide general guidance for the negotiations. The Treaty on the Non-Proliferation of Nuclear Weapons was concluded in 1968.

On 12 June 1968, by resolution 2373 (XXII), the General Assembly commended the Treaty and requested the depositary Governments—the Soviet Union, the United Kingdom and the United States—to open it for signature and ratification. The Assembly expressed the hope for the widest possible adherence to it by both nuclear-weapon and

non-nuclear-weapon States, and requested the Eighteen-Nation Committee and the nuclear-weapon States urgently "to pursue negotiations on effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control".

Paragraph 4 of the preamble states that the Treaty was achieved "in conformity with resolutions of the United Nations General Assembly calling for the conclusion of an agreement on the prevention of wider dissemination of nuclear weapons".

The main provisions of the Treaty

The non-proliferation Treaty is based on a well-defined distinction between nuclear-weapon States and non-nuclear-weapon States, with the main obligations of the former different from those of the latter. The Treaty, in **article IX**, defines a nuclear-weapon State as "one which has manufactured and exploded a nuclear weapon or other nuclear explosive device prior to 1 January 1967".

Articles I to III of the Treaty deal with the specific question of the prevention of the further spread of nuclear weapons. Each nuclear-weapon State party undertakes not to transfer "to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices" (**article I**). Each non-nuclear-weapon State party to the Treaty undertakes (a) not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices or control over them (**article II**); and (b) to accept safeguards, as set forth in agreements to be negotiated with the International Atomic Energy Agency (IAEA), to be applied on all source or special fissionable material in all peaceful nuclear activities within its territory, under its jurisdiction or carried out under its control anywhere (**article III**).

In other words, the safeguards agreements are to be negotiated in accordance with the IAEA Statute for the exclusive purpose of verification of the fulfilment of the

obligations assumed under the Treaty. The purpose of the IAEA's safeguards system is to provide confidence that the facilities are not being used for the manufacture of nuclear weapons or other nuclear explosive devices.

All the parties to the Treaty undertake, on the other hand, to facilitate the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so are to co-operate in contributing to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States party to the Treaty, with due consideration for the needs of the developing areas of the world (**article IV**). The Treaty does not prohibit such assistance to countries which are not parties to it.

Article V deals with the question of nuclear explosions for peaceful purposes and affirms the principle that potential benefits from such explosions should be made available to non-nuclear-weapon States on a non-discriminatory basis.

Under **article VI**, each of the parties "undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament and on a treaty on general and complete disarmament under strict and effective international control". The intention of the parties to achieve, at the earliest possible date, the cessation of the nuclear arms race and to move towards nuclear disarmament is also affirmed in preambular paragraphs 8 and 11. The preamble, in paragraph 10, also recalls the determination expressed by the parties in another treaty—the Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and under Water, of 1963—to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to that end.

Article VII stipulates that nothing in the Treaty affects the right of any group of States to conclude regional treaties in order to assure the total absence of nuclear weapons in their respective territories.

Article VIII lays down a procedure for amending the Treaty. In particular, any amendment must be approved by a majority of the votes of all the parties to the Treaty, including the votes of all nuclear-weapon States party to the Treaty and all other parties which, on the date the amendment is circulated, are members of the Board of Governors of IAEA.

Each party has the right to withdraw from the Treaty "if it decides that extraordinary events, related to the sub-

ject-matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests" (article X, paragraph 1).

There is no provision in the Treaty concerning the question of security guarantees to non-nuclear-weapon States party to the Treaty. However, immediately after the General Assembly commended the Treaty and requested that it be opened for signature and ratification, the Security Council, on 19 June 1968, adopted a resolution on the subject of security guarantees, sponsored by the three depositaries—the Soviet Union, the United Kingdom and the United States. By resolution 255 (1968), the Security Council recognized that aggression with nuclear weapons, or the threat thereof, against non-nuclear-weapon States would call for immediate action by the Council, above all by its nuclear-weapon States permanent members. The Council also welcomed the intention expressed by the Treaty depositaries in the Council, on the same occasion, to assist any non-nuclear-weapon State party to the Treaty that was a victim of an act or threat of nuclear aggression, and it reaffirmed the right of collective self-defence under Article 51 of the Charter of the United Nations.

The effectiveness of the security guarantees envisaged in the resolution was questioned, however, by a number of non-nuclear-weapon States. Some expressed misgivings because of the possibility of use of the veto in the Security Council, others because the guarantees involved "positive" rather than "negative assurances". (Under a "negative assurance", a nuclear-weapon Power would commit itself not to use or threaten to use nuclear weapons against non-nuclear-weapon States. This is in contrast to a "positive assurance", whereby nuclear-weapon States would commit themselves, under specific circumstances, to the defence of non-nuclear-weapon States.) It was also felt that the commitment to render assistance was already inherent in the Charter of the United Nations. Subsequently, the five nuclear-weapon States individually made declarations, in most cases with qualifications, providing "negative assurances" to the non-nuclear-weapon States against the use or threat of use of nuclear weapons.

Concerning the duration of the Treaty, 25 years after its entry into force, that is, in 1995, a conference shall be convened to decide whether the Treaty shall continue in

force indefinitely or shall be extended for an additional fixed period or periods (article X, paragraph 2).

The goal of universality

The non-proliferation Treaty entered into force on 5 March 1970, upon its ratification by the three depositary Governments and 40 non-nuclear-weapon States, in accordance with its article IX, paragraph 3. Since then the number of parties to the Treaty has grown, and as of 31 May 1985 a total of 130 States had become parties to the Treaty. Indeed, there is no multilateral arms limitation and disarmament agreement that has a greater number of adherents.

Several non-nuclear-weapon States with significant peaceful nuclear programmes have, however, not become parties. Generally, those States objected to the Treaty as being discriminatory. What they regarded as discriminatory was the differentiation of States into two categories, nuclear-weapon and non-nuclear-weapon States, and the asymmetrical distribution of obligations and privileges under the Treaty.

Since the entry into force of the Treaty, the General Assembly has repeatedly called for universal adherence to it. Of the five nuclear-weapon States, three are parties to the Treaty. The two nuclear-weapon States not parties, China and France, have stated their positions in various forums. In 1968, upon the adoption of resolution 2373 (XXII) referred to above, France stated that, while it would not sign the non-proliferation Treaty, it would behave in the same way as the States adhering to the Treaty. Subsequently, France has made clear that it would not promote the proliferation of nuclear weapons, and would follow a policy of strengthening appropriate arrangements and safeguards relating to equipment, materials and technology. In 1973, China stated that it had been compelled to develop a few nuclear weapons for the purpose of self-defence and to break the nuclear monopoly of the super-Powers. It added that it was firmly against using the non-proliferation Treaty to deprive non-nuclear-weapon countries or countries with a few nuclear weapons of their sovereignty and to damage the interests of the people of various countries. In 1984, in the Conference on Disarmament, China specifically declared that it did not advocate or encourage nuclear proliferation, nor did it help other States develop nuclear weapons.

The First Review Conference, 1975

The Treaty provides, in article VIII, for a conference of its parties to be held at Geneva five years after its entry into force, to review its operation with a view to assuring that the purposes of the preamble and the provisions of the Treaty are being realized. It also foresees that at intervals of five years thereafter review conferences shall be held if a majority of the parties so wish. Accordingly, the First Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons met at Geneva in May 1975. The Conference adopted by consensus a Final Declaration in which it reaffirmed the strong common interest of the parties in averting the future proliferation of nuclear weapons and reviewed the operation of the Treaty article by article.

At the First Review Conference, much of the debate revolved around three matters that already had been discussed extensively in the course of negotiations leading to the conclusion of the Treaty, namely, nuclear disarmament, security of the non-nuclear-weapon States against the use or threat of use of nuclear weapons and peaceful uses of atomic energy. The main difficulties at the Review Conference arose in connection with article VI of the Treaty, concerning the obligations of the nuclear-weapon States parties on nuclear disarmament.

The debate indicated that the gap in perceptions and expectations that had been discernible upon the Treaty's entry into force had not been bridged by the experiences of the first five years of the operation of the Treaty. The parties that tended to regard the Treaty as an arms limitation agreement primarily designed to constrain the further spread of nuclear weapons to countries not possessing them felt, on the whole, that the Treaty had fulfilled its purpose. By contrast, those countries that viewed the Treaty primarily as an effort to strike a balance between the mutual obligations and responsibilities of the nuclear-weapon and non-nuclear-weapon States felt that, in the implementation of the Treaty, the emphasis had been placed heavily on the obligations of the non-nuclear-weapon States, while scant attention had been paid to their rights or to the obligations of the nuclear-weapon States. Those different assessments were also reflected in the views expressed concerning the objectives of the Conference, the implementation of the provisions of the Treaty and the measures that should be taken to strengthen it.

The Soviet Union, the United Kingdom and the United States and most other Eastern and Western countries felt that the principal purpose of the Conference was to strengthen the Treaty by encouraging wider adherence to it and by taking measures towards a more effective safeguards system. On the other hand, the non-aligned and neutral States held that the main objective of the Conference was to make a thorough, critical examination of the Treaty's operation in order to determine whether all its provisions were being realized and to adopt measures required to fill gaps and remedy inadequacies that might become apparent during such an examination. Most of these countries believed that, while it was vital that the Treaty should be strengthened and that all States should accede to it, that goal could best be achieved on the basis of an acceptable balance of mutual responsibilities and obligations of the nuclear-weapon and non-nuclear-weapon States parties to the Treaty.

In the detailed discussion on the various provisions of the Treaty, all participants agreed that articles I and II had been faithfully observed by the parties. However, with respect to the provisions of the Treaty on peaceful uses of nuclear energy and nuclear disarmament, and on the related question of security guarantees to non-nuclear-weapon States, considerable dissatisfaction was expressed, and was reflected in various proposals submitted in the course of the Review Conference as well as in the Final Declaration of the Review Conference.

The Second Review Conference, 1980

The Second Review Conference provided another opportunity for the parties to agree on ways to fulfil the various provisions of the Treaty and further strengthen the non-proliferation régime. Notwithstanding many positive developments, however, only a limited measure of agreement was achieved by the parties.

Virtually all speakers noted with satisfaction that the number of States parties to the Treaty had increased since the previous Review Conference. The United States pointed out that, together with France—which had made it clear that it would act as if it were a party to the Treaty—the

countries that had adhered to a non-proliferation régime represented an aggregate population of over two billion people and an aggregate gross national product of 7.7 trillion dollars; 98 per cent of the world's installed nuclear capacity and 95 per cent of the nuclear power reactors; and all major exporters of key nuclear materials and equipment. Several parties to the Treaty maintained, nevertheless, that the lack of universal adherence to the Treaty influenced negatively the process of its implementation. They also stressed that the nuclear capabilities of the countries which had not adhered to the Treaty were significant.

Of the various provisions of the non-proliferation Treaty, the most intense debate was on the implementation of article VI, concerning nuclear disarmament. Most participants held that the nuclear-weapon States had not adequately fulfilled their obligations to negotiate effective measures to halt the nuclear arms race and achieve nuclear disarmament. Accordingly, the major nuclear Powers were broadly urged to intensify their efforts in that direction. In reply to that viewpoint, the three depositary Governments drew attention to the efforts they had made to reach agreement on a number of issues, including a comprehensive nuclear test ban, and to provide security guarantees to non-nuclear-weapon States.

The development and promotion of the peaceful uses of nuclear energy was also a major focus of attention in the general debate. A number of parties felt that it was necessary, however, to emphasize that the primary purpose of the Treaty had always been and remained the prevention of the spread of nuclear weapons. The Conference participants generally expressed satisfaction with the IAEA safeguards procedures for existing facilities. However, they emphasized that those procedures would need continued improvement to deal with the increasing amounts of nuclear material and increasingly complex nuclear-fuel-cycle facilities. It was recognized that, in order to cope with its growing tasks, IAEA would need adequate human and financial resources for research and development of safeguards techniques. The participants were agreed that non-nuclear-weapon States not parties to the Treaty should submit all their nuclear activities to IAEA safeguards, but there were fundamental differences over whether the suppliers were under an obligation to require such comprehensive safeguards of their customers.

A number of developing countries expressed dissatisfaction with what they considered to be restrictive export policies of suppliers of nuclear equipment and technology

for peaceful purposes towards developing countries parties to the non-proliferation Treaty. Regret was also expressed by some participants that suppliers which were parties to the Treaty had continued to engage in nuclear trade and co-operation with non-parties, often permitting less stringent safeguards than those applied to parties in accordance with the provisions of the Treaty. The view was also put forward that non-parties to the Treaty, including some relatively advanced countries, had benefited more from the transfer of nuclear technology and equipment than had needy countries which had adhered to the Treaty.

The question of security guarantees to non-nuclear-weapon States was also widely discussed. In general, there was wide support among the participants for stronger assurances to the non-nuclear-weapon States, and at the same time it was recognized that some progress had been achieved on the question of assurances since the First Review Conference.

By the end of the Conference, fundamental differences remained, primarily on article VI of the Treaty, and because of those differences the Conference was unable to adopt an agreed final declaration. It simply recommended that a third conference to review the operation of the Treaty be convened in 1985.

Many participants expressed regret that the Conference had not been able, despite the agreement reached in a number of important areas, to produce by consensus a substantive final declaration on the operation and implementation of the Treaty since 1975 and measures to be taken in the future. On the other hand, delegations from all regions of the world affirmed their continued support for the Treaty and urged that work on the outstanding issues be continued.

In his closing statement, the President of the Review Conference, Mr. Ismat Kittani, sharing the disappointment of the Conference that it had not been able to reach a consensus on a substantive final document, said that the undertaking should be seen in all its complexity, which meant finding a common denominator among the positions of the States concerned on a matter influenced both by their individual views and by the international climate. He noted that the prevention of the further spread of nuclear weapons had been the subject of very little controversy. While the question of the peaceful uses of nuclear energy had given rise to marked differences of opinion with regard to proposals on the relevant articles, it had been possible to obtain near unanimity in that area. The President noted that the

differences at the Conference were mainly on the question of nuclear disarmament. It had to be admitted, the President stated, that the manner in which the obligations contracted under the terms of article VI were being honoured was disappointing. The arms race continued to intensify both qualitatively and quantitatively, and the prospects for a halt were far from bright. In that respect, he stressed that the warning given by a number of delegations was real and should be taken seriously.

The Third Review Conference

After many months of preparation, the Third Review Conference will be held at Geneva for a period of up to four weeks, beginning on 27 August 1985, to assess once again how the purposes and provisions of the Treaty are being realized. Several complex and difficult issues will have to be addressed. A number of States parties have expressed concern at the way in which the Treaty is being implemented. Many non-nuclear States parties feel strongly that article VI of the Treaty, which contains the provision that negotiations should be pursued in good faith on effective measures of nuclear disarmament, has not been adequately implemented. Yet the convergence of the interests of the nuclear-weapon and non-nuclear-weapon States to check the further spread of nuclear weapons still exists. Indeed, many States have expressed the view that any further proliferation of nuclear weapons would make the attainment of nuclear disarmament a more remote goal and that it is therefore important to avoid the erosion of the Treaty's strength and credibility.

List of State Parties

As of 30 June 1985, the following 130 countries have become parties to the Treaty: Afghanistan, Antigua and Barbuda, Australia, Austria, Bahamas, Bangladesh, Barbados, Belgium, Benin, Bhutan, Bolivia, Botswana, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Canada, Cape Verde, Central African Republic, Chad, Congo, Costa Rica, Cyprus, Czechoslovakia, Democratic Kampuchea, Democratic Yemen, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, Finland, Gabon, Gambia, German Democratic Republic, Germany, Federal Republic of, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Haiti, Holy See, Honduras, Hungary, Iceland, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Kiribati, Lao People's Democratic Republic, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Luxembourg, Madagascar, Malaysia, Maldives, Mali, Malta, Mauritius, Mexico, Mongolia, Morocco, Nauru, Nepal, Netherlands, New Zealand, Nicaragua, Nigeria, Norway, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Saint Christopher and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Senegal, Seychelles, Sierra Leone, Singapore, Solomon Islands, Somalia, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Tonga, Tunisia, Turkey, Tuvalu, Uganda, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United Republic of Cameroon, United States of America, Uruguay, Venezuela, Viet Nam, Yugoslavia and Zaire.

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