

R. M. Timerbaev

Russia
And Nuclear
Nonproliferation,
1945-1968

Moscow

Nauka

1999

Table of Contents

Introduction

Chapter 8 – The Negotiation of the Nuclear Non-Proliferation

Treaty

1. The Eve of Negotiations
2. The Sequence, Format, and Course of negotiations
3. The Resolution of Articles I and II
4. Article III (Safeguards)
5. Article IV (The Peaceful Uses of Atomic Energy)
6. Article V (Peaceful Nuclear Explosives)
7. Article VI (Negotiations for Nuclear Disarmament)
8. Article VII (Non-Nuclear-Weapon Zones)
9. Article VIII (Amendments to the Treaty and Periodic Conference to Assess its Performance)
10. Articles IX and XI (Signing and Accession to the Treaty, Depositors, Entrance into Effect, the Definition of a Nuclear-Weapon State, and Other Final Resolutions)
11. Article X (Exiting the Treaty and Its Period of Validity)
12. Approval of the Treaty by the United Nations, the Opening for Signature of the Treaty for Signing, and Its Entry into Force

Conclusion

INTRODUCTION

The issue of nonproliferation of nuclear weapons and the prevention of new nuclear states was present from the beginning of the Nuclear Age. But even before the atom bomb was invented, farseeing minds had pondered a series of questions: What unprecedented dangers to humanity were posed by the atomic nucleus? What might the development and spread of atomic materials and technologies lead to? And, most importantly, how could the world be protected from the destructive potential of this new discovery? It quickly became apparent that as long as nuclear weapons and knowledge about them existed, civilization would remain in peril. And the international community, no matter how it strove to protect the human race from nuclear danger, would henceforth confront the persistent threat of the spread of nuclear weapons.

In the early years of the nuclear age, various industrialized states, including the Soviet Union and the United States, contributed to the spread of atomic technology in the name of political, geostrategic, ideological or kindred goals. It took almost 20 years before the danger lurking in nuclear proliferation became obvious to most, and a broad consensus began to form around the world in favor of taking collective action to prevent the further spread of nuclear forces. States had to walk a difficult path to fully comprehend the danger of nuclear proliferation, and what seems obvious today was far from commonsense in the 1950s and 1960s.

Russia followed the same difficult path. The idea to write a study on the formation and evolution of nuclear nonproliferation policy, first in the Soviet Union, and after 1991 in the Russian Federation, came to me under the influence of the following circumstances.

In 1982-1985 I read a special course on arms limitation and disarmament at the Moscow State Institute of International Relations (MGIMO). After completing my diplomatic service at the Russian Foreign Ministry in 1992 (my last post was Permanent Representative of the People's Agency for Atomic Energy and other international organizations at the International Atomic Energy Agency (IAEA) and other international organizations in Vienna), I had the opportunity to teach as a visiting professor at Monterey Institute for International Studies in California. In addition to the usual teaching and research work, I led groups of young diplomats, journalists, scientists of various backgrounds from Russia, Ukraine, Belarus, Kazakhstan, Kyrgyzstan and other CIS countries, to whom I taught a course on nuclear nonproliferation and arms control. In 1997, at the Moscow Engineering Physics Institute, he taught the course "Introduction to Nuclear Nonproliferation." I was faced with the fact that in Russian the literature on this topic, especially on the history of nuclear nonproliferation, is extremely small, except for the scattered articles and a relatively small number of scientific studies, often skewed by bias,

Translated from Russian to English by Jonathan Hunt, Summer 2020

notwithstanding the useful factual information they often contained. A more basic, systematized history of nuclear non-proliferation, has yet to be written.

My teaching and research activities at the Center for Nonproliferation Studies at the Monterey Institute, and then at the Moscow Center for Political Research (PIR Center), of which I was president for several years, coincided with major changes in world politics - the end of mutual nuclear confrontation between the two main nuclear powers, on the one hand, and new problems in the field of nuclear proliferation, on the other.

According to existing estimates, over the past fifty-five years, about 130,000 nuclear warheads have been manufactured in the world, many of which, of course, are outdated and have been removed from service, as well as thousands of tons of weapons-grade fissile material – plutonium and highly enriched uranium. According to the estimates of the former US Secretary of Defense Robert McNamara, until recently there were about 40-50,000 strategic and tactical nuclear warheads in existence. As a result of the implementation of the START 1 Treaty, which entered into force at the end of 1994, their number will be reduced to 20,000, and with the implementation of the START 2 Treaty, the number of nuclear weapons will be reduced yet again to around 10,000 warheads.¹

In recent years, the first steps have been taken to significantly reduce the nuclear stocks of both Russia and the United States. But how far will such reductions go? Is it possible to completely and permanently withdraw the sword of Damocles of nuclear weapons from humanity?

Under the Treaty on the Non-Proliferation of Nuclear Weapons (NPT), Russia and the remaining nuclear-weapon States committed themselves to negotiate and, ultimately, to agree on a path way to nuclear disarmament², without which non-nuclear-weapon States would have refused to renounce their own weapons. In 1995, the NPT was extended indefinitely, but only after the

¹ Disarmament Diplomacy, A Monthly Rev. Bradford (West Yorkshire). United Kingdom. April 1996. No. 4., p. 8. В пик "холодной войны" общее количество ядерных боезарядов СССР и США достигало 60-80 тыс. единиц (The Future of U.S. Nuclear Weapon Policy/Committee of International Security and Arms Control, National Academy of Sciences. Wash. (D.C.): Nat. Acad. Press, 1997. p. 36.

² This was reaffirmed in July 1996 by the advisory opinion of the International Court of Justice on the legality of the threat and use of nuclear weapons, in which the Court, inter alia, unanimously held that there is "an obligation to conduct in good faith and upon completion of negotiations leading to nuclear disarmament in all its aspects under strict and effective international control "(emphasis added - Timerbaev.).

Translated from Russian to English by Jonathan Hunt, Summer 2020

owners of nuclear weapons concurrently reaffirmed their commitments to seek the elimination of their nuclear arsenals. Their fulfillment of this obligation will be the primary, and most acute issue at the forthcoming Conference of States Party to the NPT to review its operation in 2000.

At the same time, after the Cold War ended, new difficulties arose in solving the problem of ensuring full and universal nuclear nonproliferation. Although the threat of a general nuclear conflict appears to be a thing of the past, the proliferation of nuclear technologies continues, there have been cases of loose nuclear material, and the threat of nuclear terrorism persists, and perhaps even intensifies. The nuclear powers are faced with the daunting task of disposing of the weapons-grade fissile materials, most of all plutonium, that were released as a result of their nuclear reductions.

Years of experience tell us that a solid and unbiased understanding of the history of nonproliferation efforts can help to identify and outline the prospects for further strengthening the nuclear nonproliferation regime, with the possibility of reducing the size and ultimately eliminating nuclear arsenals altogether. We are just beginning to understand and comprehend our nuclear past, and many more questions about nuclear history must be adequately answered before we can imagine the shape of our nuclear future.

My involvement in the problem of nuclear nonproliferation originated in the 1950s, when participation in numerous negotiations and conferences at both the governmental and non-governmental levels, in addition to teaching and research work, afforded me the knowledge base and imposed a moral duty on me to take account of this problem's history. Its primary sources are official documents and archival materials already open for research, as well as my memoirs and those of my contemporaries. Of course, a significant proportion of documents both in our country and abroad still await declassification. The book was written on the basis of those documents and archival materials that were available to me, and on the basis of the memoirs of contemporaries and eyewitnesses with whom I managed to make contact. I wanted to present facts and events as objectively as possible (bearing in mind that life experience and my own ideas about the subject of research often prevail), and not to render judgment that are not sufficiently substantiated by documentary materials and contemporaneous testimonies. How successful I have been is for the reader to judge.

The work done would, of course, be impossible without the help of many colleagues - their memories, good advice, practical help. Sincere gratitude to M. V. Antyasov, N. K. Arbatova, George Bunn, Hans Blix, B.N. Vereshchagin, Yu. M. Vorontsov, Raymond Garthoff, Joseph Goldblat, G. A. Goncharov, S. I. Goncharov, O. A. Grinevsky, S. A. Zelentsov, A. I. Zubov, Herbert York, Francesco Calogero, A. N. Kalyadin, Spurjden Keene, Thor Larsson, A. P. Movchan, V.A.

Translated from Russian to English by Jonathan Hunt, Summer 2020

Orlov, William Potter, Jan Pravits, A. A. Roshchin, P. E. Rubinin, Leonard Spector, K. Subramaniam, Shai Feldman, David Fischer, Astrid Forland, Munir Ahmad Khan, David Holloway, Brama Chellani, Mohamed Shaker, Annette Shaper, Laurence Scheinman, V. V. Shustov, Zigward Eklund, Daniel Ellsberg, Mohamed ElBaradei.

I would like to especially note those who took the trouble to read the manuscript of the monograph or separate parts of it and make comments on them: S. N. Goncharova, A. I. Zubov, William Potter, P. E. Rubinin, V. B. Shustov.

Deep gratitude to those who helped me to facilitate access to archival materials in Russia, the United States, and also at the IAEA - E. V. Belevich, Charlene Burgess, William Burr, Milton Gustafson, Elena Danielson, Joseph Katrich, N. V. Kochkin, S. A. Melchin, N. P. Mozhokhina, S. V. Pavlov, P. A. Smidovich.

Special thanks to the John D. and Catherine T. MacArthur Foundation for their generous support in preparing this book.

Chapter 8: The Negotiation of the Nuclear Nonproliferation Treaty (1966-1968)

[250] From the end of the 1950s through the first half of the 1960s many meetings took place in the United Nations and in the Geneva Committee on issues of the prevention of long-term proliferation of nuclear weapons and disarmament. Negotiations between the USSR and the United States laid the groundwork for the renewed discussions for the conclusion of the Non-Proliferation Treaty, which began at the Geneva Conference with Eighteen Nation Committee on Disarmament, and finally at the General Assembly of the United Nations. These discussions carried on for just under two years, from September 1966 until June of 1968.

1. The eve of negotiations

In the fall of 1966, confidential Soviet-American discussions about the NPT began during the working period of the XXI Session of the General Assembly of the United Nations in New York.

This was preceded by intense consultations between the delegates of the USSR and the United States in the Eighteen Nation Committee on Disarmament in the summer of 1966, which coincided with a shift in the American position regarding a NATO multilateral nuclear force. These developments emerged from the gradual revision of the position of the United States on the issue of the multilateral nuclear force and the division of nuclear responsibility in the framework of the North Atlantic Treaty, and also from the increasingly clear understanding of the urgent character of the problems of the prevention of the proliferation of nuclear weapons and the necessity of the conclusion of the NPT.

According to the testimony of Seaborg, an important factor in the changes in the position of the administration of the United States was the “phenomenon” of Dean Rusk, then the American Secretary of State. Starting in the middle of 1966, he “stopped being a part of the problem and became a part of its solution.” To a considerable degree, the change of the leadership of the State Department contributed to the position on arms and disarmament – first of all, the director of the agency William Foster and his deputy Adrian Fisher, who [251] consistently and persistently defended in interagency negotiations that the quick conclusion of the NPT was in the national interests of the United States.

In June 1966, Rusk suggested an interagency working group to prepare a simplified variant of the main articles of the treaty with regard to the Soviet position about the obligations to ban non-nuclear governments “physical access” to nuclear weapons. It is possible to say with certainty that the instructions of Rusk were in agreement with those of President Johnson because soon after, at a press conference on July 5, the president stated the possibility of the

achievement of a mutually acceptable compromise with the Russians along the lines of the treaty.

On July 8, 1966, Deputy Director Adrian Fisher proposed a compromise in the wording, providing for a ban on “the transfer of nuclear weapons to a given or group of governments, not in possession of nuclear weapons.” The representative of the United States in the Eighteen Nation Committee on Disarmament (Foster, Director of the of the Arms Control and Disarmament Agency), arrived in Washington and received instruction, approved by Rusk, to discuss “on a personal basis” and “ad referendum” with the new Soviet representative A.A. Roschin, who had shortly before this had replaced S. K. Tsarapkin (who was appointed ambassador to Bonn) and find out his personal opinion of Roschin regarding the possibilities of the treaty. In the instructions to the American representative, it said:

“You need to tell him (the representative of the Soviet Union), that you understand the kind of the emphasis that he is putting on the ban on the transfer of nuclear weapons. Add to this that you thought about what kind of recommendations to send along to Washington, and you would be grateful for the sharing of opinions on a personal basis so that you can provide your opinions until the end of the week. Say that, as you understand, neither he nor his government in any way will be connected with his opinion, and that neither you nor your government will be connected with your opinion.”

[252] The representative of the United States (at this time, Fisher was at Geneva, but his boss Foster was in Washington) was charged with delivering to Roschin the following text:

“Each of the governments and participants of the current treaty possessing nuclear weapons undertakes not to give nuclear weapons to any government not possessing nuclear weapons, and not to aid, encourage, or impel any government not possessing nuclear weapons to the production or purchase of any other form of nuclear weapons.”

The words “or any group of governments” was not included in the text passed along to Roschin. In this regard, Fisher was instructed:

“If Roschin asks why it lacks the wording about a group of nations...you should reply that the goal of your proposal is to find out whether a simple wording can be found in order to avoid a few difficulties which caused a deadlock. You should not give further explanation, but rather only find out his reaction.”

During interviews that took place on July 28 and August 8, Roschin said to Fisher that the proposed text was a step in the direction of the Soviet position. However, he noticed that it lacked a number of proposals including those about the transfer of nuclear weapons to groups of governments, and for that reason, the text could not serve as a basis for negotiations.

As a result of the nonofficial consultations, Fisher passed an unchanged text to Washington, which, according to his opinion, could be the basis for negotiations. Article I would preserve the wording presented by Roschin, but in the process there would be added a separate article, providing that the forbidden actions would not be carried out through a third nation, group of nations, or military force, even if they were a military ally. However, at the same time Fisher proposed one more new article, in which the treaty would remain in force for five or ten years and for the six months leading up to the expiration of the treaty, they would call together a conference for the resolution of the question about its continuation. He explained that this proposal “was intended to weaken the (undesirable) impacts on potential nuclear states and avoid the impression that the decision about the renouncement of atomic weapons for eternity, thus making it more acceptable for West Germany on the basis that the future expansion of NATO would not be blocked forever.”

From the available archives or the other sources the reaction of the American administration to Fisher’s telegram is unknown, [253] however it is believed that his proposals of development were not successful, as the United States acted on neither the question of transfer nor on the duration of the treaty.

Nevertheless, on August 26, President Johnson, speaking in the state of Idaho, stated “I consider, that we can find an acceptable resolution to which reasonable people will agree. It is simply needed to move forward, as we have all staked a big bet on the construction of peace on the planet on which we live.”

Summing up the results of the Soviet-American negotiations in Geneva in July and August of 1966, Foster informed Rusk in a memorandum on August 30 of the conversations between Fisher and Roschin, and that it was possible to imagine the possibility of the framework of a treaty, which would not forbid consultative negotiation with NATO (for example, a sort of committee of nuclear planning, proposed by McNamara), and would not prevent the functioning of existing bilateral agreements with NATO partners, for example, treaties based on the “two key” principle in relation to the use of American nuclear weapons given to NATO, therefore saving the American veto on its use.

However, “to conclude a treaty, which would not address the question about the transfer of weapons to groups of governments – in the opinion of Foster – it would be impossible.” “I believe,” he continued, “that for the achievement of a treaty, we will need to forbid the transfer of nuclear weapons to a non-nuclear state both directly and indirectly through a group of governments. I think, however, that we would be able to work out a treaty, which would not exclude any solution that we would reasonably expect.” Foster proposed to send a message to the West German Chancellor Erhard, in which he would inform him that the creation of a NATO force, entailing the collective ownership of nuclear weapons, controlled by the United States,

was more unrealistic and that European nuclear forces would only become possible in the context of a full political federation, to which one of the existing (Western) nuclear powers belonged.

The director of the Arms Control and Disarmament Agency suggested to notify the Soviet side, that the United States “is not suggesting the establishment of some sort of force in the framework of NATO, which would entail joint ownership of nuclear weapons,” and expressed the opinion that it was necessary to enter into “serious discussions” with the Soviet Union through a meeting between Rusk and Gromyko or by the President of the United States sending a message to the President of the Council of Ministers of the USSR.

On September 2, national security advisor Walt Rostow reported to Johnson that based upon the results of his discussion with McNamara, in both his opinion and in that of the Secretary of Defense, any agreement with the Soviet Union about nonproliferation should [254] be on the basis that the United States pledges to not relinquish its right to veto the application of nuclear weapons “under no circumstances in the future, regardless of what form the shape of nuclear organization in the West takes.” But, Rostow continued in his memorandum to the president, in the case of an agreement with the Russians, it would still be necessary to convince their European allies. On the grounds of Rostow’s memorandum, perhaps with the agreement of the president, his proposals were sent to Rusk on September 3. In it, he stressed that at first it was necessary to agree with the Russians, but also note the importance of agreements about nonproliferation for the resolution of different problems, including the “curbing the missile defense race.”

On September 9, in preparation of the meeting between Rusk and Gromyko, which was planned in connection with the opening of next General Assembly of the UN in the middle of September, a conversation took place between the head of the legal service of the Arms Control and Disarmament Agency, Bunn, and the counselor of the Soviet ambassador in Washington Y.M. Vorontsev, during which Bunn stated that the United States would not accept a treaty that would lead to modifications in NATO agreements about nuclear weapons or would forbid consultations about nuclear defense. At the same time, Bunn emphasized, “We understand the concern regarding the concern that the McNamara committee could turn into an agency which would decide by means of a vote the application of American nuclear weapons. But we do not intend it to be like this.”

Gromyko arrived at the General Assembly of the United Nations, having instructions to proceed from the fact that if in the near future joint efforts between the United States and the Soviet Union were not effective measures to prevent the proliferation of nuclear weapons and if a treaty was not concluded with this goal, then in the future it would be immeasurably more difficult. The treaty must prevent any sort of proliferation and not contain any loopholes. The

USSR was ready to agree to actions that must be banned by the treaty, specifically **banned**, not just allowed. The Ministry of Foreign Affairs based the preparation of these orders on the fact that the issue of the holding of consultations in the framework of the McNamara Committee should not be considered an obstacle to the conclusion of the nonproliferation treaty, as it was not referred to in the document. It was taken into account that the positive factors of the treaty exceeded the relatively negative point that the People's Republic of China, was obviously trying to use the treaty as evidence of Soviet collusion with the United States. In materials prepared by the Ministry of Foreign Affairs for the Central Committee, it was reported that in the near future that India, Canada, Italy, Japan, Belgium, Sweden, the Netherlands, Israel, Czechoslovakia and especially dangerously, West Germany, could begin production of nuclear weapons.

Gromyko and Rusk had two long meetings on the 22 and 24 of September. The ministers stressed the urgent character of the problem [255] of nonproliferation. Rusk assured Gromyko that the United States "never intended to provide nuclear weapons or to relinquish control over them to the supervision of a mixed force, for example, the multilateral nuclear force." From the Soviet side, attention was drawn to the fact that due to the acknowledged differences, a great deal of time was lost. Rusk said that as a result of the recent discussions in Geneva between Foster and Roschin "he felt there was a possibility of an agreement."

From September 22-24, discussions took place between experts on both sides, during which they discussed possible solutions to Articles I and II. Afterwards, the ministers walked through the previously agreed-upon articles in general terms and outlined the boundaries in a framework in which it would be possible to achieve agreement. During the course of the meeting, common agreement was achieved between the two ministers that the treaty would not allow the transfer of nuclear weapons or the control over them by a group of governments, but existing agreements in military alliances, including questions of nuclear planning, would not be subject to the ban. Rusk expressed the opinion that such an agreement made up ninety-nine percent of the agreement between the two countries about nonproliferation. From his side, Gromyko agreed that the positions of the two countries were close and that their representatives in the Eighteen Nation Committee on Disarmament should propose work towards the conclusion of the mutually agreeable treaty.

It was decided by the ministers to create a bilateral working group for the production of agreement on the key articles of the treaty – I (the main responsibilities of nuclear states), II (the main responsibilities of non-nuclear states, and III (guarantees), but also for other proposals of the treaty. The Soviet side was represented by A. A. Roschin, L.I. Mendelevitch, and R.M. Timberbaev and the American side by William Foster, Samuel de Palma, and George Bunn. M. V Antyasov and his aide from the federal legal department, Leonard Miker, also participated in discussion. At one of the meetings of the delegation in New York during this

period, First Deputy Minister of Foreign Affairs of the Soviet Union V.V. Kuznetsov was also present.

On October 10 in Washington, talks took place between Gromyko and President Johnson (and separately with Secretary of State Rusk), during which both sides expressed their commitment to the quick conclusion of the treaty and expressed the optimistic attitude of both the Soviet Union and United States towards its conclusion.

Systems of interagency coordination for negotiation were located in both capitals. In the Soviet Union at this time, there was no special interagency mechanism for the preparation of solutions to the issues of limitation of arms and disarmament. Before submission of approval to the Politburo of the Central Committee of the Communist Party of the Soviet Union, the draft decisions (which then usually, but far from always, were made as a decision as a result of government orders) [256] were agreed upon between the interested agencies in a working order, often by telephone on a governmental line or in working groups created for each individual case. The Ministry of Foreign Affairs often convened these groups. For this reason, its responsible representatives played a key role during the course of these agreements – often K. V. Novikov, head of the department of international organizations, or in his absence, one of his deputies (Y.M. Vorontsov, O.A. Grinevskii or R.M. Timerbaev). The interagency commission for the nonproliferation of nuclear weapons under the leadership of the first deputy minister of foreign affairs G.M. Kornienko was created at the end of the 1970s.

It should be stressed that for the duration of the discussions about nonproliferation (and I had a chance to be involved in all them in New York, in Geneva, and in Moscow), that I do not remember a situation under the departmental coordination when any sort of difficulties or greater difficulties of a fundamental matter arose. The main organizations, the corresponding departments of the CC CPSU, Ministry of Foreign Affairs, the Department of Defense, the Ministry of Mechanical Engineering (now MinAtom), the Commission of the Council of Ministers on Military Industrial Issues, the KGB – they all acted quite consistently, having before them, in effect, the important obligation of the centrally vital task of the interest of the Soviet Union to limit the proliferation of nuclear weapons and, importantly, to prevent West Germany's access to them.

The USSR did not incur difficulties in the case of an agreed position in discussion on nonproliferation or with the allies of the USSR in the Warsaw Pact, if one ignores a few moments of friction with Romania, to which Moscow was accustomed and to which it paid no attention. We knew that the Romanian delegates informed the Western delegations what was happening in the meetings of the socialist countries, and we took necessary measures in order to limit the exchange of the more confidential information with them. Such familiarity was shown by the American archival material, especially in the telegram messages of the

United States in Geneva to the state department, it is evident that some Romanian representatives committed disloyalties against their allies in the Warsaw Pact.

As was already noted, our fundamental opponents, the United States in Washington, had a functioning Committee of Directors – an interagency committee on the issues of control over arms, made up of directors or deputy directors of relevant agencies under the leadership of the Secretary of State, the Arms Control and Disarmament Agency, or their deputies.

[257] Serious discussions about the conclusion of the nonproliferation treaty became possible when both powers reached a full understanding of their concurrent interests on national security regardless of their many differences in internal politics and other problems (it should not be forgotten that at this time the United States was at war in Vietnam) in the interest of the prevention of the proliferation of nuclear weapons. As soon as this became obvious to all of them, as a political imperative, the two sides began to not only lay out their hopes, but even expressed a belief that discussions would certainly lead to a result. Accordingly, they structured their approach to resolve the questions at hand.

They understood that the discussion of the essential items would be complex (and therefore slow), would require maximum patience and perseverance, and that it would be necessary to do everything realistically possible to prevent a breakdown of negotiations. To a large extent, this responsibility fell to the Americans, who needed to deal with their allies, first of all with the leadership of West Germany, where the process of “familiarization” with the idea of nonproliferation was progressing quite difficultly. The Soviet side and its allies, as was already stressed, was experiencing some sort of hesitation in relation to the essentials of the treaty. They insisted that in order to close certain loopholes for proliferation and sought to find a mutually acceptable solution without breaking from their positions. The understanding of this general interest that was the cause for the success of the negotiations was present from the first meetings in Washington and New York and during all the following negotiations in Geneva, and again in New York in the United Nations Session of 1968.

2. The sequence, format, and course of negotiations

Negotiations in New York were conducted confidentially and again “ad referendum.” As a rule, they took place in Foster’s room in the Waldorf-Astoria Hotel in New York. The first sessions began at the end of September and lasted almost until Christmas. The first two articles were almost completely agreed to in New York and work began on the third and other articles of the treaty.

Negotiations began again in Geneva at the beginning of 1967 in the Eighteen Nation Committee on Disarmament and continued there with little reprieve for more than a year – from February 21, 1967 until the March 14, 1968. This committee was made up, as was already noted, from

three groups of governments: five socialist (Soviet Union, Poland, Czechoslovakia, Bulgaria, and Romania), five Western (United States, England, France, Italy, and Canada), and eight non-allied and neutral countries (Burma, Brazil, India, Mexico, Nigeria, United Arab Republic, Sweden, and Ethiopia).

The committee worked on the basis of consensus. The Soviet Union and the United States were permanent co-chairs. In practice, this meant the delegation from both countries developed and agreed to recommendations, which were then presented for the approval and consideration of the committee. [258] Needless to say, the co-chairs were in close contact with their allies and also consulted with the more influential non-aligned governments. From time to time as a rule of mutual agreement, the co-chairs informed the Committee on the progress of negotiations. Many delegations sent notes and other diplomatic documents to the co-chairs to express their positions, propositions, and modifications to the proposals of the treaty.

A number of governments (West Germany, Japan, East Germany, Belgium, Yugoslavia) cautiously and interestedly followed the course of negotiations about nonproliferation (based on, of course, their own national interests) were not representatives in the Committee. They sent their own observers to Geneva, which special representatives of Bunn selected Shnippenkuyter and Jurgen Diesel. Often, the point of view of West Germany about the treaty was voiced by one of the Western countries, most often by Italy. The Japanese delegation expressed a significant interest in the negotiations of the NPT in Geneva, in particular, by representative Sengonku.

The co-chairs supported discussion on the issues of the treaty by governmental members of the Eighteen Nation Committee on Disarmament during the course of bilateral consultations that took place in Moscow, Washington, and in other capitals and with other governments (see chapter nine, where in particular, it mentions negotiations of the nuclear powers with India on the question of the representation of a guarantee of safety to non-nuclear states).

[259] The negotiations between the delegations took place almost exclusively in English, which largely replaced French as the language of diplomatic communication. These circumstances greatly speeded up the process of the negotiations, as it was easier to find mutually acceptable solutions which were found during friendly meetings. The proposals, items, and other articles initially agreed upon by the two powers were translated into Russian right away and were passed along to Moscow for approval. In the interest of the Soviet side reciprocity was deliberately renounced based upon the complexity of the Russian language. Here, I would once again like to emphasize with certainty that both sides avoided many conventions for the early and speedy achievement of a result.

Along with the basic work on the treaty, which took place in Geneva, from time to time, discussions between the United States and the Soviet Union took place on a higher level,

including at the supreme level. During the meetings from July 23-25 between the representative of the Council of Ministries of the USSR Kosygin and President Johnson in Glassboro, New Jersey, an exchange of proposals in the NPT. At the end of the meeting, Kosygin announced in a press conference:

“In regards to the nonproliferation of nuclear weapons, we feel that significant progress has been made. We propose our efforts in the interests of finding solutions to this issue. I want to say that the Soviet Union is interested in reaching a point when there is no proliferation of nuclear weapons. And, we believe that the United States pursues the same goal as the majority of the countries of the world.

From the other side, President Johnson announced in a press conference:

“We agree, that it is very important to reach an international agreement about the NPT.”

The final stage of the negotiations took place in New York during the twenty-second session of the General Assembly of the United Nations (April 24 – July 12, 1968) which approved the treaty and opened it for signature.

3. The resolution of Articles I and II

During the New York phase of the bilateral negotiations, at first several alternatives for Article I were developed for consideration at a higher level, one of which contained the wording for the non-transfer of nuclear weapons or the control over them. [260] In accordance with the first variant [of the article], the transfer of nuclear weapons would be forbidden, “directly or indirectly to governments, military alliances, or groups of governments not possessing nuclear weapons.” The second variant provided a ban on the transfer **through participation** in a military alliance or group; the third variant said that nuclear weapons would not be given to any recipient whatsoever. According to the testimony of Bunn, the author of the last proposal was the legal counsel to the state department Leonard Miker. The Soviets suggested a proposal about the transfer “individually or collectively with other members of a military alliance or group.”

From the very beginning, both sides proceeded from the understanding that differences between nuclear devices should not be recognized, regardless of the purpose of their use – military or peaceful. Originally American proposals contained the phrasing “nuclear explosives,” however, it was unsuccessful and accepted along the lines of the Soviet proposal as it did not cover the use of enriched uranium in research reactors. Then, the Americans proposed a provision for the treaty which forbade the transfer not only of nuclear weapons, but even “other nuclear explosive devices.” This included nuclear explosive devices used for peaceful purposes, and this was accepted by the Soviets.

During the course of further work a text was tentatively agreed upon, forbidding the transfer of nuclear weapons and other nuclear explosive devices or the control over such weapons or explosive devices to non-nuclear states, directly or indirectly, individually or collectively or with other members of a military alliance or group of governments.” Roschin and Foster agreed to recommend this text to their governments.

As the Americans explained, proposing a solution to the transfer of control, control meant “the right or ability to apply nuclear weapons without agreement of existing nuclear powers.” The Soviets did not oppose this understanding and agreed to the conclusion the wording about the withholding of control, although, as they explained to the Americans, the withholding of control included possession and monitoring over them.

However, the draft agreed upon by the two delegations in Washington raised objections from those who studied German affairs and from those who wanted to preserve the possibility of a NATO multilateral force. [261]. The treaty was supported by legal advisor Leonard Miker. Along with Adrian Fisher (an assistant of Foster), Miker sent Rusk a memo on September 30th, in which they wrote:

“The draft of the treaty does not violate the current bilateral agreements...the treaty will not preclude nuclear status to the federated European states, which was one of its foundational parts. It would exclude the transfer of nuclear weapons or control over them to European defense agencies, which would not provide for the merger of states into such an organization. An attempt to change the wording, limiting its meaning to the withholding of nuclear weapons under *national* control and therefore leaving the possibility of the transfer of possession or control over them to an international group, would make the production of a nonproliferation treaty impossible.”

At the same time as the intense Soviet-American negotiations, the United States held a meeting with West Germany from September 26-27 in Washington, in which Chancellor Erhard and Minister of Foreign Affairs Schroder tellingly wrote in a communiqué about the results of the meetings between the German and American leaders. In contrast to past communiqués, the issue of a multilateral nuclear force was not discussed.

From October 1-2, discussions took place between at the countryside residence of the president at Camp David. As Lyndon Johnson remembers in his memoirs,

“I was interested in the opinions and recommendations of my advisors. They not only shared their views, but told of the views of others in government, who had worked on the problem of nonproliferation for a long time. Some of them believed that we had reached a point at which agreement with the Soviets was easy to reach and that we should move forward quickly with the agreement. But others, especially Rusk, judged that we were taking on a big risk if we

moved rather quickly and without careful consultation with our allies. I completely shared these views and asked Rusk to inform all the interested parties about my decision. We cannot take on the obligation of a treaty if it would bind us like this, as if the Atlantic alliance did not exist. We cannot say to our allies that these concerns of theirs do not matter. I said to the Secretary of State that we must continue to work for the conclusion of the nonproliferation treaty, but without the risk of NATO falling apart.

[262] The responsible staff member of the state department present at these discussions was Eugene Rostow, who remembered how Johnson summarized the two part discussion:

“I will not go into the details of the wording, but it addresses two principle questions. The first – there will be no kind of transfer of nuclear weapons. A law (The Atomic Energy Act) forbids this. And American popular opinion is against this. Such a situation cannot even be imagined. And the second – I will not exclude the possibility of a bloc solution. I do not want such kind of a solution now, but we cannot put it off into the future, but this opportunity must be seized and we must not let down the Germans as much as we can (on the question of control) and also for many other reasons.”

As a result of the discussion at Camp David of the phrasing proposed by the working group co- led by Roschin and Foster (containing the reference to a military alliance or a group of governments), the treaty was not accepted.

During a meeting on October 10 in the White House with Johnson, and then with Rusk in the state department, Gromyko continued to insist on the ban of the transfer of nuclear weapons. An agreement was not reached, but it was proposed that the Roschin-Foster working group in New York continue working towards a mutually acceptable draft. After these conversations, Gromyko told the press, “it seems that both countries are seeking to reach an agreement and speed up the achievement of an international agreement.” Johnson stressed that an agreement about nonproliferation was “what we need most of all.”

The negotiations in the “Waldorf-Astoria Towers” hotel began again. In regards to this, on October 20, representative of the USSR in the First Committee of the General Assembly Fedorenko announced:

“Recently, there have been some changes in the question about nuclear weapons which we naturally cannot welcome. And we would like to hope, that the responsible officials of the United States of America will be backed by concrete and practical action from Washington on the task of preventing the future proliferation of nuclear weapons and that an agreement will be reached in the near future.”

The prospective Soviet-American agreement about nonproliferation “at the expense of West Germany” caused serious unease in Bonn. [263] On the 26th of October, the ambassador of

West Germany in Washington, Heinrich Knapstein, visited temporary Secretary of State Nicholas Katzenbach in order to learn more about the current negotiations about nonproliferation regarding “conflicting information.” He stated that West Germany was not preparing to produce or purchase nuclear weapons, but the question about participation in the treaty could not be considered while the NATO nuclear issue had not been resolved. Katzenbach replied that it was needed to find a solution that would be acceptable to the Soviet Union as well as to NATO. Katzenbach added that in any case, the United States would not allow any damage to NATO and that there would be no kind of agreement without prior consultation with its allies.

Meanwhile, Foster passed along to Roschin a new version, providing for a ban on the transfer of nuclear weapons to a non-nuclear government “either individually or through the power of its membership to a military alliance or group of governments.” Because this wording could allow the transfer of nuclear weapons to multilateral forces (the word “collective” was absent in it), the Soviets did not accept it and in turn proposed changes, providing for the withholding “to any and all” and in addition to this contained a ban on the transfer to “groups of governments.” However, both options were rejected by the Americans.

Further negotiations followed. They considered three variants – one Soviet and two American. The Soviets preferred a solution in accordance with the idea that nuclear powers would be obligated to not transfer nuclear weapons or other nuclear explosive devices to anyone, not directly, not indirectly, **and on neither an individual or group basis** (sub-option: on an individual basis or together with other members of a military alliance or group of governments. This solution was proposed by the Soviet side in the draft of the treaty given to the Americans on the 17th of November.

The Americans proposed two options:

- To not give to any nation, directly or indirectly or in favor of any nation, control over its nuclear weapons or other nuclear explosive devices.
- To not give any nation nuclear weapons or other nuclear explosive devices, or control over such devices, either directly or indirectly.

The American representative stated that the United States preferred its first option. [264] The Soviet representative stated that he would be ready to consider the second American option, as it more categorically described the withholding of the control to anyone (in practicality, prohibiting access to the nuclear button of the United States to any given government, group of governments, or state through the means of a group. As a result, at the end of the New York negotiations two options were agreed on an “ad referendum” basis for the report to the governments.

As Bunn writes, Foster convinced Rusk to give approval to the first option. Crucially, of course, it was a solution to the withholding of nuclear weapons and control over them to any recipient whatsoever. Although it practically forbade the transfer of nuclear weapons to the command of a multilateral nuclear force or some kind of common group of states, it did not directly mention them, but rather strongly implied it. However, at the same time it preserved American face before its allies. As Seaborg put it, the discussed draft from the working group “forbade the multilateral nuclear force without poking the Germans on the nose.”

Article II, containing the obligations of nonnuclear states, was almost a mirror reflection of Article I. At the end in the beginning of December after more than two months of negotiations, the Soviet-American working group had reached an agreement on Articles I and II in the following form, and were recommended to their governments.

Article I

Each of the governments signatory to the current Treaty possessing nuclear weapons, undertake to not give nuclear weapons or other nuclear explosive devices, or the control over any such weapons or nuclear explosive devices, to any recipient whatsoever either directly or indirectly. They also undertake not to in no way promote or encourage any government, not possessing nuclear weapons to the production or obtainment of any form of nuclear weapon or other nuclear explosive device or the control of such nuclear weapons or nuclear explosives.

Article II

Each of the governments signatory to the current treaty not possessing nuclear weapons undertakes not to accept nuclear weapons or nuclear explosive devices or the control over such weapons or nuclear explosive devices from any transferor whatsoever either directly or indirectly. They also undertake not to produce or purchase any form of nuclear weapons or nuclear explosive devices and not to give or accept any help in the production of nuclear weapons or other nuclear explosive devices.

[265] The Soviets decided to no longer to insist on an explicit ban on the transfer of nuclear weapons and control over them on a bloc or collective basis, because the wording about the withholding to any and all covered all the possible situations. It was taken into account that the question of the multilateral force, as was made clear during the course of the New York negotiations, was completely removed from the agenda.

Also on October 12, Gromyko proposed from New York that the Soviets not protest the American wording that nuclear weapons must **not be given to anyone, neither directly nor indirectly**, because it closed off all paths to nuclear nonproliferation. He reported to Moscow that the Americans themselves stressed that they understood the wording in such a way that it must include the possibility of the transfer of nuclear weapons not only to national hands, but on a bloc basis. On November 10th, the Soviet government agreed with Gromyko’s proposal.

The wording of Articles I and II agreed to in December of 1966 entered into the final text of the treaty **without any changes** on the basis of an ad referendum vote, however, this was preceded by long negotiations between the United States and their NATO allies.

The administration of the United States recommended the drafts of the first two articles of the treaty to their allies. At this time, important political changes were taking place in West Germany. In November of 1965, upon the replacement of the Christian-Democratic government of Erhard as a result of a national vote, the coalition government of Kiesinger-Brandt took power. Social Democrat Willi Brandt was the new vice chancellor and minister of foreign affairs, committed to the rebuilding of relations with the Soviet Union. He thought it unwise to slow down the work on a treaty on nonproliferation for the sake of the possibility of the idea of an allied nuclear force. He believed that without great progress, a unified European nuclear force was unrealistic, and if a new federated European government was formed, then it would inherit the nuclear weapons of England and France. As early as the first meeting with the American ambassador McGree on December 8, Brandt told the American government that "Germany does not want the possession of nuclear weapons. The new government hopes that nonproliferation can be achieved in such a manner that the legal interests of the nonnuclear states could be taken into account. The new government will not accept a decision which would lead to the transfer of such weapons." These circumstances (the position of Brandt) in no small way facilitated the achievement of the agreement of the first article of the future treaty.

The text of Articles I and II were accepted by the council of ministers of the NATO countries in December of 1966, at which time was also approved a resolution about the creation of a committee for nuclear planning (The McNamara Committee).

Recommending the agreed articles to its NATO allies, the American administration made interpretive explanations. It was particularly understood that the transfer of nuclear weapons to any and all was forbidden, including to multilateral organizations, but the listed articles did not apply to launchers, did not refuse NATO consultation on nuclear defense (for example, in the framework of the McNamara Committee), and did not prevent the deployment of nuclear weapons belonging to the United States on territories of other members of the North Atlantic Alliance, as in the case of the question of use, they were under the two-key principle. [266] In other words, the power of veto was reserved to the President of the United States, but such a right would belong in principle to the government on whose territory American nuclear weapons were located.

Although throughout the bilateral negotiations and other negotiations in the Eighteen Nation Committee on Disarmament formally it was never specified what exactly the proposal meant about the withholding of control of nuclear devices from any and all, it was categorically emphasized that under these conditions, the non-nuclear countries of NATO would be under the

control of the nuclear policies of the North Atlantic alliance, and that consultations about nuclear planning, control over American nuclear weapons, and the placement of American nuclear weapons would reside with the president of the United States. Additionally, the United States and its nonnuclear NATO allies recognized exactly this understanding of the proposal about the withholding of control.

The drafts of Articles I and II were agreed upon on a bilateral basis, and as the Americans explained, would not exclude a federated European government, if one were created at some point in the future, it could inherit the right of England or France (or both) to hold nuclear weapons. In this way, the number of countries possessing nuclear weapons would not increase.

The interpretation of Articles I and II in view of the questions and answers were officially given to the Soviets by the Americans on April 28, 1967, although the substance of them had been repeatedly explained by the United States during of the course of previous discussions, beginning with the meeting of Gromyko with Rusk in the fall of 1966. During the Soviet-American negotiations, the American representatives emphasized the value of the specified interpretation for the Western countries. From the Soviet side, it was firmly explained that the Soviet Union would not be able to agree to the wording of the treaty, which would allow for the possibility of the participation of West Germany in nuclear affairs, for example the creation of a multilateral or allied nuclear force. According to this, especially in relation to the possibility of the creation of a federated government possessing nuclear weapons in Europe, the Soviet side would not link itself with such a unilateral interpretation of the treaty. Before bringing to the attention of the Soviets the importance of the proposed understanding for the United States in the interests of the treaty receiving the approval of its allies and the American senate, the Americans did not raise the issue of the public approval of the USSR on the interpretation of the treaty, which would be given when presenting the treaty for ratification by the senate. But if the Soviets raised objections, then the United States would not be able to ratify the treaty.

[267] On May 27, Roschin made a verbal statement to Foster, giving him a draft that addressed the possibility of the creation of a new federated European government which could inherit the nuclear weapons of one of its former composite members. It stated that the USSR would not sign on to such a unilateral interpretation of the treaty. "No one was had the right to make such an interpretation. The United States government carried all the responsibility for the unilateral interpretation delivered to its allies." In response, on June 2 the American delegation reported to the Soviets that unfortunately, no government had the right to make an interpretation of the treaty that would be mandatory for all other countries, as was stated in international law. Foster said, "We are not asking the Soviets to agree with the interpretations made by us and we understand that the USSR will not be linked with the unilateral interpretations of the treaty."

Despite the fairly strict form of the verbal statement of Roschin, the Soviet Union raised no objection against the present interpretation made by the United States, emphasizing only that it would not be linked with unilateral interpretations. In the Soviet announcement, it especially did not address the question about the possibility of the formation of a new European federated government, or any of the other American proposed interpretations (the accommodation of American nuclear weapons in Western Europe, nuclear consultations within the framework of the McNamara Committee etc.).

As far as it concerns the question of the creation of a new European federation possessing nuclear weapons provided by England and France, the Soviet Union proceeded from the understanding that this was an unrealistic situation, considering the relations between the triangle of England, France and Germany as well as the commitment of England and especially France of the maintenance of an independent nuclear arsenal. In Moscow they gave a report that the prospective foundation of a European federation, possessing its own nuclear weapons would be subject to discussion within the framework of NATO - if only to keep afloat the idea of a European choice in the circumstances that the problem of the multilateral nuclear force was removed. The prevention of the creation of a NATO multilateral nuclear force and denying West Germany access to nuclear weapons were the main objectives of Soviet diplomats during the negotiations of the NPT.

In regards to other interpretations, including the question about the placement of American nuclear weapons on the territories of Western European allies, the Soviets had reflected this position for many years. They had accepted reality and on the basis of reciprocity, took this as justification when considering the presence or possibility of placement of Soviet nuclear weapons on Warsaw Pact territory, seeing it as within the Pact's interests.

In the future, in the submission of the treaty for ratification of the American senate, on July 10, 1968, Rusk announced to a senate committee on foreign affairs:

[268] "The treaty only covers that which is forbidden, and not that which is allowed...it therefore does not address the transfer of delivery vehicles or nuclear weapon delivery systems or control over them to anyone, as long as the transfer does not contain bombs or warheads. It does not concern consultation between allies or the planning of nuclear defense, as long as it does not lead to the transfer of nuclear weapons or control of them. It does not apply to the agreements about the placement of nuclear weapons on the territory of allies, because this does entail any kind of transfer of nuclear weapons or control of them, if and as long as there is no declaration of war, in which case the treaty will no longer apply. It does not apply to the issue of European unity and would not forbid a new federated European government inheriting the nuclear status of one of the former constituent units. The new federated European government would have to have control over all functions of its international security, including

defense and all questions of foreign politics, relating to international security. However, it would not have to be totally centralized in order to have all its governmental functions. Although the treaty does not address the question of the inheritance of such a federated government, it would forbid the transfer of nuclear weapons (including possession) to any and all, including multilateral organization.

In presenting the NPT for the ratification of the senate, the interpretation of questions and responses which had been earlier passed along by the Americans to their allies and to the Soviets at Geneva were sent along with Rusk's letter from July 2nd, 1968 to President Johnson. There was no Soviet reaction to Rusk's statement and expressed interpretations of the treaty in the letter.

If the question were to be posed now, retrospectively, which side went further for the agreement of the first two articles of the treaty, then perhaps it should be recognized that as a result of all the perseverance and consistency of the Soviet diplomats, the United States government was forced to overcome itself and especially its relations with West Germany and its allies and other more difficult obstacles on the road to agreement. The successful outcome of the negotiation of Articles I and II became possible because in the Washington establishment of the 1960s, an understanding slowly developed and prevailed that the proliferation of nuclear weapons and the need to put an end to their sprawl throughout the world was in the interests of the national security of the United States. [269] To the credit of the Soviet Union, it constantly considered in its strategy and tactics the situation of the United States, and when it was dictated by the circumstances, provided pressure and in cases when it could go no further, even ask the Americans how to reach a compromise while being guided by their governments' interests.

In general, it is reasonable to say that the key proposals of the nonproliferation treaty that defined the basic obligations of the nuclear and nonnuclear states was agreed to at the end of 1966 thanks to mutual efforts of both of the leading nuclear countries – the Soviet Union and the United States. But before them stood even more work on the proposals of the nonproliferation treaty.

Articles I and II, as was noted, did not forbid the placement of nuclear weapons placed by nuclear powers on the territory of nonnuclear territories signatory to the NPT. Nevertheless, so long as nuclear weapons placed by the United States continued to stand on the territory of nonnuclear countries, their residency would cause anxiety. In the new geopolitical situation, the placement of nuclear weapons beyond the borders of nuclear powers was an anachronism and a relic of the "Cold War," it was strictly legal, it did not conflict with the provisions of the NPT.

For Russia, this question held a special significance, because in 1991 and 1992 it completely took back all of its nuclear weapons back to within its borders as the United States continued to place nuclear weapons on the territory of NATO countries. In this new situation, in which the number of signatories in the nonnuclear zone was steadily increasing, in territories where nuclear weapons were **completely** absent, their placement beyond national borders was understood as proliferation of nuclear weapons.

There remained one final question which proliferation specialists had addressed carefully several times. It was that in Article II, there was a lack of clear obligations of nonnuclear countries not to provide other countries assistance in the production or obtainment of nuclear weapons. This omission can explain the insufficient foresight of the authors of Article II, who were unable to predict in 1966 and 1967 the possibility of the emergence of nonnuclear countries of high technological and industrial development with the ability to provide the appropriate assistance to other countries. Meanwhile, as is evident in chapter three, already in the 1950s and 1960s, a great number of nonnuclear countries had such a capability (to name but one example – the collaboration between Norway and Israel, shown in the supply of Norwegian heavy water for the Israeli atomic program).

In conferences to review the operation of the NPT, this question arose. In particular, at the second conference in 1980, when it was proposed by several countries, in particular the Scandinavian ones, to make the final wording of the document reflect that nonnuclear states carried the same obligations as the nuclear ones as according to Article I regarding not aiding other countries in the production or obtainment of nuclear weapons. [270] But this provision did not receive support because of the reluctance of a majority of the countries to question the text of the treaty. In time, a wide consensus was formed that the NPT imposed on nonnuclear signatory nations a “silent” obligation in this spirit, because otherwise it would defeat the whole purpose of the NPT.

The definitions and interpretations of the provisions of Articles I and II

During the development of Articles I and II, questions of definition, interpretation, and a number of their provisions were discussed at great length. We will look at a few of these that represent and hold value for current researchers, but also for those studying the issue of the proliferation of nuclear weapons.

In the process of the negotiations, in particular, the terms “nuclear weapons” and “other nuclear explosive devices” had a special place in the discussion. Several nonnuclear countries (Japan, Italy, Brazil, India) expressed doubts that “nuclear weapons” and “other nuclear explosive devices” could be put into the same group. Brazil and India believed that the NPT should allow for the proposal and testing of nuclear explosive devices for peaceful purposes. However, none of these countries, nor other members the Eighteen Nation Committee on

Disarmament, of course, were able to show any kind of difference between nuclear weapon technology and “peaceful” explosive devices. As Mohammed Shakur wrote in his great work *The Nuclear Nonproliferation Treaty*, “the history of the negotiations about the NPT showed a singular certainty in that nuclear explosive devices do not differ from nuclear weapons.” Nevertheless, some nonnuclear countries tried to reach a common understanding that if and when as a result of progress of atomic knowledge it became possible to distinguish the difference between them, it would be necessary to remove the limitations and restrictions set in the treaty in relation to “other nuclear explosive devices.”

This treaty does not contain the definition of nuclear weapons or nuclear explosive devices. However, the history of the negotiations of the NPT sheds enough light on this question. The representative of the United States Foster characterized the understanding of nuclear weapons at a meeting of the Eighteen Nation Committee in this way on June 8, 1967.

“All forms of nuclear weapons have one common characteristic. It consists of that they can produce a huge amount of energy in a short period of time from a source of relatively small volume and light weight.

[271] No one challenged this definition and therefore, it can be considered, that it became a part of the history of the discussion of the process leading to the NPT. At the same time, the Americans clarified that a controlled nuclear reaction was one of thermonuclear synthesis, not covered by restrictions contained in the treaty. This clarification was also not disputed.

An explanation regarding the ban on the **production** of nuclear weapons and nuclear explosive devices by nonnuclear nations also had a place in the discussion. The original American draft from 1965 included simply a ban on production. The Soviet draft from 1965 proposed to ban not only the production, but even the preparation of production. This aroused a relatively negative reaction from Sweden, who had carried out research in the 1950s and until the beginning of the 1960s research on atomic weapons and had developed the ability to produce weapons-grade materials. Sweden’s representative Alva Murdal tried to articulate the process of the production of nuclear explosive devices.

“Throughout the first stage of production, all decisions about the planning of scientific research about nuclear weapons, about alternative programs for their creation, about the definition of splitting of matter for the goal of weapons will be accepted – it is possible, that in the building of a gaseous diffusion plant or in a chemical reprocessing plant, then a political decision will be made in favor of nuclear weapons and their abilities. During the course of the next stages, operative decisions will be made about when to build factories, organize the use of and enact other actions that will give clear and convincing evidence for the production of nuclear weapons.”

Murdal definitely did not want to prevent the possibility of the acceptance of his preliminary plan being rejected by the other governments. He stated:

“During the first stage, decisions will be made about the planning of scientific research into nuclear weapons, about the conduction of alternative programs for their creation, and the acquisition of fissile materials for weapons – and even possibly about the construction of a gaseous diffusion reaction or a chemical reprocessing reaction, and afterwards political decision could progress to towards the creation of nuclear weapons and their use. During the course of the following stages, the truly operative decisions would be made about the construction of reactors, how to organize the conduction of testing, and the undertaking of other events or actions, which would give clear and convincing documentation (of the production of nuclear weapons – author’s addition), which previous decisions could hardly do.

Murdal definitely did not want to prevent the governments he had identified from rejecting his original proposal. He said:

“In this long chain of judgment, to ban only the final act of “production” would be too insufficient. The preliminary thoughts of politicians and laboratory research scientists have established that it would clearly be difficult and would result in unwanted interferences (in internal affairs). Is it impossible to find a middle road, on which a standard ban could be based?”

Reacting to this inquiry, in March of 1966, the United States brought forth amendments to its original draft of the treaty, in which a ban on preparation for the production of nuclear weapons by nonnuclear countries. [272] The amendments proposed to give a definition of “nuclear weapons,” but they did not contain the definition and only mentioned that the “definition will be introduced.”

During the course of further consultation between the Soviet Union and the United States, however, it was decided not to include in this text of the treaty the definition of these understandings, including only the proposal that nonnuclear states undertook “not to produce or obtain nuclear weapons or other nuclear explosive devices through any means.” (Article II) At the same time, both nuclear powers did not express disagreement with Switzerland’s statement, and put forth in a memorable list that the stated proposal will not spread to “early and intermediate” steps like “the development of uranium mines, uranium enrichment, the isolation of plutonium from nuclear fuel, the creation of fueling elements and heavy water, when these processes were used for civilian purposes. At the same time, the co-authors of of Article I stressed the importance of the inclusion of a ban on assistance, encouragement, or motivation of nonnuclear governments to obtain or produce any form of nuclear weapon or other nuclear explosive device.

During the course of private negotiations between the United States and the Soviet Union (and the United States and its allies) during the work period of the Eighteen Nation Committee, the criteria for the term production were summarized. On the basis of these understandings, several criteria were developed. Later, the United States' representative Foster informed the Committee on Foreign Affairs of the American Senate:

“Facts indicating that the purpose of a definitive action was the obtainment of a nuclear explosive device would indicate noncompliance with the treaty. Thus, the creation of an *experimental* nuclear explosive device or a prototype would be covered by the definition of production, as well as the *construction of components, tightly linked only to nuclear explosive devices*. And although *the staging of concrete action* under the guarantees in and of themselves would not resolve the question about whether it was an action in accordance with the treaty, or a statement under the safeguards, which would dispel fears about noncompliance with the treaty. Neither the enrichment of uranium, nor the increase of fissile materials in connection with a peaceful program would not be forbidden by Article II, as long as such a practice was permitted by the guarantees in connection with Article III.”

[273] During his presentation to the Eighteen Nation Committee on February 27th, 1968, the Soviet representative Roschin also stressed that “the goal of this this article (Article III – author’s addition) is that the basic technical fissile materials, needed for the production of nuclear weapons, are not diverted for the production of nuclear weapons.

Here it is important to note two moments, the identification of the purpose of nuclear activity, and also the value of the effectiveness of the IAEA. The considerations listed by Foster encountered the understandings of specialists, and were not challenged in any case. During the ratification of the treaty, countries like West Germany, Japan, Australia made announcements of their understanding of the context of the treaty, they stressed whether the treaty stressed the **goals** of a nuclear program or not.

The importance of the criteria of the **goals** was also recorded in the London Agreement of 1977 about the guiding principles of nuclear export. At that time, fifteen nations were in approval of the agreement on the international nuclear export, and now there are more than thirty signatories. This treaty states that the “signatories must allow the transfer of items on the Trigger List or related technologies only in the presence of official governmental assurance from the receiving state, clearly excluding uses which could lead to the creation of a nuclear explosive device.

The presented understandings and interpretations, although not addressed and changed in the text of the NPT, show an important clarification and (and possibly obvious) supplement to the draft of the treaty, strengthening it and at the same time promoting the strengthening the

international program of the nonproliferation of nuclear weapons. It presents an understanding for future efforts in this field.

4. Article III (Safeguards)

The discussions of Article III were preceded by a long study of the complex problem of inspection. The draft of the NPT brought forth by the United States in August of 1965 did not provide for mandatory safeguards. In the draft it was proposed that the signatories of the treaty undertake “**to work in cooperation**” in the enforcement of monitoring and with the safeguard of the IAEA or another equivalent monitor in relation to all activity on the subject of the peaceful use of atomic energy. This draft did not refine whether inspection would apply only to nuclear powers, or to nonnuclear powers as well. [274] The amendments brought forth to the draft by the United States in March of 1966 did not address the articles about monitoring which was preserved in its initial form.

The Americans included the nonbinding guarantee in the text as a result of the persistent wishes of their NATO allies, in particular Britain and Italy, but this drew sharp criticism from the American commission on atomic energy, which insisted on mandatory safeguards. The position of the Atomic Energy Commission was also supported in the American Congress. The representative of joint committee of Congress Senator John Pastor announced in regards to Article III of the American draft that “it will accept a non-mandatory solution.”

The first Soviet draft of the treaty from September 24, 1965 in general did not contain a proposal about safeguards, although at this time the Soviet Union was already supporting the system of safeguards of IAEA and took an active role in its development. As was evident in chapter five, the system of safeguards of the INFCIRC/66 was finally unanimously accepted by the IAEA with the full support of the Soviet Union in Tokyo in 1965.

In March of 1966, the Soviet Union moved to support the use of Agency safeguards for the monitoring the compliance of nonnuclear countries. On March 3rd, representative Tsarapkin of the Soviet Union announced to the Eighteen Nation Committee:

“Some representatives of nonaligned governments have raised the question whether it would be advisable to use safeguards developed by the IAEA so that the treaty is fulfilled by nonnuclear governments. In relation to this question, we would like to state that the Soviet Union would be willing to consider this problem. If we were to shortly agree upon the principal questions (Articles I and II), then from our perspective, it would all other problems would not pose a difficulty.”

Only on July 28, 1966 did Foster’s deputy Adrian Fisher announce to the committee that the United States was of the opinion that a government not possessing nuclear weapons “was obligated” to accept the safeguards of the IAEA or “equivalent” safeguards. A month later,

Foster informed Rusk that the position of the United States was supported by its NATO allies and by the representatives of the Eighteen Nation Committee. However, the United States did not put forth its changes in its draft of the treaty. The Soviet Union did not do this either.

[275] During the process of further development of the issue of safeguards in connection with the NPT, in September of 1966, a conversation took place between Seaborg and the director of the Soviet delegation to the IAEA I.D. Morokhov (the deputy minister of mechanical engineering). Seaborg wrote in his daily log that Morokhov announced that the “main concern of the Soviet Union is West Germany and that the United States will be able to convince West Germany that it will be able to build its reactors under the safeguards of the IAEA and that then the Soviet Union will have to provide for Eastern Europe to do so in turn. Morokhov later said that the prevention of proliferation would demand more rigid guarantees than the IAEA currently did. In December of 1966, Seaborg informed Rusk that he was under “a strong impression that the Soviets would accept the mandatory safeguards (according to the NPT) if it did not require the application of safeguards within the USSR and if (in the treaty) the proposal of Euratom as an equal of the IAEA was removed.

After this, as both powers accepted the principle of responsibility of IAEA guarantees in nonnuclear states, the main obstacle became the Euratom/American demand for the usage of Euratom safeguards for the fulfillment of the treaty in these territories.

Under the creation of this regional organization according the Rome Treaty of 1957, the members of Euratom (then there were six: Belgium, Italy, Luxembourg, the Netherlands, France, and West Germany) established that the inspection of nuclear programs would be done on an internal basis, without the involvement of foreign inspectors in order to avoid industrial espionage, among other types. They advocated against the safeguards of the IAEA. As Seaborg testifies, in a conversation with Francis Perren, the supreme French councilor for atomic energy in November 1964, Perren said that the French were opposed to IAEA safeguards on the basis that inspectors could come from “any country, like Russia.”

From 1957 onwards, when the Euratom agreement went into effect, the United States carried out monitoring in Western Europe on a bilateral basis. At this time, the IAEA was established and proceeded to develop its own international system of safeguards. The countries of Euratom insisted however, that they would operate under their own system of monitoring, and in 1958 an agreement was reached between the United States and Euratom about shipments of enriched uranium for Western European atomic energy without the involvement of the IAEA. In the 1958 agreement about cooperation, which came into effect in 1959, there was a weak wording about the fact that Euratom was “ready to consult and exchange opinions with the IAEA with the goal of the creation of a system of monitoring and control that was reasonably compatible with that of the IAEA (Article XII of this agreement).

[276] Seaborg wrote that the American Commission on Atomic Energy and the Joint Session of Congress on atomic energy agreed “with displeasure” to this, fearing “undermining the IAEA,” where the United States had predominant influence, but eventually gave way to the insistence of the state department, which was primarily concerned with the “interests of European unity.” The British (then still not members of Euratom) and Canadians were in favor of IAEA safeguards, but as Bunn observed, the Eisenhower administration preferred the establishment of a Western European regional nuclear agency - the creation of an IAEA for Euratom. Euratom was to be a cornerstone in Eisenhower’s plan in the creation of the United States of Europe.

It was on exactly this basis that the United States began negotiations on the nonproliferation of nuclear weapons. Even its first draft of the treaty on August 17, 1965, the United States suggested that for the fulfillment of the monitoring aspects of the treaty, the services of the IAEA “or an equivalent international monitor” could be used (read: Euratom – author’s note).

It should be noted that from practically the beginning of the negotiations of the foundation of Euratom, the Soviet leadership enacted a wide political-diplomatic campaign against the foundation of such a select group, perceiving it as a danger to the interests of the Soviet Union in Europe.

Already on July 12, 1956 the Soviet government came forward with an announcement about European cooperation in regards to the peaceful use of atomic energy:

“In recent years in several Western European countries the aspirations of people in the pursuit of international cooperation in the field of the use of atomic energy have been made clear. Additionally, there has been interest in the creation of a small group of several governments which would not prevent wide cooperation on atomic matters in a European-wide basis. The exact nature of the group envisaged by the planners has been named Euratom, an atomic union of six Western European countries – France, West Germany, Italy, Belgium, Holland, and Luxembourg.”

“It is impossible not to see that the creation of such an organization in the larger context in which the countries of Western Europe would enter into military blocs that oppose other European governments, and the creation of Euratom would be subject to the goals of these blocs.”

[277] “It should also be noted that the circumstance of the creation of Euratom would lead to the lifting of restrictions on the production of atomic energy in countries like West Germany. This would allow a revanchist West Germany to organize its own production of atomic weapons, which would create a serious threat to the business of peace in Europe.”

The Soviet Union proposed to call a conference of European countries for the discussion of the creation of a “European regional organization for the peaceful use of atomic energy.” The text

of the announcement was sent to all European governments and the United States. However, it did not receive a positive response.

In 1957, the Soviet Union took one more action in regards to Euratom. On March 16, the Ministry of Foreign Affairs of the Soviet Union published an announcement about the establishment of Euratom and the “common market” in which it was alleged that “all the action of Euratom and the ‘common market’ will be subject to the objectives of NATO, whose aggressive nature is well known.” They continued:

“There is no doubt that the revanchist administration of West Germany will not fail to use Euratom for the acquisition of atomic materials and raw materials in order to produce its own atomic weapons. In regards to this, it is essential to reiterate that the outfitting of the West German armed forces with nuclear weapons will be fraught with consequences, most of all for the population of West Germany, which would be the target of a retaliatory nuclear strike.”

The Soviet leadership believed that in the interest of avoiding danger, in light of a small Western European atomic organization with West Germany in its leadership, the Soviet Union proposed to establish a scientific research institute or an body that would operate on a **European-wide** basis for the enterprise of the production of atomic energy for scientific purposes, including issues relating to raw materials. It was acknowledged in Moscow that this proposal had no chance of success, but they still sought to try all possibilities in order to prevent the foundation of Euratom. The Western countries nevertheless forced the foundation of their own atomic organization, and on March 25, 1957, the Rome Treaty on Euratom was signed. It came into effect on January 1, 1958.

Returning to the negotiation of the NPT, Articles I and II were at the center of attention at the end of 1966. However, only in November of the same year did American representatives address their proposal of the use of “equivalent” monitoring. The representative of the Soviet Union categorized this as an attempt to apply the principle of “self-monitoring” to the German atomic reactors, as well as to the reactors of other Euratom countries.

At the end of the New York bilateral negotiations, the sides exchanged drafts of basic proposals about the obligations of monitoring for the conclusion of Article III. On November 17, the Soviets proposed the following draft:

“Each of the governments signatory to the current Treaty not possessing nuclear weapons undertakes to undergo monitoring by the International Atomic Energy Agency in regards to all actions related to the peaceful use of atomic energy.”

The Americans proposed their own variant:

“Each of the governments signatory to the current Treaty not possessing nuclear weapons, undertakes to accept thorough international guarantees in regards to all actions related to the peaceful use of atomic energy.”

Although both sides agreed in principle on the obligation of monitoring, their first drafts revealed serious differences between them, as the United States continued to insist that the IAEA would not have to be used as a monitor.

Meanwhile, in his report to the president from December 29, 1966, Foster reported that his personal opinion on the matter was that compliance with the treaty should be upheld by the IAEA. “The goal of the United States,” continued Foster, “is that which Seaborg announced publicly and which has strong support in the Senate. The monitoring procedures of Euratom, although they are promising in my opinion, are unacceptable to the Soviets because they would result in the inspection of our allies by our allies. I believe that we must make a determined effort to convince our allies to accept IAEA monitoring, and if we are successful, then this will be acceptable for the Soviet Union. I think that this outcome would have strong support in the Senate.”

Because of the issue of the IAEA/Euratom, agreement to Article III took an entire year.

As co-chairs of the Eighteen Nation Committee on Disarmament, the delegations of the Soviet Union and the United States continued negotiations on this article after the renewal of the Committee’s session in Geneva in February of 1967. In the Soviet group was Roschin, Timerbaev, Shustov, Antyasov, and other assistants of the delegates. On the American side was Foster, Bunn, and Calver Gleysteen. At differing stages of negotiation, the Soviet delegation also included O.A. Grinevski and V.P. Suslov. The Americans also included Fisher (in the absence of Foster) and Samuel de Palma.

It is necessary to note that in connection with the resulting impasse on Article III, the Americans began to publicly express their anxiety about the complicated situation. Responding to a question about the reason for safeguards in a television interview, Rusk said:

“This is a difficult question because the nonproliferation treaty will be comprehensive and cover the whole world such that many governments signatory to it may not be pleased with how the policies of Euratom are implemented on an internal basis. Most of all, other groups of governments in other areas of the world may wish to form small “families” of nations, inspecting themselves and discouraging external safeguards on the basis that each regional group has the right to conduct its own inspection...”

“I in no way doubt that Euratom safeguards will prevent the abuse of Euratom. In this regard, I have no problems with it. The problem is how to convince 120 other countries. We have not yet found an answer to this problem.

At the same time, the United States claimed they had stopped a shipment for the West German nuclear power plants, without which West Germany would have to stop nuclear activity.

This announcement and action of the United States caused obvious displeasure in Euratom countries, which responded that the American approach presented a threat to the promotion of European unity and breached an understanding about cooperation between the United States and the European community.

In this situation, faced by the objections of Euratom headed by West Germany, the firm position of the Soviet Union, and even internal hesitation, Washington decided to recommend to the Euratom countries to accept IAEA safeguards without the clause about “equivalent” safeguards, but did not yet insist upon mandatory safeguards in order to avoid “overloading the boat.” Instead, a phrase about the approval of IAEA guarantees “as quickly as possible” i.e) without the establishment of any kind of definite timeframe. [280] The Americans (then Vice-President Hubert Humphrey and Foster) and British representatives (including Lord Chalfont) cleared up the proposals for submission to Western Europe.

However, as the Soviet ambassador in Belgium informed the Ministry of Foreign Affairs of the Soviet Union, the resistance of Euratom to the draft of Article III continued. Along with West Germany, France took a rather critical position which consistently prevented the attempts of the nonnuclear Euratom countries from agreeing to a mutually acceptable position on this article.

From these conversations, which were conducted by the Soviet representatives and the West German emissaries in Geneva (in particular, Shnippenkuyter) an understanding developed the Germans, like other Western European countries, wanted Euratom to have a priority role in the responsibility of monitoring. Additionally, this issue was being used to prevent the conclusion of the treaty. In the end, the United States and its allies played a leading role in the IAEA.

The position of West Germany on guarantees was outlined by Shnippenkuyter at the conference of the West German Interagency Committee in February of 1967:

-Avoid an article about guarantees.

-If it is impossible to escape this, then guarantees must be implemented by a) binding them to the treaty itself and b) preventing discrimination between the nuclear and nonnuclear governments i.e.) the same safeguards will apply to the whole civil nuclear sector.

-Permanent support of the interests of Euratom.

-In regards to the procedure of safeguards, insist on less inspection, and in place of inspection, suggest modern automatic monitoring devices placed at key locations in the atomic fuel circuit.

It should be noted that at this time in the Eighteen Nation Committee, where discussions continued about the issue of nonproliferation, many representatives, in particular those from Sweden (Murdal) and from Egypt (H. Halaf) stressed the importance of mandatory and nondiscriminatory safeguards. Murdal announced that this would be the best decision for “implementation of a unified system of safeguards for nuclear action in all countries.” Halaf added that the treaty should clearly require “mandatory and uniform” IAEA guarantees upon all nonnuclear countries and that the monitoring system should cover the transfer of nuclear materials and “all nuclear activity, future and present.” [281] The Soviet representative Roschin supported Halaf’s proposal, stating that it deserved “serious attention” and could hardly be challenged.

The objection against the principle of “self-monitoring” was also expressed by Japan. Seaborg noted that these objections had “widened the difference between allies.” As Spurgeon Kenny indicated in a memorandum to national security advisor Bundy, “The Soviets are taking a firm stand because the international safeguarding by Euratom is clearly self-monitoring. Furthermore, Euratom would oppose our own interests, as it would encourage similar procedures of control like Sovatom, Arabatom and others.”

Meanwhile, not waiting for official rejection of their proposals by their allies’ of Article III (which had satisfied neither West Germany, Washington, nor Congress) the Americans prepared one more option.

On March 24, in a confidential meeting with Roschin, Foster said that “the issue of the approval of the United States’ allies in regards to compliance with the treaty worried him. The meetings, which he had led in Bonn, Rome, the Hague, and Brussels showed that the governments of Euratom countries fiercely resisted a replacement of Euratom safeguards with those of the IAEA for peaceful nuclear energy use. The fact that the Soviet Union rejected the proposal about the transition period from Euratom to the IAEA. In the opinion of Foster, this could mean delaying an agreement to the treaty between not only the Western countries, but between the Western and Socialist countries as well.” Foster gave Roschin a new variant of Article III, in which it proposed:

2. After this treaty comes into effect, each of the governments signatory to the current treaty not possessing nuclear weapons that are currently carrying out work under a system of international safeguards, besides that of the IAEA, undertakes to assist in the verification the effectiveness of a system of international safeguards used for these activities.

3. As soon as it is practically feasible, but no later than three years from this treaty coming into effect, international safeguards will be put in place either under the IAEA system or one that closely matches it, and will be accepted by the members the IAEA and the members of other concerned nations.

[282] 4. In the case that an agreement about the means of verification by the IAEA or an alternative international safeguard as it has been envisioned in this article is not reached in the three years following the adoption of this treaty, these nations will accept IAEA safeguards.

On March 31, 1967, the United States proposed this option to the Western Europeans. However, the coalition government of West Germany rejected it, even though Brandt thought it acceptable.

The relationship of the Soviets to the new American proposal is evident from the analytical material prepared in the Department of International Organization of the Ministry of International Affairs of the Soviet Union in 1967, in which the Soviet position was summarized in the following manner.

“On the issue of monitoring, the Soviet Union is of the opinion that such monitoring could be carried out by the IAEA and should be brought into effect with haste.”

In Moscow, a proposal was made to the West German ambassador regarding the resolution of the issue of monitoring on the basis of IAEA safeguards: on March 23, Gromyko specifically brought this question before the ambassador, and on April 17, Gromyko’s deputy minister V.C. Semenov brought it before the German minister-counsellor.

An agreement on Article III stalled. Many times in April and May, the NATO council considered proposals about guarantees, but without results. Without this article, West Germany and Italy opposed not only its consideration by the Eighteen Nation Committee, but even the consideration of Articles I and II (which had stagnated since February).

Although negotiations slowed down, many meetings continued to take place between the Soviets and the Americans, including between deputies and advisors, and during the course of these meetings, they exchanged opinions on an ad referendum basis. In May and June, Bunn, Gleysteen, Timerbaev, and Shustov had many unofficial talks, seeking to find an escape from the present stalemate. Both launched intense internal study of the differing options, constantly passing them along to their capitals according to their steps.

At the end of April, on Foster’s 70th birthday at the Geneva hotel “de Berg,” Bunn and his coworkers from the American delegation gave him a ship’s lantern, hoping that it would shine light on the resolution of the question of monitoring and lead to a resolution. Foster hinted to the present Soviet representatives about the possibility of a solution that would suit those who insisted on IAEA safeguards, while simultaneously giving some satisfaction to the Euratom countries. “Help us find a mutually acceptable wording , which would satisfy not only you, but us and the Euratom countries” – he asked the Soviet minister.

[283] During the Soviets' internal discussion of the varying options, Antyasov raised a point about the possibility of using the precedent of the Tlatelolco Treaty regarding a nuclear-free zone in Latin America (a thirteen nation agreement concluded by the countries regarding a "multilateral or bilateral agreement" to use IAEA safeguards). This article of the Latin American treaty was based on the IAEA Charter, which envisaged the inclusion of guarantees based on either a unilateral or multilateral basis. The possibility of agreement on this point seemed achievable, and for this reason the delegation decided to use this option for resolving the problem of Euratom.

Soon after, Bunn, Gleysteen, Shustov, and Timerbaev made plans for a catamaran cruise on Lake Geneva as well as a "trip in the mountains" – a trip in a cable-car into the mountains from the mountain town of Caux, under Montreaux, to Roche de Naye. In a small car of the train, high on the rocky top of a mountain, they discussed the possibility of an escape from the stagnation of Article III. Bunn's words in the monograph "Arms Control by Committee," should perfectly describe the conversation that took place.

"Of course, Timerbaev knew that the IAEA charter allowed that 'upon the wish of the parties involved, the application of safeguards to any bilateral or multilateral agreements' between governments. He also understood that an agreement between the IAEA and Euratom could be looked upon as a multilateral agreement and thus the IAEA was authorized to implement safeguards in this situation. He thought that this could be a way to delay the debate about how much responsibility the IAEA would have in Euratom countries. As we were admiring our surrounding from the window of the cable-car, he proposed that in the treaty there would be a stipulation regarding "agreements about agreements" based upon the assumption that IAEA rules and staff would not be acceptable measures in future stages. In order that the proposals about safeguards would be accepted by the nonnuclear governments, Timerbaev suggested that negotiations with the IAEA should take place on an individual basis or collectively with other governments. If the wording "with other governments" was interpreted as the Euratom countries leading negotiations with the IAEA with Euratom, then the proposal put forth by the United States would be generally acceptable.

The window of opportunity that we strove for appeared. It was a new formula, which could resolve the problem of guarantees and would be acceptable to West Germany as well as the other Euratom countries. Feeling that this was the basis for negotiations, I passed along the treaty in its current form to Foster in Washington.

[284] In addition to what Bunn said, it should be added that the Soviet representatives directed the attention of the Americans to the fact that the proposed decision was based on an existing precedent based upon a neutral source – the Tlatelolco Treaty about a nonnuclear zone in Latin America - worked out by Latin American countries and already signed.

During the work on Article III, the Soviet Union proceeded from the fact that the fundamental basis of monitoring should and must be the use of an international safeguarding Agency – and only that. The problem was how to attach Euratom to this system, while simultaneously making it accountable and subservient to the IAEA. This seemed to be possible thanks to the persistent efforts of the Soviet diplomats together with the diplomatic efforts of the other negotiating powers (including the United States) that wished to find a way out of the stalemate.

The creative spirit that abounded in each delegation is worthy of note. Their leaders encouraged the initiative of their coworkers, while both capitals carefully and favorably watched over their delegations. It was well known by the Soviet delegation in Geneva that Gromyko personally read over the coded telegrams from Geneva and involved himself in the process of negotiations only in extreme circumstances, more often relying on the proposals made by his delegation.

During the session of the UN General Assembly from September to December 1967, one of the staff members of the Soviet delegation tried to intervene in the negotiations of Article III in New York. This became known to the Soviet delegation in Geneva through an American representative, and as soon as this drew Moscow's attention, the order from the Foreign Ministry was repeated; the delegation in New York was given the order to carry out negotiations in only one place: Geneva. This was an important lesson for those leading the negotiations, though in fairness it must be noted that the principle of only carrying out negotiations in one place was not always followed, neither then nor in the future.

Gromyko developed a special attachment to the conclusion of the NPT. Later, he said to his son Anatoly:

“In the face of the arms race between the two sides, the treaty of 1968 was especially important. [285] It showed that with the United States and Britain, the two pillars of NATO, we would be able to address this critical issue. After the signing of the Charter of the United Nations in San Francisco, this was my second most important historical document. Brezhnev and the whole Soviet government were happy about the conclusion of this treaty.”

The idea that the Soviet proposal of a multilateral agreement between Euratom and the IAEA aroused interest in the United States not only because it wanted to escape the stalemate on monitoring, but because such a platform could have great practical meaning, because Euratom **collectively** owned nuclear materials and owned collaborative reactors.

At the end of long negotiations on Article III, the final decision was accepted in full compliance with the Agency Charter, providing for the use of guarantees on a bilateral and multilateral basis. The non-aligned powers of the Eighteen Nation Committee played no small role, providing the line about the establishment of a unified and nondiscriminatory monitor,

preventing the creation of a privileged proposal for specific parties to the treaty to “self-monitor” for themselves. In its final form, the corresponding section of Article III read:

4. The states signatory to this treaty not possessing nuclear weapons will reach an agreement with the IAEA with the aim of the fulfillment of the obligations of the current treaty, **either on an individual basis, or with other governments** according to the Charter of the IAEA.

Later in this paragraph followed the obligations of the treaty’s signatories for the quick conclusion of an agreement with the IAEA, as the deadline was reduced from three years (as many Western countries had proposed at first) to eighteen months.

The famous French journalist Genevieve Tabouis characterized the essence and meaning of the wording of Article III.4 in the following manner:

“In a political battle lasting months, the Soviet Union came out on top. Monitoring will be carried out by the IAEA in Vienna. The only concession to Bonn, which was happily done, was that the IAEA will be able to charge Euratom with carrying out an inspection, however the responsibility of the inspection will rest with Euratom itself.

[286] Because agreements on this and the remaining points of Article III had slowed down (on the Soviet side, Shustov and Antyasov remained, but Timerbaev returned to Moscow, and on the American side de Palma and Alan Neydel replaced Bunn and Gleysteen), both sides agreed to submit a draft of the treaty with the article about monitoring to the Eighteen Nation committee by August 24 – in separate but identical drafts.

Many raised the question why the draft agreed upon by the two co-chairs was not presented as a singular document, but in the form of two separate but identical papers. It was done at the proposal of the Soviets, who were not ready to completely align themselves with the Americans on the draft of the treaty, which had still not been completely agreed upon. It was only at the end of May 1968 at the General Assembly of the UN when work on the draft was completely finished that the both nuclear co-chairs of the Eighteen Nation Committee put forward a text together. It was suggested (for example, by the director of the disarmament division of the secretariat William Epstein) that the Soviet Union wanted to preserve the possibility of unilateral agreements in the draft agreed upon with the Americans, but of course there could not be and there was no basis for these suggestions. The Soviet Union was simply not politically ready at this time to label a treaty that was not completely agreed upon as “Soviet-American” (“or American-Soviet”).

In the August 24 draft, Article III was not included – instead a short phrase was put in its place - “International Monitoring.” A recommendation in favor of such a decision (the act of not placing Article III in the draft) was presented to Johnson by Rusk again on May 16. The

government of West Germany protested this, believing it to be included in order to damage the interests of Euratom, but later agreed to this decision.

Johnson proposed this solution in a meeting with Kosygin in Glassboro on June 25, justified on the basis that the issue of safeguards was a subject of debate not only between the Soviet Union and the United States, but also between the countries of Euratom and other countries. During the Glassboro meetings, at which McNamara was present, he asked Gromyko whether he thought the achievement of an agreement in October was possible. The Soviet minister replied that this timeframe seemed reasonable, if the issue of Western Europe was resolved. However, Rusk remarked that the main problem was France and de Gaulle. Gromyko said that from his side, based upon his impressions from conversations in Paris, France was in favor of the treaty, although apparently would not sign it. On August 22, Roschin was given the order to bring forth an identical draft of the treaty without the article about monitoring in the name of the Soviet Union only, and in doing so stressing that the delay was due to those who resisted the achievement of the treaty, most of all West Germany.

[287] After the August 24 submission of the draft of the treaty to the Eighteen Nation Committee, negotiations continued between diplomats on the contents of Article III on an ad referendum basis and were reported to the heads of the delegations in September. Between the delegations, they were in agreement and they sent their proposals to the capitals for approval as “Roschin’s plan” to Washington and “Foster’s plan” to Moscow.

This tactic agreed upon by the delegations in Geneva was designed to facilitate the approval of the draft by Moscow and Washington almost failed. Bunn explains that the American ambassador Llewellyn Thompson called the text the “Roschin plan” and Gromyko called his the “Foster plan.” When Thompson’s telegram about the conversation in the Ministry of Foreign Affairs reached the state department, there was a great deal of confusion, because in the past not everyone in the American foreign policy institution was privy to the fact that Rusk himself had given Foster permission to agree to the primacy of IAEA monitoring over Euratom monitoring.

The proposed plan for Article III agreed to by the Soviets and was passed along to the United States’ NATO allies as the “Roschin compromise.” Foster considered it extremely important to observe confidentiality in meetings with allies in regards to the preparation of this scheme.

[288] As Bunn testifies, the consideration of this plan meant that several NATO allies were not pleased that IAEA guarantees occupied such a meaningful place while links to “other” safeguards (for example, Euratom) were absent. They also raised objections that the plan included safeguards on nuclear materials, but also on nuclear installations. Intense consultation on several levels followed, including between Gromyko and Rusk and Rusk and Brandt. The West Germans continued to aim for the weakening of responsibilities in relation to IAEA

guarantees. They believed that the “Soviet plan” was “a real step backward.” As the American ambassador in Bonn reported to the State department on November 2, opposition to the treaty was increasing. However, Britain, Canada, and the Benelux countries advocated for a more defined priority for Agency guarantees before Euratom ones.

After consultation with its allies, the United States proposed a new variant of the article on November 2, the first paragraph of which somewhat paraphrased its basic principle. If the wording considered earlier according to which nonnuclear signatories to treaty accepted IAEA guarantees as they were laid out in the agreement concluded with the Agency, then it was reasonable to imagine that nonnuclear countries would accept guarantees about which negotiations would be conducted and an agreement would be reached in accordance with the IAEA Charter and system of guarantees given that emphasis was placed on the resolution of the negotiations and the conclusion of an agreement with the IAEA. Thus, the accent of the proposal changed, though the essence of it more or less remained the same. The Soviets announced that they preferred the first option and later insisted on its inclusion in order to encourage the United States to show greater urgency in its negotiations with West Germany on the monitoring article of the treaty.

In Moscow, they proceeded from the fact that although the obligation of the acceptance of guarantees was less explicitly stated in American draft from November 2, they felt that the proposed formula would lead to the establishment of definite international safeguards over the atomic activities of nonnuclear countries (including Euratom countries) by the IAEA. The resolution of the issue of monitoring was that when in Euratom countries, IAEA monitoring would be implemented along with Euratom safeguards (for example, through checks of Euratom reports and the conduction of device inspection) and would create the possibility to establish monitoring in these countries in order to prevent leaks of nuclear materials for military use. This took into account the fact that Euratom countries like France, Belgium, and the Netherlands would not want nuclear weapons in German hands and for that reason would be interested in control over the atomic activity of West Germany. The American wording, however, did not carry the same discriminatory character. If the socialist countries had wanted to, they could have created their own system of guarantees and on this basis, concluded an agreement with the IAEA.

The American draft from November 2 did not reference the application of safeguards to nuclear reactors, but retained that the safeguards applied to all nuclear activities of nonnuclear governments and to the sourcing of fissile material, regardless of whether it was produced, processed, or used inside or outside of a nuclear reactor. The wording in paragraph four about the conclusion of an agreement with the agency on an individual basis or together with other governments was also kept. The Soviet delegation protested the exclusion of nuclear reactors, but eventually agreed because in practice the acceptance of safeguards to all nuclear actions

would include control over reactors in which nuclear materials were present. [289] It was believed that control of fissile materials (including those located in nuclear reactors) provided an effective system of validation for the implementation of the treaty.

However, because of the position of West Germany, the stalemate on Article III continued. In these situations, the assistant to the Secretary of State Philip Farley and director of policy planning Henry Owen even recommended to remove the obligation of monitoring from the treaty, considering the recommendation to accept guarantees as sufficient. However, the Arms Control and Disarmament Agency, Commission on Atomic Energy, and the Joint Chiefs of Staff were decidedly opposed to this.

Negotiations on Article III and other proposals of the treaty continued without reprieve until Christmas of 1967. In November, I was sent back to Geneva to take part in them.

In December, the Americans called in the “heavy artillery” – President Johnson sent a confidential message to the West German councilor Kiesinger insistently urging him to accept the article about control. He also addressed the treaty in his state of the union address on January 17, 1968.

In the end, Article III was finally agreed upon and on January 18, the full draft of the treaty was brought before the Eighteen Nation Committee by the United States and the Soviet Union.

In connection with the introduction of the full draft for consideration, Johnson gave Kosygin a verbal statement (through Llewellyn Thomas), in which it stated that there was “encouraging evidence that we can overcome our differences on an issue which is so vital to the safety of the world.” Kosygin later said (as Tomson stated) that he also was also pleased with the achievement of progress.” The Soviets did everything possible for the hastening of the achievement of the remaining issues and considered that the nonproliferation treaty had to be signed as soon as possible. On this question, the Soviet premier added, the views of the United States and the Soviets were aligned.

Although many proposals of the treaty remained for long and difficult discussion with the United States’ NATO allies and with non-aligned members of the Committee, and some of the articles changed and new articles appeared, the text of Article III remained in the original form that was agreed upon between the Soviet Union and the United States and put forward on January 18. The first paragraph read:

1. Each of the governments signatory to the Treaty not possessing nuclear weapons undertakes to accept guarantees as proposed in this agreement, under which they will engage in negotiations and reach an agreement with the IAEA according to the IAEA Charter and the IAEA’s system of guarantees for the purpose of verifying its obligations accepted under the current Treaty in order to prevent the diversion of atomic energy for

peaceful purposes into atomic weapons or other atomic explosive devices. Procedures for the safeguards required by this Article shall be followed with respect to source or special fissionable material whether it is being produced, processed, or used in any principal nuclear facility or is outside any such facility. The safeguards required by this article apply to all source or special fissionable material in all peaceful nuclear activity within the territory of a state or in an area under its jurisdiction, or carried out under its control anywhere.

The meaning of the wording about “peaceful” nuclear activity was that nonnuclear states, by definition, should not carry out nuclear military activities, although the treaty (unlike the IAEA Charter) did not forbid the use of atomic energy for military purposes unrelated to atomic explosives (for example, for submarines or other warships powered by atomic reactors). However, in practice after the conclusion of the NPT, not a single signatory to the Charter took advantage of this.

Paragraph II of the article took the following form:

2. Each State Party to the Treaty undertakes not to provide: (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this Article.

This paragraph, which in principle was negotiated between the Soviets and the Americans in New York at the end of 1966, imposed an obligation on all signatories of the treaty, both nuclear and nonnuclear (it should be noted that great number of obligations on nonnuclear countries in a meaningful way compensated for the lack of requirements in Article II, so that countries would not assist other in the production of nuclear weapons, which it discussed in greater detail). This paragraph was related to the export of materials and equipment to a given nonnuclear country, regardless of whether it was a signatory to the treaty or not. [291] As Antyasov noted, “Such a proposal had to be inarguable, otherwise countries not party to the treaty would seem to be in a privileged position. So that nonnuclear importer countries would accept the safeguards on material supplied to them, the proliferation safeguards of the IAEA had to objectively apply even to those countries that weren’t signatories to the treaty.

In practice, in the implementation of paragraph two of Article III it was important to have a uniform understanding about exactly which equipment and nuclear material should be considered under the requirements of the safeguards in countries signatory to the treaty. This understanding was not detailed in the treaty because the inclusion of a list of materials and devices would have greatly delayed work and agreement to all of Article III, and possibly the entire treaty. This work was completed at a later date – in the beginning of the 1970s in the

Sanger Committee, which to this day defines and decides lists (like the famous Trigger List) considering the development of atomic technology.

It should be noted that in the opinion of a number of specialists, paragraph two of Article III suffered from a certain omission: envisaging the accepted understanding that the supply of materials and equipment to the countries signatory to the NPT would take place only under the appropriate controls, it however failed to specify whether all atomic activity in nonnuclear countries had to take place under IAEA safeguards. At first there was a common understanding that full control over atomic activity was not necessary. This allowed for the placement of nuclear materials and equipment in countries like India, Pakistan, Israel and other countries that refused to accept comprehensive safeguards.

Later came the idea to develop an international agreement so that suppliers of nuclear materials, equipment and technology would have to adhere to either full-scope or comprehensive safeguards. This was first discussed in the Nuclear Suppliers Group in London in 1975-1977. Several nations began to independently apply the principle of full-scope safeguards, not waiting for common agreement (for example, the United States began to apply safeguards in 1978). Only in 1992-1993 was this principle fully finalized (the promise of suppliers to provide items of the Trigger List only to those countries that had accepted full-scope IAEA safeguards). Russia was signatory to this.

[292] However, not all nuclear suppliers (for example, China) were signatories to this agreement.

Nevertheless, the initial agreement of paragraph two had a singularly important and principal meaning in that, for it had created in international law a legal basis for the establishment of control over nuclear exports. The wide-branched system of international and national export control is based on this proposal of Article III.

During the work on Article III, the question arose whether the treaty had to prevent the supply of nonnuclear governments with nuclear fuel or equipment for **military** craft powered by atomic energy. In regards to this the American delegation in the Eighteen Nation Committee sent to the Soviets an announcement which read:

“The treaty forbids nations not possessing nuclear weapons from producing or purchasing ‘nuclear weapons or any other nuclear explosive device.’”

For the purposes of the treaty, a submarine with a nuclear reactor was not a “weapon.” The treaty did not concern itself with the use of a nuclear engine as a power source for a military craft. Accordingly, nothing in the treaty forbade the use of nuclear fuel for these purposes and such a form of action had no form of monitoring, as established in the draft of Article III, which considered the implementation of control over all source or special fissile materials in all

nuclear activity within the limits of the territory (or in a territory under the legal jurisdiction) of a given nation not possessing nuclear weapons. The exclusive reason for such a control is to not allow the diversion of atomic energy used for peaceful purposes into nuclear weapons or other nuclear explosive devices.

The Soviets agreed to the understanding of the responsibilities of Article III. Later, in 1970-1971, when negotiating a model agreement about the guarantees for nonnuclear countries signatory to the NPT, it was decided that that the guarantees would not apply to nuclear materials used for “non-forbidden military activities,” but it would once again be fall under guarantees as soon as the materials were returned to peaceful atomic purposes (paragraph fourteen of the model agreement about guarantees – (INFCIRC/153).

During the course of the agreement of the NPT article on guarantees, the Soviet Union showed a great deal of perseverance in its advocacy for mandatory IAEA control for all nonnuclear countries signatory to the NPT, and should be considered a significant evolution of the position of the Soviet Union in regards to the acceptance of international control for the purposes of arms limitation and disarmament, though in this case it was only about the inspection on Soviet territory. [293] However, there still remained some time remained until there was consent to monitoring in Soviet territory. Nevertheless, overcoming the chronic aversion of the “Baruch Plan” to any sort of internal monitoring should be considered a definitive step forward.

The Soviet position was based upon the proportionality of monitoring and disarmament: there had to be as much monitoring as there was disarmament, and the scale of control must correspond to the scale of the measures of disarmament. At the insistence of the Soviets the principle proportionality of control and disarmament was accepted in an endorsement agreed to by the Soviet Union and United States and approved by the United Nations in 1961, which stated that the “nature and size of control depends on the needs of the inspection of disarmament activities” (this was known as the Zorin-McCloy accords).

The circumstances played an important role in the evolution in the Soviet approach to control in that the country’s leadership showed a great interest in the idea of the wide deployment of nuclear program in a number of industrial countries (most of all West Germany) and sought to place them under a strict international control. The insistence of Western countries on the promotion of “equivalent” Euratom guarantees, which would preserve the privilege of “self-monitoring” compelled the Soviet Union to embark on a course of action to promote the establishment of international monitoring in all nonnuclear countries signatory to the NPT. The Ministry of Foreign Affairs (with the support of the ministry of engineering) brought this to the attention of the Politburo several times, where it received approval at the highest levels. During internal discussions at meetings of the Politburo, the insistence of Western countries on the

important of Euratom contributed to the positive Soviet outlook on the international system of monitoring offered by the IAEA.

As A.F. Dobrynin testified in his memoirs as ambassador to the United States, the reversal of the Soviet position towards the IAEA was primarily dictated by the desire to prevent Germany from developing nuclear potential – that much is obvious from the internal documents of both the Politburo and the Ministry of Internal Affairs. In the note from January 13, 1967, from Dobrynin to Gromyko about the foreign policy of the Soviet Union as approved by the Politburo, this issue occupied a central place on the topic of disarmament:

“Disarmament: we must take an active role in disarmament. Along with the long struggle for long term full disarmament, which will take a long time, we must pay close attention to limiting measures and most of all the achievement of an agreement on the proliferation of nuclear weapons. [294] It is necessary to complete our dialogue with the United States and reach the conclusion of such an agreement that prevents access to nuclear weapons in any form to West Germany and other nonnuclear countries.

The Soviet and American representatives in the Geneva committee on disarmament and those who directed their actions from Moscow and Washington spent more than a year on Article III made a significant contribution to the achievement of a successful result.

Along with the draft itself of Article III itself, the paragraphs of the preamble had special importance, especially regarding future work regarding the treaty. They promoted a central role of West Germany, where the national atomic research center in Karlsruhe carried out studies on safeguards, aimed primarily at their “simplification.” Willi Brandt publicly announced in a speech in the German Bundestag on April 27, 1967:

“We proceed from the premise that the acceptance of safeguards will not interfere with the production process and will not disclose production secrets, and will only reduce the danger of the diversion of nuclear materials for military purposes. For this, it will be sufficient to accept safeguards on source and fissile materials, as well as on the fuel cycle in several key places, using as often as possible, automatic devices.”

Naturally, the West German position was supported by the Euratom countries and other industrialized countries. The two nuclear powers, to a certain extent, compromised with them and included the following paragraph in the preamble:

“Expressing their support for research, development and other efforts to further the application, within the framework of the International Atomic Energy Agency safeguards system, of the principle of safeguarding effectively the flow of source and special fissionable materials by use of instruments and other techniques at certain strategic points.”

At the insistence of the industrialized countries (West German, Japan, Italy, Switzerland) that expressed concern that guarantees would prevent the peaceful use of atomic energy and allow for the possibility of industrial espionage, the following paragraph was also included in paragraph three:

“The safeguards required by this Article shall be implemented in a manner designed to comply with Article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international co-operation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this Article and the **principle of safeguarding set forth in the Preamble of the Treaty.**”

Paragraph four of Article III defined the timeframe for an agreement on safeguards between nonnuclear countries signatory to the NPT and the IAEA: an agreement had to be reached and put into place within eighteen months after signing the treaty and initial negotiations had to begin no later than six months after the treaty came into force. This condition was acceptable according to the position of the Soviet Union, which was guided by a desire that Euratom countries including West Germany would conclude an agreement with the IAEA. The United States, as was explained earlier, had proposed a much longer timeframe – three years.

The agreement of the article on international monitoring did not mean that the issue of monitoring and compliance with the NPT was completely decided and closed. During the course of further negotiations about concrete procedures, several problems arose, especially as several industrialized nonnuclear countries (West Germany and Japan, among others) tried to weaken these procedures. However, gradually and with great recalcitrance these problems were resolved. Practically speaking, the IAEA only started implementing guarantees in Euratom countries in 1978. Echoes of this issue were heard in the following years in negotiations of the Council of Directors to improve the Agency’s efforts to heighten the effectiveness of the system of guarantees in nonnuclear countries subjected to comprehensive guarantees (Program 93+2), which was approved by the Council of Directors in 1997.

The Consent of the IAEA to Exercise Control Over the NPT

In the midst of the Geneva negotiations on Article III of the NPT, the idea arose in Moscow that the IAEA could express the prospect of taking on the role of implementing monitoring of the treaty even before approval of the draft of the article itself (which had been completed only in January of 1968).

[296] On April 19, 1967, in a conversation with American representative Lewis, the Soviet representative to the IAEA G.P. Arkadyev expressed support for a guarantees committee

created by the Council of Directors charged with the task of increasing the effectiveness of the system of guarantees in preparation for the Agency taking over further monitoring as stated in the treaty. The committee would consist of eight members (three from the West and East and two from developing countries). The representative of the United States limited his remarks to the fact that the proposal interested him, but he would have to consult with Washington. In his telegram to the state department, Lewis gave a careful assessment of the Soviet proposal, considering that it was sent in support of the Soviet position in the Geneva negotiations on Article III.

The statements from the state department and the Atomic Energy Commission to Lewis on May 4 reveal that although in the future it would be preferable to form a body for the consideration for the functioning of IAEA guarantees, at the current moment, when “the attention of the whole world was riveted to IAEA guarantees in the context of the development of the NPT,” it would be “rather premature to undertake an open examination of their effectiveness.” The American representative was charged with informing Arkadyev that the United States “expressed hope that the Soviets would defer the discussion until an agreement was reached on the proposal on monitoring in the treaty.”

In regards to the fact that the Americans did not support the proposal about the formation of a guarantees committee in the June session of the Council of Directors, the Soviets began to promote the adoption of a resolution to the General Conference (of the IAEA) that stated that the IAEA was ready to accept the duties of control as according to the NPT during the fall session. On June 5, Arkadyev raised this question in a discussion with the representative from Czechoslovakia. During the course of the meeting they considered the possibility of a joint presentation of a draft of a resolution that would recommend that quick resolution of the NPT to the Eighteen Nation Committee by the two countries (with the support of other nations) in the General Conference of the Agency. The draft would also express certainty that the IAEA could effectively fulfil the functions of control required of the Agency as specified in the NPT. The goal of such a resolution was obvious: earlier, until the final agreement to Article III, it was fixated upon that control over the implementation of the treaty would only take place with the assistance of IAEA guarantees.

On September 14, Arkadyev once again brought up this issue with Lewis (the representative from the United States). The Soviet representative proposed that the General Conference accept a resolution that resembled the following one:

[297]

1. To ask the Eighteen Nation Committee to continue their efforts for the quick resolution of negotiations related to the NPT so that it could unite the goals of the treaty nations.

2. To inform the General Assembly of the United Nations and the Eighteen Nation Committee that the IAEA will seek to properly carry out the functions of control as proposed in the treaty, if this task should fall to it.

On a personal level, Lewis expressed a generally positive interest in this idea and said that he would pass it along to Washington. On the same day, Arkadyev posed the question of the acceptance of such a resolution to the General Director of the Agency Ecklund, who also reacted positively.

Taking upon himself the initiative to support this issue in the General Conference, Ecklund said in a session on September 26, 1967 that in his opinion:

“It expresses the will of the Agency in its statement that it is willing to fulfil the functions of control as considered by the draft of the treaty. It is certain that the current system of Agency guarantees will give it the ability to realize these expectations, and it has every reason to believe that the Agency is an organization well suited for the fulfilment of this great task.

Having received this announcement, the United States however expressed resistance to this resolution, as reported by the Soviets, based upon the Americans’ opinion that the acceptance of this resolution would complicate the conclusion of negotiations on Article III in Geneva. As a result of several meetings between the two delegations (in which I had the opportunity to participate), it was agreed that in the final plenary meeting of the General Conference, Noiman (Czechoslovakia) would state to the conference that:

“Such a task (the application of Agency safeguards for control in fulfilment of the NPT – author’s note) will be completely in line with the goals of the Agency. The Chairman has accordingly expressed certainty in the Conference’s wish that that he demonstrate the preparedness of the Agency to take upon itself the fulfilment of such a task and other preparations, which would be necessary for the fulfilment of wider obligations that could be placed upon the Agency.”

[298] In this way, the General Conference unanimously decided, though not on the form of the resolution, that the Agency would bear the burden of the implementation of monitoring as according to the NPT. Yet, after the NPT entered into force, the Council of Directors created a guarantees committee in April of 1970 for the preparation of such an agreement for nonnuclear countries signatory to the treaty, which was finalized in 1970-1971 (INFCIRC/153).

In 1971, the General Assembly of the United Nations, based upon the fact that the Agency played a large role in the nonproliferation of nuclear weapons, accepted a resolution that asked the IAEA to include information about its actions regarding the fulfilment of guarantees in relation to the NPT.

Although the NPT did not consider the establishment of a special body for ensuring compliance with the treaty, it is reasonable to consider that the Council of Directors of the IAEA practically ensured that Article III of the NPT would ensure the right of the Agency to carry out functions of control as according to the treaty. These functions included, affirming the agreement with states signatory to the treaty, giving necessary guidelines to the secretariat for the procedures for the implementation of guarantees, working on increasing the effectiveness of the system of guarantees, hearing annual reports from the secretariat, and taking measures (when necessary) to ensure compliance with guarantees, right down to the presentation of reports on compliance to the United Nations Security Council, as it did during 1991 with Iraq and in 1993 with North Korea.

On the voluntary placement of civilian nuclear facilities under IAEA guarantees by nuclear powers

In order to promote an agreement on the accepted guarantees on all nuclear activity of nonnuclear countries (especially industrialized ones), during negotiations there arose a necessity of certain counter-measures from the side of the nuclear powers. Several nonnuclear countries (India, Brazil, Switzerland, Sweden, Nigeria, Ethiopia) took a very radical position, insisting that guarantees on a “nondiscriminatory” basis be implemented in nuclear countries as well.

Other nonnuclear countries (West Germany, Japan, Italy, Belgium) did not make such far-reaching demands and claimed that opening their reactors and other nuclear installations for inspection by international monitors, they would find themselves at a disadvantage from the point of view of their industrial and commercial competitive positions. In internal discussions by these governments, Seaborg wrote:

“The Soviet Union was often called a competitor, but it was clear to us that they were concerned with the same issues as the United States, but were diplomatically silent about it. We tried to respond to their complaints that IAEA inspectors would not have instructions to intervene in the operation of reactors. However, convincing them of this was difficult...”

As was presented to me, the arguments about commercial disadvantages were not well-thought-out, and were only made to camouflage a basis of disagreement with the NPT. In several industrial countries, the demand for their complete renunciation of nuclear weapons was a serious internal political problem. However, for any of them to admit this would not be respectable. But, from the other side, it was completely respectable to claim that the proposals on guarantees would threaten their legitimate industrial growth and put them in a disadvantageous position.”

Foster, the director of the Arms Control and Disarmament Agency, proposed the following solution: the United States would provide the IAEA with the possibility to apply guarantees to

all American **peaceful** atomic actions, but under the conditions that 1) such a proposal would only be accepted after it became clear that it will greatly facilitate the acceptance of Article III and 2) will only be implemented after the NPT comes into effect and the treaty applies mandatory guarantees in nonnuclear countries. The proposal of the ACDA was supported by all of the basic American governmental agencies and approved by President Johnson in April of 1967. On the recommendation of Seaborg, it was decided to publish the American overture on December 2, 1967 – the twenty-fifth anniversary of the first atomic reactor in Chicago. Johnson announced at the ceremony:

“We are now taking great efforts in order to achieve this treaty (on nonproliferation) in a form that is acceptable to all countries. We do not consider that the guarantees that we propose in this treaty will interfere with the peaceful actions of any country. And I would like to make clear to the world that we in the United States are not asking any country to accept safeguards that we ourselves would not accept. For that reason, I declare today that when such safeguards are applied under the treaty, then the United States will allow the IAEA to apply its safeguards to all forms of nuclear activity in the United States, with the exclusion only of those which hold a direct link to national security. According to this proposal the Agency will be able to inspect a wide scope of activity in the fields of nuclear energy in the United States, both private and public, including fuel in nuclear reactors owned by energy companies, as well as the production and chemical processing of such fuel.”

[300] On December 5, British representative Porter made an analogous speech to the Eighteen Nation Committee. No such speeches were made by the Soviets.

In a discussion with Gromyko in New York on June 27, 1967, Rusk expressed that in order for the United States (and the Soviet Union) to put their civilian reactors under IAEA guarantees, it would be “politically realistic” to consider “strong resistance” to guarantees from nonnuclear countries. Gromyko, however advocated against this, saying it was not relevant to the subject of the treaty.

The Soviet Union delayed the placement of its own atomic institutions under IAEA monitoring on a voluntary basis for quite a long time, making reference to the fact that in several atomic reactors the Agency had carried out (although informally) several forms of inspection activity for not only the preparation and training of international inspectors, but also the development of a procedure for the inspection of Soviet-style reactors. Additionally, when the Soviet Union gave consent (in contrast to the United States and Britain), it agreed to accept IAEA guarantees in regards not on **all** its civilian nuclear activity, but rather over only tens of nuclear establishments because in the Soviet Union the civilian and military had historically not been divided, and in some cases – for example in civilian scientific reactors – produced classified military research.

The corresponding agreements with the IAEA were reached with Britain in 1978, and with the United States in 1980. Agreements about the voluntary placement of peaceful atomic establishments under guarantees were concluded and put into force with France in 1981, with the Soviet Union in 1985, and with China in 1989.

In practice, Agency action related to the implementation of guarantees in nuclear countries was limited to a very small number of nuclear establishments as a result of the very modest financial capabilities of the IAEA. However, in any way, the voluntary action of nuclear powers contributed to the rejection of the arguments of several nonnuclear countries that claimed that the NPT carried a discriminatory character and that safeguards would be implemented only upon the activities of nonnuclear countries, thereby placing them in a disadvantageous position.

5. Article IV (The Peaceful Uses of Atomic Energy)

In contrast to Articles I and II, which remained unchanged in the draft of the treaty (in the same form as they were presented to the Eighteen Nation Committee by the United States and Soviet Union), Article IV was presented to the Committee on August 24, 1967 by the initiative of nonnuclear states and was subjected to further changes in its review by the Committee. In the first American and Soviet drafts of the treaty in 1965 and in the American amendments to its draft, as proposed in 1966, the related article was largely absent.

A draft of the article on the peaceful use of atomic energy proposed by the two powers took into account the wishes of many nonnuclear countries, namely Mexico. It contained one paragraph and read:

“No proposal of the current Treaty should be interpreted as inferring with the inalienable right of all signatories of the treaty to undertake research, production, or use of atomic energy for peaceful purposes without discrimination as according to Articles I and II of this treaty, and to the greatest extent possibly not deny the right of any nation to exchange information or separately or collectively contribute to the future undertaking of the study of the use of atomic energy for peaceful purposes.

Mexico, Romania, Brazil, and Nigeria proposed an amendment to the draft, significantly enhancing it. The Mexican representative Jorge Castaneda claimed that:

“In my opinion, it is very important to place a **legal obligation** on nuclear powers – the most highly developed ones – to contribute to the technological development of other countries, as well as to provide them with technical support when working on projects related to atomic energy production. We believe that the provision of such technical assistance should become a legal necessity and that it should be declared a right of countries to receive technical assistance and the duty of others to share this knowledge with them. We believe, that if such a

contribution is made to international peace and security, nonnuclear countries will forever abandon inquiries and experiments that they would carry out in the absence of the treaty. It would only be just that they would receive in turn the scientific benefits from the experiments that they chose not to carry out.

[302] The United Arab Republic, Sweden, Nigeria, and Romania agreed with the Mexican position, but Italy went even further. Its proposal, announced in the Committee by the Minister of Foreign Affairs Fanfani on August 1 (this is why it received the name the 'Fanfani proposal') discussed the conclusion of an agreement outside of the Treaty, but linked to it or even included in it that stated that "nuclear powers would periodically provide a certain number of fissile materials to countries signatory to it."

As one might imagine, Washington reacted negatively to these proposals and they did not arouse any joy in Moscow. The assessment of Seaborg was the Mexican proposal "would place on nuclear countries the *obligation* to provide assistance to nonnuclear participants for their peaceful application" of atomic energy.

In their situation, the co-chairs were forced to grant several concessions. The Mexican proposal was partially taken into account in the reworked draft presented on January 18, 1968. More amendments followed, but they were not accepted by the Soviet Union and the United States when they presented a revised draft on March 11. Only during the consideration of the draft by the General Assembly in April through June were additional changes included and Article IV took its final form.

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, 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 shall also cooperate in contributing alone or together with other States or international organizations 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.

As is apparent in the text, paragraph one replicated the original wording of the draft from August 24, 1967. It is extremely important that the proposal regarding the peaceful application of atomic energy would be carried out according to Articles I and II and while still remaining on the solid foundation of the principle of nuclear nonproliferation.

[303] The second paragraph underwent significant changes when compared to the final form of the treaty. Here the quantity of exchanged information was expanded (scientific and technical were added); additionally, it provides for the exchange of equipment and materials, and addresses the obligation to promote it to the greatest extent possible; allows cooperation in the promotion of future applications of nuclear energy for peaceful purposes, including on a multilateral basis; and stressed that this must apply especially, in territories of nonnuclear states considering the needs of the developing world. As Seaborg remarked, the size of the “ransom” for the agreement of nonnuclear countries to sign the NPT was somewhat “out of control.”

It should be noted that the link to Articles I and II is only present in paragraph one of Article IV, and is absent in paragraph two. This caused some further friction between developed and developing countries, as some of the latter claimed that the obligation to exchange materials and information “as much as possible” should not be limited by the demands of the principle of nonproliferation. From the perspective of the suppliers of nuclear materials and equipment, it was announced that such an understanding was contrary to the spirit and meaning of the NPT.

In general, it should be recognized that Article IV reflected a balance of the interests of the nuclear and nonnuclear countries on the issues of nuclear nonproliferation and the peaceful use of atomic energy.

6. Article V (Peaceful Nuclear Explosives)

The first Soviet and American drafts of the NPT in 1965 did not contain a provision for nuclear devices used for peaceful purposes.

The idea of the use of the energy of an atomic blast for civilian purposes, in particular for the digging of canals (for example, a second Panama canal), was first proposed by the United States. The first test explosion was held in 1957. Later, the special “Plowshare” program was worked out and developed. During the course of trilateral negotiations (Soviet Union-United States-Britain) between 1958 and 1963 on forbidden atomic testing, the United States added peaceful nuclear devices to the list of exceptions. The Soviet Union insisted on full external and internal inspection of all warheads before carrying out explosions.

Under the LTBT of 1963, the leader of the American delegation Harriman asked Khrushchev to make an exception for peaceful atomic devices, but in light of Soviet opposition and with Kennedy’s advice did not insist on it. However, he added to the treaty a proposal for withdrawal from it in exceptional circumstances that put the interests of the nation in danger. This proposal was needed by the United States in the case that it needed to resume explosions due to the expected development of Chinese nuclear capability.

The United States continued the Plowshare program until 1973 when it was discontinued for ecological reasons and because the use of civilian nuclear devices did not show economic promise. As Gerald Johnson, the director of the program in the Livermore laboratory, later announced, he “strongly believed that civilian atomic devices will not have a practical economic purpose in the United States neither now nor in the foreseeable future.

The Soviet Union started its civilian atomic device program later. From 1965 until its cancellation in 1988, it carried out 124 explosions for developmental purposes, in particular for the elimination of accidental gas blowouts, the creation of underground reservoirs in huge salt rocks for the storage of capacitors, as a way to camouflage large-scale earthworks, and geological sensing. Plans existed to alter rivers in the north with the aid of nuclear blasts and an experiment was even carried out near Perm. However, the Soviets were forced to give up this plan because the radiation from the blasts would go beyond the limits of the country and this would violate the 1963 Moscow Treaty.

In regards to the great interest in civilian atomic devices as demonstrated in the Eighteen Nation Committee, on March 21, 1967, the United States put forth five general principles that explained the potential good that civilian atomic devices could hold for nonnuclear countries in individual agreements.

1. If and when civilian atomic devices become technically and economically feasible, nuclear states will provide nonnuclear countries with nuclear assistance. This will take place under international supervision, and all devices will be under the control of nuclear powers.
2. Explosions will take place through the mediation of an international organization.
3. The cost of explosions will be as low as possible and will not include research and development expenses.
4. Consultation will be provided by nuclear and nonnuclear governments regarding the amendment of the treaty regarding the limited test ban, which will be required.
5. The conditions and procedures of international cooperation in carrying out civilian atomic explosions will be worked out in consultation with nonnuclear countries.

The Soviet Union approved of such a resolution of the issue of civilian atomic devices. However, nonnuclear countries advocated against its inclusion in the text of the actual treaty. Countries like India and Brazil argued that nonnuclear countries should have the right to build nuclear devices for peaceful atomic detonations.

In this difficult situation, the two co-chairs made a step towards the nonnuclear countries and included the following paragraph in the **preamble** of the treaty draft from August 24:

“Affirming its opinion that the potential benefit of the peaceful use of atomic devices must be available on a nondiscriminatory basis to nonnuclear states signatory to this treaty through a regulated international procedure, and that the cost of the use of such devices must be as low as possible, and that the cost of research and development must not be included in their price.”

On the basis of this paragraph the Mexican delegation prepared a draft for the operative section of the treaty. It was accepted by the two co-chairs, which proposed Article V in this form in identical drafts on January 18, 1968. In the future, it underwent only a few changes and was finally agreed upon by the General Assembly of the United Nations in the spring of 1968 in the following form:

“Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a non-discriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations on this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.”

[306] In resolution 2605B(XXIV) on December 16, 1968, the General Assembly of the United Nations asked the IAEA to begin drawing up a plan of international monitoring with Article V in mind. On this basis, in July of 1969 (even before the NPT came into effect) in their first report on peaceful atomic devices the Council of Directors made the conclusion that the international monitoring mentioned in Article V was within the technological competency of the Agency as well as the established framework of the IAEA.

Several countries had suggestions about the creation of an international organization to regulate peaceful atomic devices. For example, Murdal, the representative from Sweden, advocated in the Eighteen Nation Committee that the issuance of an international license be given by a special international body “outside of the framework of the IAEA, but within the United Nations.” The Soviet Union insisted that the international organization in charge of peaceful atomic devices be the IAEA. In 1969, they sent a letter to the general secretary of the IAEA, in which it was stated that “the IAEA, in its current form, possess the necessary capabilities to carry out the tasks related to the monitoring of peaceful atomic explosives as stated in the NPT.” They added that “the Agency would also be able to serve as a body which

would ensure the international monitoring of the use of the supplying of peaceful atomic devices to nonnuclear countries party to the NPT.”

In November of 1970, the general director of the Agency called a group of experts to study the issue of international monitoring, and in June of 1972, the Council of Directors accepted the guiding principles for IAEA monitoring of peaceful nuclear devices. In accordance with these regulations, the main goal of international monitoring would be that in the process of providing services for the use of peaceful atomic devices, no violations of the NPT would take place.

There were doubts that the IAEA should be an international organization for peaceful atomic devices, as it was described in the NPT, but they never evolved. According to the decision of the Council on September 13, 1974, a subdivision was created in the Agency secretariat for the study of the technical, economic, and legal aspects of the use of peaceful atomic weapons, as well as the security issues associated with them. In 1975, the first nonproliferation conference reached the conclusion that the IAEA was the appropriate organization to monitor peaceful nuclear devices, as envisioned in Article V.

[307] However, although there was no future discussion of the issue of nuclear explosions for peaceful purposes in the framework of the NPT, not a single nation officially raised the issue of the provision of services for the conduction of peaceful atomic explosions. The basic reasons were the danger of radioactive contamination, as well as the lack of convincing practical need for the provision of nuclear explosives.

7. Article VI (Negotiations for Nuclear Disarmament)

Neither the Soviet nor American first drafts of the NPT in 1965, nor the American amendments in 1966 contained any sort of obligation related to disarmament. The appropriate proposals were included in the preamble of their drafts. In the American draft included the following phrase: “seeking to achieve the conclusion of effective agreement, aimed at the ending of the nuclear arms race and the reduction of weapons, including, in particular, nuclear arsenals.” The Soviet draft offered the following wording, which was more radical, but no more demanding than the American: “desiring the rapid achievement of an agreement on the full ban and liquidation of all forms of nuclear weapons in the scope of general and full disarmament under strict international control.”

The delegation from the United Arab Republic first proposed to include a special article on disarmament in the treaty. The representative from the UAR (H. Halaf) announced to the Eighteen Nation Committee on March 6, 1966 that his delegation “believed that the NPT should include a separate article in which nuclear countries would agree to accept a legal obligation to put an end to the nuclear arms race, as well as limit, reduce, and liquidate their stocks of nuclear weapons and means of their delivery with the goal of continuing and hastening the course of negotiations for the achievement of the agreement of relevant and concrete measures.”

In a collective memorandum from the eight of the non-aligned countries in the Committee from August 19, 1966, it states that they affirmed their “belief that such a treaty (on nonproliferation – author’s note) should include concrete steps – or should be accompanied by them – in relation to the ending of the nuclear arms race, as well as the limitation, reduction, and liquidation of the stocks of nuclear weapons and means of their delivery. [308]

However, in the agreed Soviet-American draft from August 24, 1967, there was no article on disarmament. The nuclear powers limited to preamble to three points:

“Declaring the intention of the possibility for the quick achievement of the ending of the nuclear arms race, strongly urging all governments to cooperate in the achievement of this goal, and seeking to promote a reduction in international tension, as well as the increase of trust between nations in order to promote the achievement of elimination of the production of nuclear weapons and means of their delivery from national arsenals in connection with the treaty as well as the idea of general and full disarmament under strict and effective international control.”

The first draft of the relevant article from September 19, 1967 was proposed by the delegation from Mexico (led by Castaneda):

“Each nation party to the current treaty possessing nuclear weapons undertakes in the spirit of good will and with all speed and effort to enter into negotiations for the achievement of the prohibition of all use of nuclear weapons, the destruction of all existing stocks of nuclear weapons including their means of delivery in national arsenals, as well an agreement on general and full disarmament under strict and effective international controls.

This time, the two nuclear powers had to respond to a concrete proposal about the inclusion of an article on disarmament in the functional part of the treaty, especially since differing wordings on this issue had appeared in addition to the Mexican draft from many countries – Brazil, Burma, India, Romania, Switzerland. Many nations, in particular Canada, were in favor of nuclear powers’ acceptance of measures on the limitation and reduction of their nuclear arsenals.

Through their ambassador in Washington, in December of 1966, the Japanese government put forth their “emphatic wish” that the nuclear powers would express in the treaty (or in a declaration) their intention make all possible efforts towards disarmament, especially nuclear disarmament. On March 14, 1967, the Japanese minister of foreign affairs T. Miki announced in parliament: “The treaty must not only prevent the proliferation of nuclear weapons between countries not already possessing them, but should also clearly state the clear intention of nations already possessing them to make efforts towards disarmament.

On January 18, 1968, the United States and the Soviet Union introduced their revised unified draft of the treaty with the following contents:

“Every party to the current treaty undertakes, in the spirit of good will to enter into negotiations on effective measures of ending the nuclear arms reach and disarmament, as well as an agreement on general and complete disarmament under strict and effective international control.”

The Soviet Union and the United States subsequently used the Mexican draft as a model, excluding its list of methods of nuclear disarmament. The delegations from the Soviet Union and the United States opposed the statement of concrete measures, considering that the discussion of this issue would be counterproductive and possibly could threaten the achievement of an understanding so critical to an international agreement. They argued their position by stating that the NPT, as it stood, greatly heightened the security of all its signatories, especially the nonnuclear countries and created more favorable conditions for progress in the realm of limitation and reduction of nuclear arsenals. They stressed that the suggested draft was the most achievable within the framework of the treaty, and those who stand in the way of agreement would bear a grave responsibility.

Having accepted the general central idea of the Mexican wording, the nuclear powers preserved the three former paragraphs of the preamble. But this still did not satisfy the nonnuclear countries. On February 8, Sweden proposed an amendment: to include "in the near future" after the phrase "nuclear arms race" and to add before the word "disarmament" the word "nuclear." Additionally, the Swedes proposed an additional phrase for the preamble.

"Recalling the determination expressed by the Parties to the 1963 Treaty banning nuclear weapons tests in its Preamble to seek to achieve the discontinuance of all test explosions of nuclear weapons for all time and to continue negotiations to this end"

[310] All the Swedish amendments were added to the revised Soviet-American draft of the treaty from March 11 with only a few changes. One additional addition to the preamble was made by Yugoslavia during the General Assembly of the United Nations.

In the final stage of the agreement of Article VI, Romania tried to include provision in the treaty for the obligation of nuclear powers to accept concrete measures within five years for the reduction of nuclear weapons and their eventual elimination. At meetings in Sofia on March 6-7, 1968, in a meeting of the political consultation committee of the Warsaw Pact, the Soviet Union rejected this proposal, stating that it would lead to the breakdown of cooperation on the NPT. Six members of the Warsaw Pact (except for Romania) accepted this statement in support of the treaty draft that had been brought before the Eighteen Nation Committee and in support of its quick ratification by the United Nations General Assembly.

Soon thereafter, the Soviet Union was ready to finalize a draft of Article VI, and on May 31, 1968, in a conversation with American diplomat Arthur Goldberg, V.V. Kuznetsov probed the possibility of American agreement to the words "including the limitation of the development and enhancement of nuclear weapons, the liquidation of all existing stocks, as well as the elimination of all nuclear weapons and their means of delivery" after the phrase "nuclear weapons." However, the United States expressed an objection and the Soviet delegation did not insist on their proposal in order to hasten the conclusion of the NPT.

In the final stage of negotiation of Article VI and during its signing by its main creators (the Soviet Union and the United States) several promises were made regarding the limitation of the arms race and nuclear proliferation.

The Soviet Union, as Kosygin explained during the signing of the treaty in Moscow, sent a memorandum to all governments about several urgent measures for the limitation of the arms race and disarmament, among which were banning the use of nuclear weapons, the limitation of the production of these weapons, and the reduction and liquidation of their stocks, and the restriction and subsequent limitation of their means of delivery of strategic weapons.

Upon considering the draft of the treaty, the American representative Goldberg announced to the General Assembly on April 26, 1968:

[311] “My country believes that the continued survival of this treaty to no small extent depends on our success in future negotiations considered in Article VI. This treaty requires that they strengthen these efforts. Following the conclusion of this treaty, in the spirit of Article VI and the relevant articles in the preamble, my government will continue to carry out negotiations on disarmament with redoubled energy, with hope, and with immediacy.”

During the signing of the treaty on July 1, 1968 in Washington, President Johnson announced that the treaty established a necessary basis “for additional measures in slowing the nuclear arms race.”

In the summer of 1968, the Eighteen Nation Committee was in unanimous approval of the Soviet-American resolution, and adopted an agenda according to the phrase “effective measures for the limitation of the nuclear arms race as well as disarmament in the near future,” including consideration of issues about the reduction of testing and use of nuclear weapons, the limitation of the production of fissile materials for weapons, the limitation of production of nuclear weapons themselves, and the reduction and later destruction of stocks of nuclear weapons.

However, as is known, the practical realization of the obligations of Article VI proved to be a difficult affair, as the arms race continued after the signing of the NPT, and relations between nuclear and nonnuclear governments were constantly complicated, and in a number of situations the acceptance of additional measures according to the program of nuclear nonproliferation was challenging.

The issue of specific and serious obligations to nuclear disarmament placed upon nuclear powers according to Article VI was invariably the subject of controversy and disagreement during the existence of the NPT. In the first place, there were regular conferences for the consideration of treaty effectiveness, three of which (1980, 1990, 1995) ended without the acceptance of a final document because of the disagreements whether nuclear powers were fulfilling their obligations according to Article VI, especially in regards to the limitation of the testing of nuclear weapons.

Because the sharp debates between nuclear and nonnuclear countries on this issue happened mostly after the treaty came into effect and went beyond the framework that we envisioned, we will not elaborate on these discussions, limiting our consideration to situations directly related to the text of Article VI and the history of the negotiation of it.

[312] In our eyes, one of the most important parts of Article VI was the proposal of the continuation of **negotiations in the spirit of goodwill** about effective measures for the limitation of the nuclear arms race **in the near future**.

On certain aspects regarding the slowing of the nuclear arms shortly after the conclusion of the treaty, bilateral Soviet-American negotiations had an important place, culminating with the agreement of SALT and the ABM treaty in 1972, and with “threshold” agreements about underground nuclear explosions and peaceful atomic weapons in 1974 and 1976, as well as trilateral relations between the Soviet Union, United States, and Britain about a nuclear weapons ban, which finished without result. Nevertheless, it should be remembered that the proposal of the treaty regarding **effective** measures for the **limitation** of the nuclear arms race in the **near** future through satisfactory measures was not accepted by a large majority of nonnuclear countries.

A great amount of concern among nonnuclear countries since the first conference for the consideration of the NPT in 1975 arose from the treaty’s conclusion banning nuclear tests, which was invariably considered a key step forward in limiting the nuclear arms race and was the only concrete measure of disarmament and was the only method concretely mentioned in the treaty (though it was in the preamble). The exact issue of nuclear testing consistently evoked friction with nuclear powers, especially at the periodic conferences for the consideration of the treaty’s effectiveness. The CTBT was only agreed upon and signed in 1996, twenty-five years after the NPT came into effect.

In regards to other aspects of limiting the nuclear arms race – that is, reducing the production of nuclear weapons and banning their use – negotiations have not yet begun as of publication in 1999, not to mention negotiations on nuclear disarmament regarding the obligations which signatories to the NPT took upon themselves. Under these, the United States and Russia have slowly made progress in regards to Article VI (especially in recent years – the INF Treaty in 1987, the START 1 and 2 Treaties in 1991 and 1993), whereas other nuclear powers like China, Britain, and France have yet to begin the process of negotiations.

Needless to say, one must be aware of the fact that the task of making the world free from nuclear weapons is not only a task for the near future, as it is important to maintain constant movement towards this goal, the unending process of building nuclear stability and security. This is precisely the base meaning of Article VI.

8. Article VII (Non-Nuclear-Weapon Zones)

The idea of including a resolution at the twentieth General Assembly of the United Nations (1965) regarding one of the main principles of nonproliferation was brought forth by Mexico. It stated that the treaty must not deny the right of any group of countries to conclude regional treaties regarding complete abstention from nuclear weapons on their territory. Mexico was one of the first countries to suggest the creation of a nonnuclear zone in Latin America. The treaty about the establishment of these zones (the Tlatelolco treaty) was signed in February of 1967 (before the finalization of the NPT).

Mexico was the author of the proposal that suggested including similar ideas in the text of the treaty itself. The proposal was passed to its delegation in the Eighteen Nation Committee on July 19, 1966. The co-chairs of the Committee (the United States and the Soviet Union)

responded to the Mexican proposal, but placed it in the preamble, rather than giving it its own article.

However, in a later draft from January 18, 1968, the Soviet Union and the United States agreed to include the following phrase as an independent article.

“No proposal of the current Treaty denies the right of any group of governments to conclude regional treaties with the goal of achieving full abstention from nuclear weapons on their territory.”

The draft of the article with this wording entered into the final text of the treaty, though at the last moment there was an attempt to change it. Brazil tried, although unsuccessfully, to reformulate it in such a way that would allow for nuclear devices to eventually be used for peaceful purposes.

The inclusion of an article in the NPT affirming the right of governments to establish regional zones free from nuclear weapons clearly strengthened the nonproliferation efforts of the treaty, and contributed and contributes to the establishment of nonnuclear zones in different areas of the world. In the article it was particularly stressed the goal of “**full** abstention from nuclear weapons” within certain territories. In other words, in nonnuclear zones, the production, purchase, and obtainment of nuclear weapons by nonnuclear countries should not only be forbidden, but in **accordance** with the regulations on nuclear weapons laid upon nuclear states, established by the NPT.

[314]

[9. Article VIII \(Amendments to the Treaty and {eriodic Conferences to Assess its Performance\)](#)

Amendments. The clause in the treaty about amendments allowed for the possibility to change the treaty as specialists identified new challenges.

The inclusion of amendments had to be considered by the representative-depositors (Soviet Union, United States, Britain) of the conference if a proposal received the approval of one-third or more of the treaty signatories. Later, an amendment had to be accepted by a majority of treaty signatories, including all nuclear countries, as well as all signatories that were members of the Council of Directors of the IAEA at the date of the amendment’s introduction.

According to the Soviet-American draft from August 24, 1967, by ratifying and accepting an amendment, it had to enter into effect for all signatories to the treaty. However, as according to Romania’s proposal from October 19, 1967, which was supported by other members of the Eighteen Nation Committee and was included by the co-chairs in their January 18, 1968 draft

and was included in the final text, an amendment would enter into effect **only for** those countries which ratified it. In this way, it addressed hypothetical situation in which certain governments were governed by one text of the treaty (that had been altered), while to others it would have no legal standing.

The process of agreeing to the proposals on amendments continued with great difficulty and with the objection of several nonnuclear countries. The co-chairs together proposed an allowance for the difficult procedure of altering the treating, guided by their practical desire to include the possibility for the reconsideration of the treaty. They believed that a procedure of review and the acceptance of amendments was not only a formal legal proposal as it was presented in the resolution - it was an essential question of extreme importance to the strength of the treaty. In other words, the Soviet Union and the United States proposed to establish a legal system to address the politically important task of the maintenance of a nuclear nonproliferation program. In presenting this, they established an important precedent.

[315]

Conferences for the determination of the treaty's efficacy

The proposal about holding conferences for the evaluation of the treaty's efficacy were first presented by the United States as early as the draft from August 17, 1965. It contained the following wording:

- 1) "The present treaty offers any given country the right to withdraw from the current treaty if it is decided that connection with the present treaty and its obligations poses a danger to the supreme interests of the nation."
- 2) "In...years after the current treaty comes into effect, a conference of the members of the treaty can be called in order to evaluate to effectiveness of the current treaty. The time and place of the conference will be determined by a two-thirds vote of the members of the current treaty."

During the presentation of the draft the American representative explained that the proposal about the conference was included at the behest of many governments that insisted that the NPT be accompanied by the reduction of nuclear weapons stocks and their limitation. In the American proposal, it stated a conference could be called based upon a majority vote of the treaty's signatories. The Soviet draft from September 24, 1965 did not support the conference proposal, however, there was a phrase on the addition of amendments to the treaty which was not in the American draft. In light of this, on March 3, 1966, the delegation from the United Arab Republic proposed to unite both ideas: the inclusion of amendments in the treaty and the holding of conferences for the evaluation of its efficacy. Both proposals were invariably considered by nonnuclear governments as a means to weaken nuclear powers and even

eliminate discrimination, which in their opinion was the foundation of the NPT, as it divided the world into two categories – the nuclear “haves” and the nuclear “have-nots.”

During the bilateral Soviet-American negotiations in New York, on December 5, 1966 the Soviets proposed the following draft proposal on conferences to the Americans:

“Five years after the current treaty comes into effect in Geneva (Switzerland), a conference of treaty members must be called in order to assess the functioning of the current treaty with the goal of not weakening the proposals of the current treaty determining the obligations of states possessing nuclear weapons as well as those of governments not possessing them in the interest of nuclear nonproliferation.

[316] The Soviets proposed this wording to address their fear that conferences could result in reconsidering the basic obligations of the NPT or any means of weakening such obligations.

In response, the American representative Foster delivered a counterproposal on December 8.

“Five years after the current treaty comes into effect in Geneva (Switzerland), a conference of treaty members must take place in order to assess the functioning of the current treaty to ensure that the goals of the treaty are being met.

In the agreed draft from August 24, 1967, the co-chairs of the Eighteen Nation Committee responded to the wishes of the nonnuclear countries by combining both proposals in one article: the proposal about amendments and the one about the conference. The wording appeared thus:

3. Five years after the current treaty comes into effect in Geneva (Switzerland) there must be a conference of the members of the treaty in order to assess how the current treaty is functioning and so that there may be certainty that the goals and **proposals** of the treaty are being achieved.

The bolded addition was made as a result of the Soviet position.

In the draft, a singular united conference was mentioned. In response to an order from Moscow on December 11, 1967, the Soviet delegation withdrew the proposal about calling conferences every five years because it would destabilize the treaty. If this proposal failed, then it was agreed that the next conference could take place by the decision of the majority of signatories to the treaty as well as depositor countries.

In the end, the following compromise proposal from Sweden from February 8, 1968 ensued:

“Every five years a majority of the signatories to the treaty may, may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.”

And finally, by the proposal of Britain, supported by Italy, in the phrase about the periodic conferences, it was added that the conferences would not only assess the effectiveness of the treaty, but also the goals of the **preamble**. The grounds of the British proposal were explained to the Eighteen Nation Committee by F. Malley on January 23, 1968 in the following way:

“The preamble is much wider in scope than the new Article VI in regards to the realm of disarmament and is quite detailed in its explanation of what must be done; there is an important declaration of the intention to achieve an end to the nuclear arms race as soon as possible. [317] It also addresses other important issues as well.”

The Swedish and British amendments were accepted, and with these additions, paragraph three of Article VIII took its final form.

Conferences for the reassessment of the treaty’s functioning took place every five years (1975, 1980, 1985, 1990, 1995) and played (and continue to play) an important role in the continued vitality of the treaty and the general program of nonproliferation. Quite a few proposals have been included in it that strengthened the treaty. Nonnuclear signatories used the conferences to pressure nuclear powers to accept measures to limit the nuclear arms race and encourage disarmament as well as more efforts in “vertical” nonproliferation. In light of these differences, there arose issues between nonnuclear and nuclear states especially on the topic of the full ban on nuclear testing. Conferences in 1980, 1990, and 1995 were not able to reach a final agreement within the framework of the NPT with regards to nuclear nonproliferation. The next conference for the review of the treaty’s functions will take place in 2000 and strong demands from nonnuclear countries for all nuclear countries to take radical steps for the creation of a world without nuclear weapons as well as a timeline for the achievement of this goal should be expected at this conference.

[10. Articles IX and XI \(Signing and Accession to the Treaty, Depositors, Entrance into Effect, the Definition of a Nuclear-Weapon-State, and Other Final Resolutions\)](#)

The NPT is open for signing and accession to all nations. At present, an overwhelming majority of the world, including all officially nuclear states, have taken advantage of this opportunity. India, Israel, and Pakistan are not members and are considered “almost-nuclear” or “threshold” nations.

The depositor countries defined by the treaty are the Soviet Union (now Russia), the United States, and Britain. Their traditional rights and powers are listed in the treaty (paragraph five, Article IX). The necessity of such an unconventional agreement was first made clear by the LTBT in 1963, which showed that several nations (for example, the German Democratic Republic, North and South Korea) did not have diplomatic relations with all three nuclear powers and were not members of the United Nations or other international organizations. [318] The idea of

such a resolution to the issue of depositor nations belonged to the Soviet Union. According to its proposal, in the first stage of the NPT negotiations in New York, it was agreed that if France wished to accede to the treaty, then it, too, could be a depositor.

At present, a well-established practice has been developed for appointing a depositor of multilateral treaties through the General Secretary of the United Nations or leaders of other universal international organizations.

The treaty entered into effect after its ratification and deposition of ratification letters by the governments appointed depositors of the treaty (the Soviet Union, United States, and Britain) and forty other nations. The number forty was chosen by the co-chairs of the Eighteen Nation Committee so that the entrance into effect of the NPT would not be delayed. The Soviet Union at first proposed thirty-six nations, but Mexico increased the number to sixty, however, the United States and Soviet Union insisted on a lower number. The process of implementing the treaty took almost two years – it was completed on March 5, 1970.

For the purposes of the treaty, a nation possessing nuclear weapons was one that had produced and detonated a nuclear weapon or other nuclear explosive device before January 1, 1967 (paragraph three of Article IX). This definition was proposed by the co-chairs of the Committee in their draft from August 24, 1967 in response to the proposal that existed during the negotiation of the NPT. Much later, for example, after the treaty entered into effect, the creation of nuclear weapons could force a state to move over into the category of a nuclear power and receive the limitations as specified by this status. The proposed definition remained in the final version of the treaty without any changes.

In such a way, this definition included all five nuclear powers, including France and China, which at first resisted signing the NPT and only acceded to it in the 1990s. The stated definition of a nuclear state did not apply to India (which exploded nuclear devices in 1974 and 1998), Pakistan (which carried out detonations in 1998) or Israel, which refused to sign the NPT.

South Africa, which had built a few nuclear devices in the 1970s and 1980s, but had not detonated any of them, demonstrated that these devices were covered by the NPT as a result of an inspection by the IAEA and signed the NPT in 1990. As a result, they were not considered a nuclear state for the purposes of the NPT.

The treaty, in connection with paragraph six of Article IX, was registered by the United Nations under Article 102 of the United Nations Charter. Equally authentic texts were created in Russian, English, French, Spanish, and Chinese.

[319]

Article X (Exiting the Treaty and Its Period of Validity)

Exiting the treaty. As was already noted, the proposal about exiting the treaty in extreme circumstances was first included in the 1963 LTBT and was considered in later treaties concerning the limitation and reduction of weapons, which was quite logical. It should be considered the sovereign right over every state, especially in regards to when a treaty interferes with the supreme interests of national security of a state, to remove itself from obligations in the case that these obligations pose a threat to the security to the state.

The same approach was taken to the NPT as was used during the consideration of the 1963 LTBT with an important addition proposed by the United States in its first draft from August 17, 1965 and supported by the Soviet Union: when considering an imminent exit from the treaty, a country must warn other members of the treaty of its intention at least three months in advance and make it known to the Security Council of the United Nations, and additionally must identify the obligations of the treaty that it believed would pose a significant threat to its supreme interests. This supposed that according to the United Nations Charter, the Security Council as a body had bearing and responsibility for the support of international peace and security, and could take measures, which it deemed necessary, to support or establish peace and security in the case that one or any country left the NPT. Such a proposal was not accepted without discussion. Brazil and Romania opposed the idea that the Security Council must be notified, but they were unsuccessful.

As in the Moscow treaty on the partial ban on nuclear tests, in the NPT it did not specify the character of “specific obligations” which a country would take upon itself by exiting the treaty, stating only that it would be **associated with the issue itself**.

This wording was taking from the treaty from 1963. At the time of negotiations in Moscow, the United States offered to concretely qualify these obligations. They use phrasings from their draft of the LTBT in 1962: nonfulfillment of obligations of the treaty by a signatory, nuclear explosions carried out by non-signatories (this had China in mind); carrying out nuclear explosions in the circumstances that it was impossible to determine which state – signatory or not – carried out the explosion.

Harriman, who directed negotiations with the Soviet representatives in Moscow, announced that if the treaty did not include the clause addressing the case of a government’s violation of the treaty or a country not signatory to the treaty carrying out an explosion, it was unlikely that the American Senate would ratify it.

Gromyko proposed the wording about leaving the treaty not because of violation of the treaty, but in order to formulate a right to leave the treaty in basic wording when a nation’s supreme interests were concerned. The Soviets did not oppose the inclusion of a proposal about

obligations, which would force a decision to be made about the sovereignty of a nation and the existence of threats to its supreme interests. However, it tried to avoid wordings which would hint at China. Hence, there was a compromised wording about exceptional circumstances “associated with the content” of the treaty.

The wording of paragraph one clearly shows, that the basis for leaving the treaty had to be only circumstances “associated with content of the current treaty,” stating that otherwise, the treaty provides for the occurrence of quite important political or military factors that did not have direct relation to the treaty and therefore could not serve as a basis for leaving it.

The Timeline for Action

The contents of paragraph two about the timeline for action on the treaty was the subject of difficult and long negotiations and in the end became the result of an uneasy compromise between the nuclear and nonnuclear governments.

The first American and Soviet drafts from 1965 and the agreed-upon draft from 1967 considered that the treaty would be perpetual. The first proposal about the timeframe for action was presented by nonnuclear governments just after the Americans brought forth their draft of the treaty on August 17, 1965. It was a proposal of the minister of international affairs of Italy, Fanfani, and was announced in the Eighteen Nation Committee on August 29, 1965 and was an attempt by the nonnuclear governments to establish a universal “moratorium on a definite timeframe” on the acquisition of nuclear weapons until the nuclear powers carried out negotiations regarding their obligations to the nonnuclear ones, including “a guarantee from a nuclear strike” and “some progress regarding disarmament.” A moratorium would not rule out the foundation of a multilateral NATO nuclear force since one of its goals would be the establishment of “pressure and persuasion” on nuclear countries in order to “force them to agree to a common agreement that was hasten the process of nuclear disarmament.”

On September 14, 1965, the Italian delegation presented a “universal declaration of non-acquisition” for the consideration of the Eighteen Nation Committee, in which it formally listed Fanfani’s proposal. [321] On the basis of the consideration of its allies, the American delegation led by Rusk and his aides supported the Italian proposal as a “general temporary measure.” Councilor of West Germany Erhard strongly supported it. However, the non-aligned and neutral members of the Committee expressed opposition to the fact that it would lay universal obligations on nonnuclear nations without placing similar ones on nuclear nations in the spirit of “vertical” nonproliferation.

On September 24, 1965, the Soviet Union brought forth its draft of the treaty, which proposed to conclude an **indefinite** treaty, reinforcing the American position on the question of the timeline and from that point on both powers collectively agreed on the permanent nature of

the treaty. Their unified draft of the treaty from August 24, 1967 held this proposal on the timeframe of the treaty.

However, under the influence of the West German and Italian approach to the issue of the timeframe, in internal communications the Americans discussed changing their approach to this issue. On August 25, 1966, Adrian Fisher (who was at that time heading the American delegation in Geneva) proposed the following variant to the state department in a telegram:

“The current treaty will remain in effect (five) (ten) years after it enters into force. Within six months before its expiration, a conference will be held in Geneva (Switzerland) whether to renew the treaty.”

Fisher justified this variant in the following manner: “A five or ten year period with the possibility of extension would weaken the pressure on potentially nuclear states that feared that nuclear weapons would be renounced forever and would be more acceptable to West Germany on the basis that it did not prevent the further development of NATO.”

After the presentation of the Soviet-American draft from August 24, 1967, West Germany and Italy continued to insist on a definite timeframe for the treaty. On October 24, 1967, the Italian delegation brought forth an amendment to the treaty:

“The current treaty will remain in force for “X” years and will be automatically renewed for every nation that does not give advance warning at least six months before the treaty’s expiration of its intention to no longer participate in the treaty.”

The Italian representative P. Caraciolo announced, “The proposed amendment would be considered an acceptable compromise between an indefinite timeframe of applicability and a definite one, such that this treaty will remain in force for those who do not denounce it, and for others, it will give the possibility for those who are not satisfied by the treaty, to leave it after a definite period of time.”

A month later on November 23, the Italian representative reformulated his amendment without changing the operative meaning: “the present treaty will remain in effect for “X” years. It will be automatically renewed at the same interval by all governments which that have not given six months’ notice of their intention to leave the treaty.

Clarifying the amendment, the Italian did not hide that “the more technologically advanced a country is, the less it would be completely satisfied in regards to nuclear disarmament, and the easier it would be to resist the temptation to use this exclusive ability to withdraw from the treaty prior to the resumption of earlier obligations.”

It should be noted that along the margins of the Eighteen Nation Committee, there was a wide opinion that the Italian activism on the issue of the limited duration of the treaty in no small

way stemmed from the fact that the Italian delegation worked in concert with West Germany, which was not a member of the Committee. It was known that West Germany persistently insisted as much as it could on a short timeframe for the NPT. In October 1967, in a letter to Rusk, Brandt proposed a five-year renewal period.

Switzerland was also not a member of the Eighteen Nation Committee, and actively supported the establishment of a concrete timeframe for the treaty's applicability. On November 17, the Swiss representative to the United Nations Keller gave Roschin (and apparently to an American as well) a memo, in which it stated that it would be "difficult to consider an indefinite treaty in a sphere where evolution is fleeting and unpredictable as in the field of nuclear science and its consequences in military, political, economic, and technological fields as significant. As a result, it would be preferable that the treaty was concluded with a definite timeframe, at the end of which there would be a conference for the consideration of its effectiveness and a decision would be made about its renewal. In the course of this timeframe, states possession nuclear weapons would be able to take concrete steps for the limitation of arms."

The presented Italian variants regarding the duration of the treaty, supported by name nonnuclear countries, had no influence on the decision of the co-chairs of the Eighteen Nation Committee in their work on the draft of the proposal on duration, which had a generally acceptable character and could count on the consent of the Committee, which operated on the basis of consensus. In the end, the text on the timeframe was accepted in the following form, proposed to the Committee on January 18, 1968, and did not undergo any further changes.

2. Twenty-five years after the entry into force of the Treaty, 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. This decision shall be taken by a majority of the Parties to the Treaty.

In order to understand the stated proposals, which were unusual for a treaty, it should be considered at after the first twenty years of action, the conference had to resolve only **one** issue – at what interval it would be extended, and only three possible variants were considered, as clearly defined in the text. The question of limiting the treaty's efficacy after twenty-five years, was excluded. During the conference in 1995 for the treaty's evaluation and continuation, there was much discussion among specialists regarding the exact wording of paragraph two of Article X and the possible conclusions to the issue of the renewal period of the NPT. The conference in 1995 decided to renew the NPT indefinitely.

12. Approval of the Treaty by the United Nations, the Opening for Signature of the Treaty for Signing, and Its Entry into Force

After the conclusion of work on the treaty draft in the Eighteen Nation Committee, it had to be presented for approval to the General Assembly of the United Nations. The Soviet Union insisted on the prompt convocation of the XXII session of the General Assembly so as not to lose the pace in enlisting the United Nations' support and to prevent any country from vacillating, most of all West Germany. It was considered that in August through September, a collection of nonnuclear states could complicate the passage of the treaty through the United Nations. The United States vacillated because of fears that the treaty would not receive the majority of votes and many countries would shy away from signing it. The Americans opened up diplomatic channels to Brazil, Israel, Italy, South Africa and other countries in order to ensure they would sign the treaty. In the end, it was agreed that the session of the United Nations would begin on April 24, 1968.

From April 24 to July 12, 1968, at the renewed XXII session of the General Assembly, discussion of the treaty took place in a difficult environment. Several countries (Sweden, Nigeria, and Ethiopia) which had stressed criticisms of several proposals of the treaty, announced their support for it. Others (India and Brazil), stated they would not sign the treaty. Japan announced critical remarks, highlighting that the treaty "lacked a moral grounding," if nuclear countries did not achieve progress in disarmament. [322] South Africa noted that the draft of the treaty did not account for the legal interests of nonnuclear states.

The French delegation did not take part in the work of the Primary Committee of the General Assembly or in the general negotiations on the NPT. In the plenary session on June 12, its representative A. Berar announced:

"In the opinion of France, a nation which does not sign the NPT will act in such a way that is identical to one that has signed the treaty. In this regards, needless to say, no one has any doubt."

With regards to the discussion of the draft of the treaty, several changes were included related to the preamble and Article IV (the peaceful use of atomic energy), Article V (the use of atomic devices for peaceful purposes) and on May 31, the draft was presented to the Primary Committee of the General Assembly in its final form by the delegations from the Soviet Union (led by V.V. Kuznetsov) and the United States (led by Arthur Goldberg).

By the proposal of a large group of governments on June 12, 1968, the General Assembly accepted resolution 2373(XXII) in which it stated that it approved the NPT, and asked the depository nations to ready the treaty for signing as soon as possible, expressing hope for the widest possible adherence to the treaty. The resolution was accepted by an overwhelming

majority of the General Assembly – ninety-five for, four against (Albania, Zambia, Cuba, and Tanzania) and twenty-one in abstention (including India, France, Algeria, Brazil, Argentina, and Spain).

The treaty was opened for signing in Moscow, Washington, and London on July 1, 1968. On this day, the three depositor states signed it in addition to more than sixty other countries.

However, the treaty was not signed at this time by countries like West Germany, Italy, Japan, Switzerland, along with other industrial countries considered atomically capable (notably, Belgium and the Netherlands) which formalized their adherence five to seven years later. At the time of writing, India, Israel, Pakistan, and Cuba have not yet signed the treaty.

In the Soviet Union, the process of ratification proceeded without any difficulty, although it took place almost a year after the treaty was signed. The delay was due to the fact that the Soviet government waited from the American senate to make its decision. On November 24, 1969, the Presidium of the Supreme Soviet of the Soviet Union met under the leadership of N.V. Podgornov, at which L.I. Brezhnev, A.N. Kosygin, and M.A. Suslov and others were present. [325] At this session of the Presidium, the commission on foreign affairs of the Soviet Union and the Council of the Supreme National Soviet of the Soviet Union unanimously recommended to ratify the treaty. At this session of the Presidium, a declaration on ratification was signed.

In his presentation at the Presidium of the Supreme Soviet, Gromyko stated that the American Senate had approved the treaty and that the American government had informed Moscow that it was ready to complete simultaneous ratification with the Soviet Union. Gromyko stressed that the Soviet Union:

“has always and will always attached a primary emphasis on all nations possessing advanced industry or the potential to build nuclear weapons to become participants in the NPT. During the preparation of the NPT, we clearly explained to our diplomatic partners, most of all the United States that the conclusion of such a treaty would only have meaning if West Germany was among its participants, along with other states that had similar economic and technological development.

“We especially stresses the meaning of West Germany’s participation in the treaty. Recently, the head of the West German government, Brandt, and other West German figures announced the serious intention of West Germany to become a participant in the NPT. This is confirmed by all of our available information. Especially in the past, it was clear that West Germany couldn’t stay out of the treaty if the Soviet Union, the United States, and Britain stood for the treaty and for West Germany’s participation. Several opponents of West Germany’s adherence to the treaty (and they exist) refer to the fact that West Germany should not rush to sign the treaty, as the Soviet Union and United States have not signed it. For this reason it is necessary to take this card out of their hand.

Gromyko raised the issue of China and France. “China,” he announced, “has taken its own position” on nonproliferation, “which is contrary to ours and other participants in the treaty.” As far as it concerns France, and that it had not yet taken action on the treaty, he stated that it “will act in accordance with the goals and requirements of the treaty.”

Discussion of the treaty began again in the American Senate in July 1968. On September 17, the Senate Committee on Foreign Affairs approved the treaty with a solid majority vote. However, with presidential elections looming, the Senate decided to delay the vote.

After Nixon entered into office in February 1969, the NPT was once again brought forth for ratification. Presidential Security Advisor Henry Kissinger circulated a memo which stated that the administration would not pressure any country, especially West Germany, to sign the treaty. Conversely, Kissinger’s colleague Morton Halperin revealed the background of this statement: “Nixon and Kissinger did not believe in the treaty. Henry considered that the spread of nuclear weapons throughout the world would be a good thing.” However the Senate approved the treaty on March 13 by a vote of eighty-three to fifteen.

For the treaty to enter into effect, forty-three countries had to ratify it, included the depositor nations. The NPT entered into force on March 5, 1970 – and on this day it was deposited by the Soviet Union, United States, and Britain. Speaking at the ceremony for the deposition of the letter of ratification, Kosygin stressed the international meaning of the treaty, correctly reflecting on the fact that the NPT had opened up many new countries to the practice of treaties. The Soviet Premier especially noted that it established a legal basis for the nonproliferation of nuclear weapons. He announced:

“Now, with the treaty in effect, the obligation to renounce nuclear weapons has become one of the most important norms of international law. As for those governments not signatory to the treaty, they must also consider this norm. Upon them also lies the responsibility to set a limit to the proliferation of nuclear weapons, which is in the interests of all humanity.”

The Belorussian and Ukrainian Soviet Socialist Republics, which at that time were members of the Soviet Union, did not sign the NPT at this time. Before the signing of the treaty (by decision of the General Assembly of the United Nations, it was open for signing by members which had voted for the approval of the NPT) they asked the opinion of the Soviet leadership regarding the feasibility of their participation in the treaty. The Soviet leadership, taking its judgment from the Soviet Union’s signing of the NPT, decided in a special statement that the governments of the Belorussian and Ukrainian Soviet Socialist Republics could only feasibly belong to the treaty if they were listed as nuclear powers, which would raise the number of nuclear powers and spread the proliferation of nuclear weapons. If they were to sign the NPT as nonnuclear countries, then all their nuclear activity would fall under international control.

[327] In the 1990s, Ukraine and Belarus became independent and sovereign countries and signed the treaty.

At present (1999) the treaty has 187 members. A list of their date of signing is provided in index two.

At the same time as the signing of the NPT in Moscow and Washington, it was declared that an agreement between the United States and the Soviet Union would be reached “to enter into negotiations in the near future regarding comprehensive restriction and limitations of systems of delivery of offensive strategic nuclear weapons, as well as defense systems against ballistic missiles.” The exchange of opinions between sides regarding the beginning of negotiations lasted more than a year. Their agreements in the NPT and the defined dates of its signing accelerated this process. Although negotiations about the limitation and reduction of strategic defensive and offensive atomic weapons for a number of reasons only began in 1969, the NPT served as an important jolt for the conclusion of a number of large-scale agreements, which contributed to the limitation of the nuclear arms race.

Conclusion

It is difficult to overestimate the enduring value of the Treaty on the Non-Proliferation of Nuclear Weapons for Russia. It is firmly viewed by the official Russian establishment, the political elite and the politically active part of the population as one of the most important international legal instruments that directly contribute to achieving the national security interests of the Russian Federation. One can speak on firm grounds about an all-Russian consensus on this matter.

This examination has shown that this major diplomatic achievement did not come easily. With the end of the American atomic monopoly came to an end, when the Soviet Union developed atomic and then hydrogen weapons, it – like other states – took time to come to determine that the proliferation of nuclear weapons needed to be halted. However, already from the end of the 1950s to the early 1960s, nuclear nonproliferation was growing into a priority goal of Soviet foreign policy.

In order to achieve the realization of this task, Soviet diplomacy was forced to overcome quite a few obstacles and difficulties standing in the way of achieving Soviet-American agreement on a treaty that would fully meet our national interests.

The complex, multi-track struggle to ensure that the treaty's provisions were satisfactory for our state, most notably by eliminating the possibility of allowing non-nuclear-weapon states to have control over nuclear weapons in any form and under any pretext, took a lot of time and effort.

In Western Europe (and primarily in the FRG), but not only there, many perceived the abandonment of plans to create multilateral nuclear forces in NATO by the United States in preference for the NPT on conditions acceptable to the USSR as a kind of Soviet-American fait accompli, and as an establishment of a nuclear duopoly in the nuclear field. Mainly for this reason, France and the People's Republic of China, which both chose the path of independent nuclear development, refused to join the treaty at that stage, even though it seemed to be fully in their national security interests. These two nuclear-weapon states joined the NPT only in the 1990s.

The Soviet Union and the United States did not agree to this "condominium" immediately and under the influence of changing geostrategic circumstances, and above all in view of the Soviet-American strategic equilibrium and confrontation that was developing in the 1960s. For many

in the United States, the preferred option would be the NPT in combination with the "European choice" (that is, with multilateral nuclear forces or some other mechanism for introducing nuclear weapons for the FRG and other non-nuclear NATO countries). But the firm course of the Soviet Union to conclude a treaty on a truly international basis, which was also supported by the majority of non-nuclear states, both in Europe and in the world as a whole, made it possible to work out a treaty on an equal foundation, at least as far as the relationship between the two nuclear powers went. (It is another matter that some non-nuclear countries have criticized and continue to criticize the NPT for its "discriminatory" nature from the standpoint of relations between nuclear and non-nuclear states.)

The decision of the United States to conclude a treaty was in line with the American interest in preserving and projecting its influence on the world stage. This connection between nuclear nonproliferation and other American interests in the wider world was highlighted, in particular, by Walt Rostow, the US presidential aide for national security during the last stage of the Johnson administration. Rostow wrote that behind the general arguments in favor of nonproliferation are "there was a narrower American interest, rarely articulated; namely, that the emergence of additional nuclear-weapons powers could weaken the structure of collective security in the noncommunist world at critical points." Developing this idea, he wrote:

[Check quotation in *The Diffusion of Power*] But if any state to which the United States was committed produced nuclear weapons and asserted an independent right to fire them, the United States would confront a grave dilemma: to avoid the possibility of another nation—by its own initiative—drawing the United States into nuclear war, the United States would have to dilute or withdraw its security commitment in parts of the world [sic] judged vital to the American interest."¹

Although such a narrower approach to nuclear nonproliferation, permeated with a purely pragmatic political content, played and continues to play a significant role in American foreign policy, nevertheless, for the most part, the most influential policy influence of the United States, as in Russia, proceeded and continues to proceed from the fact that the international regime for the non-proliferation of nuclear weapons is the optimal solution in the long run, because preventing any proliferation of nuclear weapons inevitably reduces the nuclear threat. As the main American negotiator on the NPT Foster put it during the hearings in Congress, warning about the dangers of proliferation, "the increase in the number (of nuclear states. -

¹ Rostow, Walt. *The Diffusion of Power*. New York: Macmillan, 1972), p. 379-380. Цит. по: Clausen, Peter. *Nonproliferation and the National Interest*, p. 94.

Timerbaev.) Is in direct arithmetic progression."² McNamara said during the same hearings that "our (American. - Timerbaev.) national interests will be damaged if any (emphasis added - Avm.) nuclear power appears (...). I don't think it matters whether it is Sweden or Switzerland or any other country (. ..)³.

However, it is also true that not only some representatives of the American academic community (Kenneth Waltz, John Mearsheimer, etc.⁴), but also some US officials have expressed considerations in favor of encouraging proliferation, in particular, with regard to, for example, , Japan and India. Rusk also belonged to them at a certain stage. Their argument was extremely simple: "Why shouldn't our friends have nuclear weapons, whereas our enemies have them?"⁵

Russia, with the exception, perhaps, of one obvious case – atomic cooperation with China during the 1950s, when, guided by the ideas of "proletarian internationalism," the Soviet leadership went to provide direct assistance to the PRC in the creation of nuclear weapons, but then swiftly thought better of it and stopped this assistance – consistently pursued a line on nuclear nonproliferation. Of course, China would somehow achieved nuclear weapons independently, but without foreign assistance it would have taken at least 15 years (according to experts), which could have significantly affected the development of the geopolitical situation not only in the Asia-Pacific region, but also globally.

Later - at first mainly under the influence of the German factor, namely the fear that the FRG might get involved in one way or another with nuclear weapons - the Soviet Union not only upheld the principles of nonproliferation, but also consistently pursued a purposeful practical policy in this area, including an active participation, starting from 1963-1964, in the

² Nonproliferation of Nuclear Weapons, Hearings, Joint Committee on Atomic Energy, 89th Congress, 2nd session. Feb/Mar 1966., p. 43.

³ *ibid.* p. 89.

⁴ An analysis of their arguments is contained in the study of T. Ogilvie-White. Ogilvie-White Tanya. "Is there a Theory of Nuclear Proliferation?: An Analysis of the Contemporary Debate," *The Nonproliferation Review*, Fall 1996. Vol. 4, No 1., p. 43-60.

⁵ Rusk himself admitted in his memoirs: "(...) Frankly, I was less enthusiastic about the Non-Proliferation Treaty than other arms control measures, not because it was a bad treaty, but because I just didn't think it would be very meaningful. With mainland China developing a nuclear capability, I questioned whether countries in China's shadow, such as India and Japan, could pledge never to develop nuclear weapons and whether they should depend entirely upon the American nuclear umbrella." Rusk, Dean. *As I Saw It* (New York: Penguin Books, 1990), p. 342.

Translated from Russian to English by Jonathan Hunt, Summer 2020

development and continuous improvement of the IAEA safeguards system, as well as in the adoption of mandatory safeguards for the NPT.

During this period, there was a radical evolution of the USSR/Russian approach to international control, which enabled Moscow to adopt sweeping control measures for later agreements on strategic arms reduction, chemical weapons prohibition, and a comprehensive nuclear test ban.

The understanding that the emergence of new nuclear powers poses a special threat to the Soviet geopolitical space was shared by throughout the Soviet leadership. Quite early on, it was completely clear that, unlike the United States, which is separated from the rest of the world by wide expanses of water, the entire perimeter of the Soviet Union contains either official or de facto nuclear States, or highly developed industrial countries that are technologically capable of quickly acquiring nuclear capabilities if a political decision is made.

After the conclusion of the NPT, the Soviet industrial complex periodically made attempts at assisting some non-nuclear countries in creating a complete nuclear cycle, not for military and political reasons, but for economic reasons and formally within the framework of the USSR's international non-proliferation obligations. For example, in the 1970s, Libya, which, having acquired large reserves of petro-dollars, pursued a complete nuclear infrastructure, including the construction of a heavy-water reactor fueled by natural uranium. There were disagreements within the Soviet bureaucracy, with the Foreign Ministry objecting to this risky deal), but a reasonable approach ultimately prevailed, even as the Libyan Treasury dried up with the end of the global oil crisis.

Agreement on the draft non-proliferation treaty between the two major nuclear powers, which initially enjoyed undisputed military-political and legal standing for this bilateral process, as official co-chairs of the Geneva-based Eighteen Nation Disarmament Committee (ENDC), and their joint promotion of this draft treaty through two multilateral institutions – the ENDC and the UN General Assembly – coincided with shared efforts to ensure the overall favorable outcome of the 1968 Conference of Non-Nuclear States laid a solid foundation for further concerted actions of both powers to strengthen the nascent nuclear nonproliferation regime, including the NPT's entry into force and Britain's role as the third Depositary Power for the treaty.

The basis of this nearly continuous cooperation between the two powers since then has been a common strategic interest in preventing new nuclear-weapon states that would threaten their international positions. This cooperation, often confidential, has never stopped - even during the most acute periods of the Cold War. Regular contacts were maintained between the two

countries and consultations were constantly held - not only as depositories jointly with England, but also on a bilateral basis. There have been periods (for example, during a particularly severe deterioration of bilateral relations in the early 1980s) when nonproliferation was almost the only major international issue on which there were regular, fairly high-level bilateral contacts and consultations.⁶

The negotiation of the NPT and the conclusion of the treaty, which in its main provisions occurred on terms set by the USSR and the United States (this is most clearly seen in articles I-III, VI, and how security guarantees for non-nuclear States were handled) demonstrated that the two nuclear "superpowers" (to use outdated terminology) were not ready to give up their prerogatives in the name of achieving non-proliferation on terms that satisfied all parties, both nuclear-weapon States and non-nuclear-weapon States. This disparity between nuclear-weapon and non-nuclear-weapon parties is a contradiction inherent in the treaty and in the entire nuclear nonproliferation regime. Most countries in the world accept this as an inescapable reality, but there are very influential States that are not ready, and will clearly never accept it. As such, notwithstanding the generally recognized achievement of limiting the number of nuclear states⁷ and the constantly evolving international mechanisms that support nuclear non-proliferation with the support of an increasing number of states (the IAEA, the NSG⁸, the Zangger Committee, the MTCR⁹, the Wassenaar Arrangement, etc.), there is an certain undeniable, inherent instability to the global nuclear nonproliferation regime. The spread of nuclear technologies and nuclear materials and knowledge of the principles of designing nuclear explosive devices have long been and will always remain an integral part of the progress of science and technology, and indeed that of mankind as well.

The end of the cold war and the U.S.-Russian nuclear competition did not and could not fundamentally change this historical process. The transformation of the world from a unipolar to a multipolar world also cannot reverse this dynamic; it may even strengthen incentives to

⁶ Once during the early 1980s, amid the second flaring of the U.S.-Soviet cold war precipitated by the Soviet invasion of Afghanistan and NATO plans to counter the SS-20 missiles in Europe, Gromyko said that nuclear nonproliferation was "the single silk thread" binding both powers together.

⁷ According to many analysts, if it were not for the NPT, the number of states which, taking into account their technical and industrial capabilities, could today acquired nuclear weapons could reach as high as 40-50.

⁸ ГЯП - Группа ядерных поставщиков. // NSG - Nuclear Suppliers Group.

⁹ РКУГ - Режим контроля за ракетными технологиями. // RCUG - Missile Technology Control Regime.

Translated from Russian to English by Jonathan Hunt, Summer 2020

acquire nuclear weapons. A clear sign of this was India and Pakistan's designations as states with nuclear-explosive capabilities.

The foregoing dictates the need for continuing efforts to improve and strengthen the international system of non-proliferation of nuclear weapons, but it is also clear that this will not and cannot provide a radical, final solution. Only the simultaneous acceptance by the nuclear-weapon States – and necessarily by all such powers, not just Russia and the United States – of adequately responsive steps towards non-nuclear-weapon States that would lead to a gradual blurring of the line between “haves” and “have-nots” can pave the way to universal and, most importantly, realistic -- not virtual – nuclear non-proliferation.