NPT Briefing Book
(2010 Annecy Edition)

MCIS CNS NPT BRIEFING BOOK (2010 Annecy Edition)

Published by the Mountbatten Centre for International Studies (MCIS) at the University of Southampton, UK, in association with the James Martin Center for Nonproliferation Studies (CNS) at the Monterey Institute of International Studies (MIIS), US. Earlier editions were published by the Mountbatten Centre for International Studies on behalf of the Programme for Promoting Nuclear Non-Proliferation.

Compiled and Edited by John Simpson, Jenny Nielsen, and Marion Swinerd.

MCIS and CNS wish to acknowledge with much appreciation the contributions of the Ministry of Foreign Affairs, The Netherlands; the Ministry of Foreign Affairs, Norway; the Foreign and Commonwealth Office, United Kingdom and the Ploughshares Fund towards the cost of producing this Briefing Book.

The Mountbatten Centre for International Studies Politics and International Relations Division
School of Social Sciences University of Southampton
Southampton SO17 1BJ United Kingdom

www.mcis.soton.ac.uk

ISBN 085432 551 4 © 2010The Mountbatten Centre for International Studies All rights reserved
Section 2 The Evolution of the Nuclear Non-Proliferation Regime, 1945-1970

Introduction

In the mid-1960s, it was assumed by many knowledgeable commentators that, as the inevitable diffusion of information on the design and manufacture of nuclear explosives took place and supplies of uranium became more accessible, the number of states possessing nuclear weapons would increase. However, both superpowers, the United States (US) and the Soviet Union (USSR), were motivated to prevent this if they could, for very specific reasons of national interest. The US was concerned that it might be dragged by nuclear-armed allies into a catastrophic war that it could not control. The USSR had recently discovered through the actions of China that it was not only NATO nuclear weapons that could be a potential threat to its security and, unlike the US, several of the potential nuclear-weapon states (NWS) bordered its territory.

The two most recent nuclear proliferators had been France (1960) and China (1964). The states regarded as technically equipped to follow them within the next ten years were either allies of the United States (Australia, Canada, the Federal Republic of Germany, Italy and Japan); states pursuing policies of armed neutrality (Sweden and Switzerland); or states involved in acute regional conflicts (India, Israel, the Republic of Korea and Taiwan, Province of China). Yet despite the technological determinism infusing the views of those contemporary commentators on nuclear proliferation who argued that "those who could, would", the two superpowers embarked on an attempt to change these expectations by erecting a consensual, political and institutional barrier to further nuclear proliferation. They did not do this in a vacuum. Since 1945 both superpowers had been involved in intermittent negotiations to limit their nuclear arms race and engage in nuclear disarmament: preventing further nuclear proliferation was an integral part of these activities.

Attempts to Control Nuclear Weapons, 1945-1965

In June 1946 the US had submitted the Baruch Plan to the UN Atomic Energy Commission, whose remit was to make proposals for the elimination of nuclear weapons and the implementation of international control over the exploitation of nuclear energy for peaceful purposes. This plan proposed international managerial control or ownership over all potential weapon-related nuclear facilities, as well as powers to licence and inspect all other atomic energy activities. The USSR had responded by submitting a similar plan based on national, rather than international, ownership and control over nuclear facilities. Neither plan was implemented, due in part to the different attitudes of the two states towards international control of nuclear activities. One aspect of the US response to this situation was legislation imposing rigorous national controls over the transfer of nuclear-related information and materials, in the mistaken belief that there was a secret' surrounding atomic weapons which could be denied to others.

In September 1949 the USSR exploded its first atomic explosive device, and in October 1952 the United Kingdom followed this with its own explosion in Australia. Although both used information derived from the US wartime programme to assist their work, these events demonstrated that the secret' of creating a fission explosive was no longer the exclusive monopoly of the US and, perhaps more significantly, that the necessary scientific knowledge to
create such a device could be acquired by the indigenous efforts of other states. In parallel, newly discovered uranium deposits in Canada, the US and Australia indicated that the ability of the existing Belgian–Canadian–UK–US arrangements to monopolise world supplies and trade in this precursor nuclear material would not last. At the same time the prospects for an increased global supply of uranium opened the way to serious development work on the use of nuclear energy as a civil power source, especially for electricity production. Yet such facilities could be operated to both produce civil power and weapon-usable plutonium, as the UK was already planning to do at Calder Hall, its first nuclear power station, that opened in 1956.

These developments, among others, led US President Eisenhower to make his ‘Atoms for Peace’ speech to the UN General Assembly in December 1953 proposing that the NWS should assist other states in developing the peaceful uses of atomic energy. One motivation for this was a desire to slow the expansion of the USSR nuclear arsenal, thus delaying its acquisition of the capability to mount a ‘knock-out blow’ upon the US. This would be achieved by forcing it to match US transfers of weapon-usable fissile material to an international agency whose creation was proposed in Eisenhower’s speech, which in turn would supply them to other states for peaceful uses. Another motivation was a mistaken belief that plutonium produced in power reactors could not be used for military explosive purposes as it would be ‘denatured’. A third was a recognition of the need to start grapple with what was perceived to be a central issue for future nuclear-weapon control activities. This was the need to constrain the potential negative consequences for the non-proliferation of nuclear weapons that would flow from an ever increasing number of states developing nuclear power programmes, and the necessity to do this through voluntary and co-operative international arrangements, rather than attempts by the US and other technology holders to deny them access to nuclear energy capabilities.

Negotiations on such international arrangements started in 1954, based upon the USSR’s 1946 position of accepting national ownership and management of all nuclear activities within a state, but overlaying this with international arrangements to provide assurances that these activities were not being used for military explosive purposes. These negotiations culminated in a multilateral Conference on the Statute of the International Atomic Energy Agency (IAEA), held in New York during September and October 1956. Following agreement on its statute at this Conference, the Agency started its work in Vienna in July 1957 with a triple remit: to assist in the development of nuclear energy for peaceful purposes; to provide assurances that facilities and materials declared to be for such purposes were not being diverted to other uses; and to provide early warning if they were.

In parallel, the US had been engaged in two related activities on a bilateral, or a narrow multilateral, basis. Both were made possible by changes contained in its Atomic Energy Acts of 1954 and 1958, which had been enacted to respond to the new civil and military nuclear environment that confronted the US. The first was the negotiation of bilateral Agreements for Co-Operation in the Peaceful Uses of Atomic Energy with many states, permitting transfers of information, technology and materials forbidden by earlier legislation. The second was the passing of a limited range of technical information on its nuclear weapon designs to US allies, so that they could procure equipment that would enable them to deliver US nuclear weapons in times of war, as well as train their forces to operate in a nuclear weapon environment.

One consequence of the first of these arrangements was to undermine the launch of the IAEA. States preferred to seek assistance and materials bilaterally from the US, rather than multilaterally through the IAEA, and arrangements to assure the agreed use of this assistance
were initially made on a bilateral, rather than multilateral, basis. As a consequence it was 1959 before the IAEA was given the opportunity to exercise its safeguarding powers over nuclear materials, following an agreement for it to supply Canadian uranium to a Japanese research reactor.

There were several motivations behind the arrangements for limited transfers of technical information on US weapons to allies. One was a US desire to have its allies pay part of the costs of providing the West's nuclear deterrent capability, by providing expensive delivery capabilities. Another was the necessity to respond in a constructive way to indications that several Western European states were engaged in active national nuclear weapon programmes, with the French one being the most advanced. The arrangements involved the US supplying those of its allies who participated in these arrangements with the data to enable them to deliver US nuclear weapons in time of war in accordance with pre-determined NATO plans. The hope was that this would remove much of the incentive for such states to continue with national programmes to acquire their own weapons. In peacetime, the nuclear weapons earmarked for transfer to allies were to be stored under US military custody in the countries involved, and no formal transfer was to occur unless hostilities were well established.

In the US Atomic Energy Act of 1958, additional arrangements were made in respect of existing declared nuclear-weapon state allies, which had made substantial progress in the development of atomic weapons. At the time, the only state, which qualified was the United Kingdom. The effect of the new legislation was to enable close collaboration over the development and manufacture of nuclear weapons to occur with such countries, but not the transfer in peacetime of custody of complete nuclear devices. Similar arrangements were made with France in 1985.

One further factor complicating the development of the IAEA's functions during this period was the establishment in January 1958 of a regional nuclear organisation within the framework of the European Communities (EC), the European Atomic Energy Community (EURATOM). This was tasked with co-ordinating nuclear energy development within the EU, as well as implementing a regional safeguards system to ensure that materials were not diverted to purposes other than for those which they are intended. EURATOM safeguards were based on a different concept from those of the IAEA, and one that was very similar to the ideas contained in the Baruch Plan. EURATOM claimed legal ownership over all the fissile materials in member states, except those in the military programmes of NWS, and dealt directly with the enterprises handling them, rather than the governments within whose jurisdiction they were situated. The US negotiated an Agreement for Co-operation with EURATOM, and accepted that it, and not the IAEA, would safeguard materials and facilities transferred under this Agreement, thereby undermining the jurisdiction of the Agency.

By the first half of the 1960s, several developments relevant to nuclear non-proliferation were thus occurring in parallel. One was the slow evolution of the IAEA and its international safeguarding activities; the second the implementation of plans to provide allies of the United States with nuclear weapons; a third the dissemination of nuclear knowledge to a wide range of states to enable them to develop the peaceful applications of nuclear energy; and the fourth the development of a nuclear disarmament negotiating process.

In 1961, spurred on by the request from Japan, the IAEA promulgated its first set of arrangements for implementing Agency safeguards on nuclear materials and facilities, known by the number of the IAEA information document through which they were published, Information
Circular (INFCIRC)/26. These arrangements were soon superseded by a second, more comprehensive, set, INFCIRC/66, which in its final form in 1968 incorporated a set of technical principles and procedures designed to verify compliance with existing safeguards agreements and thus enable the IAEA to give assurances that the nuclear activities involved were not being used for military purposes. INFCIRC/66 covered research and power reactors, spent fuel reprocessing plants, fuel fabrication and conversion plants and fuel and materials storage facilities, but did not include uranium enrichment plants or production facilities for the heavy water used as a moderator in some nuclear reactors.

From 1962 onwards the US started to transfer to the IAEA responsibility for monitoring the civil nuclear transfers it had made under its bi-lateral Agreements for Co-operation, thus promoting the growth of the Agency’s safeguarding functions. In addition, as orders started to be placed for nuclear power reactors by states in Western Europe and elsewhere, a condition for their supply by the US and the United Kingdom became acceptance of INFCIRC/66 safeguards over their operations, thus further strengthening the authority of the Agency.

Nuclear disarmament negotiations between the US, the USSR and some of their allies were initiated in the mid-1950s when the theoretically unlimited destructive capacity of thermonuclear, as against atomic, weapons started to be fully appreciated. The aim was to first halt the nuclear arms race, and then reverse it through the dismantlement of existing nuclear weapons. Halting the nuclear arms race was seen to involve two distinct activities: the qualitative one of preventing further testing of nuclear devices, in order to freeze nuclear weapon development at its existing levels; and the quantitative one of halting the production of fissile material for military purposes, thus placing a limit on the numbers of nuclear weapons that could be built by the existing nuclear weapon states. In addition, two other activities were taking place on a wider, multilateral basis. In 1959, through the Antarctic Treaty, the first attempt was made to reach agreement on measures to prevent the emplacement of nuclear weapons in specific environments, while in 1958 Ireland had initiated moves within the UN General Assembly to highlight the dangers posed by additional states acquiring nuclear weapons. This culminated in 1961 in the ‘Irish Resolution’ being adopted by the UN General Assembly. This called both for measures to limit the spread of nuclear weapons to additional countries and for all states to refrain from the transfer or acquisition of such weapons.

Although negotiations on a Comprehensive Ban on Nuclear Testing (CTBT) led to a moratorium on nuclear testing by the three existing NWS from 1958–61, they did not produce agreement on a treaty, in the main because of irreconcilable differences over the intrusiveness of its verification system. In 1961 the USSR resumed testing, followed rapidly by the US, and in 1963 the attempt to agree a CTBT was abandoned in favour of a treaty which banned tests in all environments except underground, known as the Partial Test-Ban Treaty (PTBT). In the next year the attempt to reach an agreement on a cut-off of the production of fissile material for military purposes was shelved in the light of the increasing numbers of nuclear power plants under construction in the nuclear weapon states. This was seen to generate insurmountable difficulties to the provision of credible assurances that any agreement was being complied with, especially in states such as the USSR where all facilities were owned by the government and where the distinction between military and civil use was inevitably somewhat arbitrary. This abandonment was tacitly announced through a series of statements made by leaders of the three NWS in the Spring of 1964, in which they announced unilateral measures to limit their future production of fissile materials for military purposes.
The demise of the attempt to place quantitative and qualitative limits on the existing nuclear arms race coincided with a more comprehensive attempt to address the issue of nuclear disarmament within the United Nations, through the medium of proposals for General and Complete Disarmament (GCD). The motivation for this stemmed, in part, from the existing military situation in Europe, where the expansion of NATO’s ability to fight a ground war with nuclear weapons was seen as a necessary response to the Warsaw Pact’s perceived qualitative superiority in conventional weaponry. It was only by addressing both conventional and nuclear weaponry in parallel that agreement on nuclear disarmament appeared possible. One consequence of this was the Macloy-Zorin principles of 1962, which attempted to lay down a set of guidelines for future nuclear disarmament negotiations. Another was an acceptance that negotiating GCD as a single package was probably impossible, and that the most practical way forward was to disaggregate it and conduct negotiations on the separate elements sequentially. The first items on this new agenda were to be measures such as a CTBT, an agreement to terminate the production of fissile material for military explosive purposes (a Fissile Material Cut-off Treaty or FMCT) and a nuclear weapon non-proliferation agreement. While these might not reduce the numbers of warheads deployed, they would support a nuclear disarmament process, and improve confidence between those involved in it.

The development by the US in the later 1950s of bombers with intercontinental range, ballistic missiles (ICBMs) with similar ranges and submarine-launched ballistic missiles (SLBMs) had generated concern among its Western European allies that this would lead to a decoupling of the defence of Europe and defence of the US homeland in the minds of US leaders. They therefore sought enhanced measures to guarantee that any USSR aggression in Europe would meet with a nuclear response. Expanding numbers of US warheads available for the use of US allies in wartime was one way of doing this: another was a NATO or Western European strategic nuclear force, capable of both striking at Moscow and giving Western European governments direct involvement in its operation and decision making.

Initial proposals for this involved a mixed-manned force of surface vessels equipped with US Polaris ballistic missiles, known as a multilateral force or MLF (two Italian Cruisers were already under construction with provision for carrying such missiles). Later proposals included the creation of an Allied Nuclear Force (ANF) in which UK and some US forces would be committed for use by SACEUR. Not unnaturally, these proposals ran into strong opposition from the USSR and its allies, who viewed the idea of German involvement in such an enterprise with horror. One element in such opposition was a proposal by the Polish Foreign Minister, Rapacki, for a nuclear-weapon-free zone in Central Europe.

The Negotiations on the NPT

It was in this international context of stalled nuclear disarmament negotiations, considerable tensions over the nuclear aspects of European security, and the beginnings of a process of attempting to delimit specific geographical areas as nuclear-weapon-free that discussions, and then negotiations, started in the mid-1960s on a treaty on the Non-Proliferation of Nuclear Weapons (NPT). This was the one element of the GCD package that both the US and the USSR felt motivated to pursue immediately. After considerable informal consultations it proved possible for the 1965 UN General Assembly to adopt a resolution containing guidelines for negotiation of this Treaty. The resolution, 2028, listed five principles that should underpin it:

- it should be void of any loopholes which might permit nuclear or non-nuclear weapon states to
proliferate nuclear weapons in any form;
it should embody an acceptable balance between the mutual responsibilities and obligations of the nuclear and non-nuclear weapon states;
it should be a step towards the achievement of GCD, and more particularly nuclear disarmament;
it should have acceptable and workable provisions to ensure its effectiveness; and
nothing contained in it should adversely affect the right of any group of states to conclude nuclear-weapon-free zone (NWFZ) treaties.

In early 1966, the multilateral negotiating forum for disarmament agreements was the Eighteen Nation Disarmament Committee (ENDC). Several leading non-aligned states were members of this, as well as a number of allies of the two superpowers. The ENDC was an entity linked to, but not part of, the United Nations system, although it met in UN premises in Geneva. One aspect of its structure was that the US and USSR were its co-chairmen. Discussions started in this forum on the text of an NPT, but made relatively slow progress. One problem was that the ENDC did not contain either Germany or Japan, which were two of the states of particular non-proliferation concern at this time. It was left to the US, and to some extent Italy, to liaise with them and try to craft a treaty that they would be prepared to sign. In the autumn of 1966 the US and USSR therefore started bilateral discussions on how to word the sections of the treaty dealing with transfers from the NWS of nuclear weapons and the non-acquisition of such weapons by the non-nuclear weapon states (NNWS).

From a US perspective this treaty had to permit the existing US–UK collaborative arrangements to continue, as well as existing NATO arrangements for the transfer of nuclear weapons for use on NNWS-owned delivery systems in the event of hostilities. From a USSR perspective, the key issue was to prevent any MLF type of arrangement being legitimate under the treaty. Early in 1967 language was agreed between the two states on these articles, which became I and II of the NPT. Their text was based on the contemporary US nuclear energy legislation, which prohibited the transfer by its government of complete nuclear explosive devices to any other state or international entity in peacetime. The articles allowed existing NATO nuclear arrangements to continue, but effectively foreclosed on any move to adopt multilateral nuclear-weapon sharing within the alliance. They also meant that the NPT had no provision to explicitly prohibit the storage and deployment of NWS nuclear weapons in a NNWS.

Debate within the ENDC then focused throughout the remainder of 1967 on how an effective verification system could be incorporated in the proposed treaty. Although all parties to the negotiations were agreed that it made no sense to create a new treaty-specific system of safeguards in parallel to the IAEA’s system, there was disagreement over the position of EURATOM. Its existence meant that several of the Western European states had no national systems for the monitoring and control of their nuclear energy activities, relying on EURATOM for this. However, the USSR considered this a form of self-policing, rather than independent monitoring, and argued that it did not offer it and its allies adequate assurances that the states of Western Europe, in particular the Federal Republic of Germany, would uphold their non-proliferation obligations. It wanted full IAEA safeguards to apply to all states in the region. The US was in a difficult position on this issue, as its NNWS allies were arguing that any verification system should be as non-intrusive as possible, and above all offer no commercial advantages to the NWS who would not have to accept such a system. Eventually, in early 1968, wording was agreed for Article III to allow EURATOM to make an agreement with the IAEA enabling the Agency to apply its safeguards to EURATOM states.
Article III of the NPT left two issues undecided or ambiguous: the detailed nature of the verification system to be applied by the IAEA and the obligations of parties to the treaty in respect of transfers to non-parties. In the case of the former, the text indicated that the safeguards system was to focus on materials, not facilities and materials as was the case with the existing INFCIRC/66 system, but the details of how this was to be done were left to the IAEA to decide. In the case of the latter, the text left it unclear whether transfers to non-parties could be permitted so long as INFCIRC/66 IAEA safeguards were applied to the transfers, or whether the recipient state had to accept IAEA safeguards on all materials within its jurisdiction (known variously as NPT, full-scope or comprehensive safeguards) before any transfer could be allowed.

Article IV was also open to differing interpretations. On the one hand it stated an obvious fact related to the nature of state sovereignty, namely that all states had an inalienable right to economic development, and thus to develop research, production and use of nuclear energy for peaceful purposes. On the other, the implementation of this right should be in conformity with Article I and II of this Treaty. Thus although NPT NNWS parties were committing themselves voluntarily to conditions on the exercise of their peaceful use of nuclear energy, the Treaty also recognized the apparently contradictory fact that their rights to peaceful uses were intrinsically inalienable.

Two further articles of the eventual treaty, Article V dealing with peaceful nuclear explosions and Article VII dealing with NWFZ proved relatively uncontroversial. In order to prevent any state acquiring a nuclear weapon under the guise of it being a device for use in a civil engineering project, the treaty specifically banned all work by its NNWS parties on any type of nuclear explosive device, but Article V permitted the supply of such devices for peaceful purposes by existing NWS, as a consequence of international arrangements to be negotiated through the IAEA. In the case of NWFZs, Latin American states had decided by 1967 to go ahead with their own regional treaty, partly motivated by a belief that the problems arising from Europe made agreement on an early NPT unlikely. The resultant Treaty of Tlatelolco was opened for signature in February 1967. Unlike the NPT, this only prohibited the acquisition, storage and deployment of nuclear weapons, rather than all nuclear devices, but it had its own regional verification system, which included provisions for challenge inspection, and a secretariat, OPANAL.

Two other elements of the draft Treaty did continue to generate significant problems throughout 1967: Article VI and related parts of the Preamble; and Articles VIII and and X. The debate over Article VI and the Preamble was essentially over the commitments that would be made by the three nuclear weapon states negotiating the Treaty to engage in nuclear disarmament (neither China nor France were involved as, among other things, both regarded the negotiations to be aimed at them and their newly acquired nuclear weapon status). The debate over the Preamble centred around attempts by the NNWS, particularly India and Mexico, to set out a clear list of priority measures to be negotiated as part of the future nuclear disarmament process, starting with a CTBT. The issue in relation to Article VI was how strong would be the commitment of the NWS to move towards nuclear disarmament; what other related objectives were they to seek to achieve; and what priority might be attached to these objectives. The result of the negotiations was that achievement of a CTBT was listed in the preamble, together with references to facilitating the cessation of the manufacture of nuclear weapons, the liquidation of their existing stockpiles and the elimination from national arsenals of nuclear weapons and their means of delivery. Article VI emerged as a commitment that:
Each of the Parties to the Treaty undertakes to pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament, and on a treaty on general and complete disarmament under strict and effective international control.

This text gave no clear indication as to whether it was intended to be read as a listing of priorities, or whether each item had an equal priority and was not linked to the others in any way, while the NWS commitment was to negotiate in good faith on such measures, rather than to agree or implement them. The debates over Articles VIII and X were almost entirely conducted among the allies of the US through bilateral consultations with the Federal Republic of Germany and Italy, and in NATO forums, rather than in the ENDC or between its co-chairmen, the US and USSR. The uncertain nuclear security situation that some of the US NNWS allies felt confronted them, a lack of belief on their part in the permanence of the existing US nuclear extended deterrence commitment, and a firm belief in the durability of the USSR nuclear threat made them unprepared to give up permanently the option of acquiring their own nuclear weapons. Although the draft treaty text contained provision for a state to give three months notice of withdrawal if ...extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country...", this was not seen to provide for the case where gradual changes in the international environment and in perceptions of US policy made such withdrawal seem prudent. Thus Italy, in association with the Federal Republic of Germany, sought agreement on a text, which would give all parties an unconditional right to withdraw from the Treaty at the end of a fixed period of time, through provisions which would require them to make a positive decision to continue. This would allow the parties to review their security situation at the end of the fixed period and decide whether to continue to accept the Treaty’s constraints on acquiring nuclear weapons or abandon them.

Not unnaturally, the US and USSR were both opposed to inclusion of this element in the text, but the US was very sensitive to the need to meet some of these concerns if its allies, especially Italy, the Federal Republic of Germany and Japan, were to be persuaded to sign the draft treaty. The consequence was that by the time of a scheduled NATO summit at the end of 1967 a compromise arrangement had been negotiated consisting of two elements. One was the insertion into Article VIII of a paragraph mandating the three NWS, who were also the depositary governments for the treaty, to convene a conference to review the implementation of the treaty after five years, with the option that the parties could, if they chose, request the convening of further review conferences at five year intervals. The second was an addition to Article X of paragraph 2, which stated:

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.

The intent of these elements was to offer the allies of the US the opportunity to review the security situation surrounding their non-possession of nuclear weapons every five years, and give them the possibility of arriving at a collective decision to terminate the Treaty after twenty-five years by agreeing that its duration should consist of a further short, fixed term or a series of renewable fixed periods.
Given the emphasis placed by the two co-chairmen of the ENDC on creating a treaty which would both meet their concerns and those of the allies who posed the most immediate threat of proliferation, it was not surprising that the non-aligned members of the ENDC found their concerns less than fully reflected in the final text of the Treaty. Although their right to develop nuclear energy for peaceful purposes was emphasized, and partial commitments were made on nuclear disarmament, no mention was made in the text of a further issue they regarded as very significant, nuclear security assurances.

The core of their argument over this issue was that since both superpowers were providing their alliance partners with extended nuclear deterrence security guarantees, they should provide the non-aligned states with similar guarantees through the new treaty, until such time as nuclear disarmament made them irrelevant. Specifically, they were seeking negative assurances that the NWS would not attack them with nuclear weapons, and positive ones that they would go to their aid if attacked with such weapons.

Negative assurances would have undermined the existing NATO doctrine of being prepared to initiate the use of nuclear weapons against the territory of the NNWS allies of the USSR in a European war, however, and thus could not be contemplated by the US or its allies Positive assurances were equally difficult to contemplate, as they implied an open-ended commitment to aid all NNWS parties in all circumstances. More specifically, they would place the US in a difficult situation if Israel in extremis threatened its neighbours with such weapons. A further issue was whether the assurances should only apply to NPT parties, or to all states. As a consequence, the treaty text, which the two co-chairmen submitted to the ENDC on 11 March 1968 contained no reference to such assurances. This omission was one reason, among others, why India indicated that it was not prepared to sign this text. However, the three NWS did act on non-aligned concerns on this subject, particularly those of the Arab states, by passing through the UN Security Council on 19 June 1968 resolution 255, whereby the Security Council and above all its nuclear weapon State permanent members, would have to act in accordance with their obligations under the United Nations Charter in the event of a nuclear attack upon a NNWS.

This resolution was passed a week after the co-chairmen’s draft treaty, with further amendments, had been passed to the UN General Assembly for its commendation. As a consequence of the Assembly passing a positive resolution on this matter, the NPT was opened for signature on July 1 1968, signed by the three depositary states on that day and came into force on 5 March 1970 when the required 40 states had ratified it.

The NPT that eventually emerged in 1968 had several unique characteristics. One was that it recognized the existence of two classes of state, NWS and NNWS. The former were defined as those which had exploded a nuclear device prior to 1 January 1967. The two classes of state had different rights and duties under the Treaty. Thus non-proliferation was tacitly accepted as a positive objective even if nuclear disarmament did not occur, despite the commitments by all states in Article VI to negotiate on the latter in good faith. A second was that the Treaty contained a delicate balance between three sets of commitments: the nuclear non-proliferation ones made by the NNWS; the nuclear disarmament ones made by the three NWS depositary states; and the rights given to the NNWS parties to develop or acquire all types of peaceful nuclear technology, in return for acceptance of IAEA safeguards over all fissile materials within their jurisdiction. This meant that it was open to any of its parties to place paramount emphasis on one of these aspects: nuclear non-proliferation, nuclear disarmament or the unconstrained
right to develop nuclear energy applications for peaceful purposes. A third was that while it prohibited the acquisition of all types of nuclear explosives by NNWS, its negotiating history indicates that in 1968 it was not the intention of the US, the UK and their western allies that it should proscribe the stationing of a NWS's nuclear weapons on the soil of an NPT NNWS; to prohibit plans for their transfer in the event of war; or to prevent assistance by one NWS to another.