

**CONFERENCE OF THE EIGHTEEN-NATION COMMITTEE
ON DISARMAMENT**

ENDC/PV.348
16 November 1967
ENGLISH

FINAL VERBATIM RECORD OF THE THREE HUNDRED AND FORTY-EIGHTH MEETING

held at the Palais des Nations, Geneva,
on Thursday, 16 November 1967, at 10.30 a.m.

Chairman:

Mr. R. CARACCIOLO

(Italy)

PRESENT AT THE TABLE

Brazil: Mr. A.F. AZEREDO da SILVEIRA
Mr. A. da COSTA GUIMARAES

Bulgaria: Mr. K. CHRISTOV
Mr. B. KONSTANTINOV
Mr. T. DAMIANOV

Burma: U KYAW MIN

Canada: Mr. E.L.M. BURNS
Mr. A.G. CAMPBELL
Mr. J.R. MORDEN
Mr. A. BERNIER

Czechoslovakia: Mr. V. VAJNAR
Mr. J. STRUCKA

Ethiopia: Mr. A. ZELLEKE
Mr. B. ASSFAW

India: Mr. V.C. TRIVEDI
Mr. K.P. JAIN

Italy: Mr. R. CARACCILO
Mr. G.P. TOZZOLI
Mr. E. FRANCO
Mr. F. SORO

Mexico: Mr. J. CASTANEDA
Miss E. AGUIRRE

Nigeria: Mr. B.O. TONWE

Poland: Mr. A. CZARKOWSKI
Mr. E. STANIEWSKI

Romania:

Mr. N. ECOBESCO

Mr. O. IONESCO

Mr. C. GEORGESCO

Mr. A. COROIANU

Sweden:

Mr. A. EDELSTAM

Mr. R. BOMAN

Union of Soviet Socialist
Republics:

Mr. A.A. ROSHCHIN

Mr. R.M. TIMERBAIEV

Mr. V.V. SHUSTOV

Mr. V.B. TOULINOV

United Arab Republic:

Mr. H. KHALILAF

Mr. O. SIRRY

Mr. M. SHAKER

United Kingdom:

The Rt. Hon. F. MULLEY

Sir Harold BEELEY

Mr. I.F. PORTER

Mr. D. MOSS

United States of America:

Mr. W.C. FOSTER

Mr. C.G. BREAM

Mr. A.F. NEIDLE

Mr. R.W. DREXLER

Special Representative of the
Secretary-General:

Mr. D. PROTITCH

Deputy Special Representative
of the Secretary-General:

Mr. W. EPSTEIN

1. The CHAIRMAN (Italy) (translation from French): I declare open the 348th plenary meeting of the Conference of the Eighteen-Nation Committee on Disarmament.
2. Mr. ECOBIESCO (Romania) (translation from French): In the examination of the draft treaty on the non-proliferation of nuclear weapons (ENDC/192, 193), an essential preoccupation --dictated by both legal and practical considerations --arises from the need to define accurately the entire scope of the future agreement. This is quite **natural**, since only an over-all view can give us the key to a correct understanding of the scope and the real significance of the material obligations of the States adhering to the treaty. An over-all view enables us at the same time to see more clearly the relationship between the commitments assumed by the parties and the clauses designed to render the agreement operative.
3. Guided by that method, the Romanian delegation has had an opportunity to explain in detail (ENDC/PV.334, 340, 342, 344; ENDC/199) the point of view of the Romanian Government concerning the specific obligations which the treaty should lay down for both nuclear-weapon and non-nuclear-weapon States. Our intervention today is devoted to the presentation of the Romanian proposals aimed at improving the provisions relating to the process of implementation of the treaty which we are negotiating. We consider that it is the duty of every one of us to make every effort not only to ensure an acceptable balance of obligations and responsibilities but also to create the necessary juridical framework to enable the objectives laid down by the treaty to be fully achieved.
4. It is true that the guarantee for the achievement of the anticipated results lies in the strict observance by all of the spirit and the letter of their commitments. The importance of the fulfilment of international obligations in good faith has been and continues to be demonstrated everywhere in life and in practice. But experience, which abounds in lessons, also shows that the certainty of results depends on a whole range of factors, each of which has its importance and its own part to play.
5. As we have already had occasion to state, an indispensable condition for the success of the non-proliferation treaty consists in determining clearly and in a true spirit of justice and equity the duties owed by all parties so that none, during the implementation of the treaty, can evade its obligations. If it is desired to have

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the certitude that each party will fulfil its duties, if it is desired to avoid sources of controversy, confusion or even future disagreements, it is necessary to draw up an international instrument which will bind all signatory States, whether they possess atomic weapons or not, by provisions of equal legal force and of equal precision. Thus from the very beginning of the treaty's existence we should have identical premises and reliable criteria for assessing the conduct of the various signatory States, the conformity of their actions and activities with the provisions of the non-dissemination agreement. Thus each party would be fully enlightened and would have a clear vision not only of what is expected of it but also of what it is fully justified in demanding from the other signatories to the treaty.

6. What I have just said represents of course only one aspect of the problem. As in any other activity, at the same time as specific tasks are laid down it is necessary to define the appropriate means for facilitating their accomplishment.

7. Fulfilment of the commitments laid down in the non-proliferation treaty is an uninterrupted process. The implementation of the provisions of the agreement presupposes in all a spirit of consistency and straightforwardness. Each party wishes to ensure that its interests are not harmed in any way. All parties are interested in ensuring that the treaty produces its effects fully in all the aspects covered by its rules.

8. That is precisely why the treaty must provide appropriate machinery to facilitate collective verification of the manner in which the obligations assumed by the parties are carried out. The most appropriate means for that purpose seems to us to be the convening of periodic conferences at regular intervals with the participation of all States that have accepted the agreement. Such conferences, the political importance of which must be clear to everyone, offer the parties an opportunity to make a thorough examination of the stage of implementation of the treaty and to compare, in accordance with the facts, the pre-established programme with the actual achievements.

9. The balance-sheet will enable everyone to draw conclusions of undeniable practical utility. If the balance-sheet is positive, if each party is scrupulously fulfilling its obligations, that development may be noted with satisfaction. If defections are found, breaches created by evading or, what is more serious, by violating the treaty's provisions, the signatory States will be able to take by common

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consent whatever measures they deem necessary to restore the situation; or if that proves impossible, each will be free to act in order to safeguard its own interests. Obviously the responsibility for such an event would fall exclusively on those who by their behaviour had inflicted irreparable damage on the treaty.

10. The draft which we are discussing advocates the convening of a single conference five years after the entry into force of the treaty. But what will happen afterwards? Can it be assumed that after that period the implementation of the treaty will raise no other problem? We hope that will be so. Nevertheless, we cannot show lack of precaution when the vital interests of the States and the international community are at stake. That is all the more true because, according to the draft submitted for our consideration, the non-proliferation treaty is devised for an indefinite period.

11. In order to remove that shortcoming, the Romanian delegation's working paper proposes the insertion of a new paragraph in article V to read:

"4. Such conferences shall be convened thereafter" -- that is to say, after the first conference -- "periodically every five years, to review the manner in which the obligations assumed by all Parties to this Treaty are carried out." (ENDC/199, p. 3)

12. The characteristic features of our proposal are clear. First, it gives the concept of periodic conferences concrete expression. Secondly, it defines the length of the intervals between conferences. That interval is five years and thus meets the practical need to ensure the progressive implementation of the treaty and to see at the same time an accurate picture of the results obtained at the end of each stage. Thirdly, we have had in mind the constant participation of all the contracting parties in the operation of verifying the working of the machinery established by the treaty. Fourthly, provision is made for evaluating the manner in which both nuclear-weapon and non-nuclear-weapon States discharge their obligations. Lastly, the automatic character of the convening of periodic conferences is established, which means the exclusion of privileged positions or special rights which would have the effect of blocking the normal operation of the verification machinery.

13. I should now like to deal with another problem: that of amendments to the treaty. The incorporation of certain clauses relating to the procedure for amending international agreements is current practice. The explanation is that international treaties, however perfect they may be considered, cannot provide exhaustive answers

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to the multitude of new factors engendered by life in its continual impetuous development. That applies all the more to the non-proliferation treaty, which is intended to regulate relations between States in the very dynamic field of nuclear energy.

14. It goes without saying that any change in the text of the treaty would have to be in conformity with the relevant fundamental principles of international agreements. The source of any treaty obligation -- a direct consequence of the principles of sovereignty and equality between States -- has been and remains the will of each party, the freely-given agreement of the States. This rule is the basis on which the structure of any treaty and any international agreement must be founded.

15. In the draft treaty submitted to us on 24 August we note, going into the very essence of things, that a procedure for amendments is proposed which is not *in* keeping with the basic rule of which I have just spoken. In fact, according to the wording of the last sentence of article V, paragraph 2, amendments to the treaty could be made through their ratification by a majority. In turn, this majority is so conceived that a small group, composed of the nuclear States and of twenty-one non-nuclear States members of the Board of Governors of the International Atomic Energy Agency, would have the decisive word.

16. The amendments thus made to the treaty, which might consist either of the annulment of certain commitments initially assumed or of the establishment of new obligations, would be imposed also on States which for one reason or another did not give their agreement. Amendments made in that way, whatever the nature of the intention underlying them, could entail injustices to one or several parties to the treaty; and this should certainly not be allowed.

17. It might be argued that, since the signatory States manifest in advance their agreement to such a procedure, it would be perfectly valid. To take such a position would be to look only at the purely formal element. As for the substance, by resorting to the majority method the procedure for amendment of the treaty would mean abandonment of the essential rule of law which requires in all circumstances the agreement of the States concerned to any kind of international regulation. In the particular case of the non-proliferation treaty, which by *its* very nature relates to interests of paramount importance for States, to accept such a procedure would mean

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that the countries -- and I am referring to non-nuclear countries because, as we know, this formulation relates exclusively to those States -- would be exposing themselves to risks the magnitude and implications of which cannot be foreseen.

18. How could anyone knowingly embark on such a course? The representative of Nigeria, Alhaji Sule Kolo, was right when he said at the meeting of 2 November:

"It seems to us undemocratic that sovereign States voluntarily adhering to a treaty should have amendments imposed on them by what would amount to a minority of signatories -- which is what the veto would amount to for about thirty States. What is more, we believe that the subject matter of the treaty is too important and its ramifications too obscure for a State to commit itself in advance. In any case, if the votes of nuclear-weapon Powers and members of the Governing Board of the International Atomic Energy Agency (IAEA) were all that were important, there would be no need to impose such amendments on those not belonging to that category." (ENDC/PV.344, para. 14)

This is how the matter stands from the point of view of principles.

19. May I now say a few words on the practical aspect of the problem? All parties to an equitable treaty on non-proliferation are concerned that it shall be stable and that its substance -- the fundamental obligations both for nuclear and for non-nuclear States -- shall withstand all tests. That aim is met in an adequate and necessary manner by article V, paragraph 2, which lays down that amendments must, in order to have binding force, be ratified by the nuclear-weapon States parties to the treaty and by the parties which at the time are members of the Board of Governors of the International Atomic Energy Agency.

20. In other words, an attempt to amend the treaty so as to weaken its provisions would have no chance of success, since it would suffice for one of the nuclear Powers or any one of the parties which is a member of the Board of Governors of the International Atomic Energy Agency to object in order to cause such an attempt to fail. That being so, it is quite obvious that the concern to give stability to the treaty cannot justify a procedure aimed at compelling signatory States to accept treaty amendments with which they are not in agreement.

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21. Those are the reasons of principle and the practical considerations underlying the Romanian delegation's proposal to replace the second sentence of article V, paragraph 2 of the draft treaty by the following text:

"The amendment shall enter into force, for every Party having deposited its instruments of ratification thereof, upon the deposit of instruments of ratification by a majority of all the Parties, including the instruments of ratification of all nuclear-weapon States Parties to this Treaty and all other Parties which, on the date the amendment is circulated, are members of the Board of Governors of the International Atomic Energy Agency." (ENDC/199, p. 2)

22. The purport of our proposal is quite obvious. An amendment to the treaty would enter into force solely -- I repeat, "solely" -- in respect of the parties depositing instruments of ratification of the amendment, an act expressing consent to the proposed change. For the parties to the treaty who did not think they could accept the amendment, it would have no legal validity. Relations between the signatory States which did not approve the amendment and those which adopted it would continue to be governed by the rules originally laid down.

23. The Romanian delegation's proposal, conceived in the spirit of complete concordance with the fundamental principle that no State can be bound by a treaty obligation to which it has not given its consent, also fully meets the need for stability of the treaty.

24. The last proposal in our working paper, coming within the category of the proposals concerning the final clauses of the treaty, consists, as is well known, in deleting the last sentence of article VII of the draft treaty, which prescribes a certain content for the notice to be given if a party withdraws from the treaty. In our view, where a State found itself compelled to take such a decision, the notice of withdrawal from the treaty given to the other parties and to the United Nations Security Council would suffice. The content of the notice comes, of course, within the exclusive competence of the government of the State finding itself in such a situation.

25. If we remain at all times within the sphere of reality, we must recognize that the duration of the non-proliferation treaty does not depend on the wording of certain final clauses drafted in a manner incompatible with the principles of

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international legality but, on the contrary, on the soundness of its basic provisions and on their strict observance by each of the parties to it.

26. Thus we conclude our comments on the proposals contained in the working paper submitted by the Romanian delegation on 19 October. As we have already stated, these proposals express an attitude of constructive participation in the debate on the important problem of the non-proliferation of nuclear weapons; they are clear evidence of our desire to make our fullest contribution to the efforts aimed at drafting a treaty that shall accord with the aspirations of all peoples to peace, security and progress, and with the interests of the world community of nations.

27. We are profoundly convinced that each nation can contribute soundly and usefully to the settlement of the thorny question of non-proliferation as well as to the solution of all major international problems, in the knowledge that it thus serves both its own vital interests and the general aspirations of mankind. As Mr. Ion Gheorghe Maurer, Chairman of the Council of Ministers of the Socialist Republic of Romania, said:

"The fundamental postulate on which Romania bases its external activity is the conviction that outside a country's own will, and therefore its own policy, no consideration, whether geographical, economic or military, can limit its capacity, whether it be large or small, to contribute to the establishment of an international climate enabling all States and all peoples to put forth their creative energies fully and fruitfully, and to take freely, with all their strength, the road of material progress and intellectual development. This is the spirit in which Romania -- side by side with other peace-loving countries and with all the forces of progress -- is endeavouring to promote in international life a peaceful evolution untroubled by destructive armed conflicts, so as to increase the immense arsenal of political, economic, cultural and diplomatic means that all the countries of the world possess for their independent development in accordance with the requirements of history, and for the defence of their supreme common good -- peace."

28. The CHAIRMAN (Italy) (translation from French): I should like to inform the Committee that one of the delegations here present has submitted a request that at the end of this meeting we should have an exchange of views at a private meeting. If the other delegations agree, I suggest that we close this official meeting and hold immediately afterwards the private meeting which has been requested. If there are no objections to that procedure, the official meeting will be adjourned.

The Conference decided to issue the following communiqué:

"The Conference of the Eighteen-Nation Committee on Disarmament today held its 348th plenary meeting in the Palais des Nations, Geneva, under the chairmanship of H.E. Ambassador R. Caracciolo, representative of Italy.

"A statement was made by the representative of Romania.

"The next meeting of the Conference will be held on Tuesday, 21 November 1967, at 10.30 a.m."

The meeting rose at 11.10 a.m.