

# DISARMAMENT

A periodic review by the  
United Nations

Volume XIV, Number 2 1991

**The Conventional Armed Forces in Europe Treaty**

Gilles Andreani, Michael Moodie,  
Tadeusz Strulak

**The Role of the United Nations in Disarmament**

Yasushi Akashi

**Developments in Verification: Experiences  
in Bilateral Verification**

Evgueni N. Golovko, Edward J. Lacey

**Multilateral Verification: Opportunities  
and Constraints**

Fred Bild and Peter Jones

**Amendment Conference to the Partial  
Test-Ban Treaty**

Miguel Marín-Bosch

**Towards the Third Biological Weapons Convention  
Review Conference**

Esmat A. Ezz, Erhard Geissler,  
Barbara Hatch Rosenberg, Barend ter Haar



United Nations

“Amendment Conference to the Partial Test-Ban Treaty” was published in *Disarmament* (United Nation), Vol. XIV, Num. 2, 1991, pp. 83–93.

## **Amendment Conference to the Partial Test-Ban Treaty**

### **Raising the Visibility of the Comprehensive Test-Ban Issue**

Miguel Marín-Bosch

**“A guaranteed end to all nuclear testing in all environments is a fundamental objective of the free world. We are deeply convinced that the achievement of this objective would serve our best national interests and the national interests of all the nations of the world.”**

Thus President Kennedy and Prime Minister Macmillan began their joint statement of 27 August 1962. That same day, in the recently established Eighteen-Nation Committee on Disarmament (ENDC) in Geneva, the representatives of the United States and the United Kingdom jointly submitted alternative draft treaties. The first banned “all nuclear weapon tests in all environments for all time” and contemplated an international verification system.<sup>1</sup> The second banned tests in the atmosphere, outer space and under water without verification.<sup>2</sup> A year later a partial test ban based on the second draft was signed in Moscow.

Miguel Marín-Bosch is a career diplomat and the Permanent Representative of Mexico to the International Organizations in Geneva and the Conference on Disarmament. He has followed disarmament matters since joining his Foreign Service in 1970.

### **An “Amendable” Partial Test Ban**

The Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Under Water was signed on 5 August 1963 by the USSR, the United Kingdom and the United States of America, the original parties to the Treaty. Known as the Moscow or partial-test-ban Treaty (PTBT), it entered into force on 10 October of that year. Today there are 117 States parties to the Treaty.

The Treaty is of unlimited duration and is one of the pillars of the nuclear disarmament edifice which the international community has been building in the second half of the twentieth century. Although China and France continued nuclear testing in the atmosphere until the late 1970s, today no one—whether a party to the Treaty or not—would dare to do so. Therein lies the not insignificant value of the PTBT.

The PTBT is a treaty with few provisions. It has but five articles. Article I bans nuclear-weapon tests in the atmosphere, in outer space, or under water and also prohibits any underground nuclear test if “such explosion causes radioactive debris to be present outside the territorial limits of the State under whose jurisdiction or control such explosion is conducted”.

Article II deals with the procedure for amendment of the Treaty and articles III to V contain the usual provisions regarding such matters as ratification, entry into force, registry, duration and withdrawal. Of these provisions, the one concerning withdrawal was considered important in 1963.

What is the origin of article II of the Treaty? The PTBT was based on the partial test-ban draft submitted on 27 August 1962 by the United Kingdom and the United States. The other draft which they put forward that day—the one calling for a comprehensive test ban (CTB)—included provisions for the establishment of an international scientific commission which was to be responsible for ver-

ification of the treaty and which was to meet once a year to review its operation and, should the need arise, to approve amendments. Since the partial test-ban draft did not contain a similar provision, the co-sponsors added an article on amendments calling for the convening of an amendment conference upon the request of one third or more of the parties. For an amendment to be approved, it had to obtain two thirds of the votes of the parties, including all three original parties. On the other hand, the draft permitted nuclear explosions for peaceful purposes since, at that time, the United States Atomic Energy Commission had embarked on an ambitious programme called Plowshare. However, in 1963, at the request of the USSR, the provision on peaceful explosions was eliminated. The United Kingdom and the United States requested, in turn, that the majority required for approval of an amendment be reduced from two thirds to a simple majority, including the original parties. They felt that in that way it would be easier to amend the treaty in order to permit such explosions in the future.

It could therefore be said that the two substantive provisions of the Treaty are the partial ban of nuclear tests and the possibility of amending it. The idea of amending or extending the partial test-ban Treaty to include underground tests has been put forward in the past by both the United States and the Soviet Union. On 27 January 1966, United States President Johnson stated that the United States

“persists in its belief that the perils of proliferation would be materially reduced by an extension of the limited test ban Treaty to cover underground nuclear tests”.<sup>3</sup>

On 14 December 1967 the USSR representative stated in the First Committee of the General Assembly:

“... We are ready at any time to negotiate the extension of the 1963 Moscow Treaty Banning Nuclear

Weapon Tests in the Atmosphere, in Outer Space and under Water to underground tests, thereby making the Treaty all-embracing.”<sup>4</sup>

### **Three Decades of Patience**

In its day, almost thirty years ago, the PTBT was proclaimed a significant first step in the field of nuclear disarmament. However, upon signing the Treaty, the United States Secretary of State pointed out that

“it is not yet possible for us to guarantee now what the significance of this act will be. History will eventually record how we deal with the unfinished business of peace”.<sup>5</sup>

One should also recall the words of the United Kingdom representative on 30 July 1963, a few days before the Treaty was signed:

“I hope too that we shall put this partial test ban treaty, welcome as it is, in its proper perspective. Clearly it will not in itself reduce armaments. Moreover, it may not necessarily prevent the proliferation of nuclear weapons. On the other hand, it would be a significant first step in those directions.”<sup>6</sup>

If, in 1991, we try to “put the Treaty in its proper perspective”, we reach a rather different conclusion as to its value. What history has recorded over the last 27 years is an unbridled nuclear-arms race. In the 1963 Moscow Treaty the USSR, the United Kingdom and the United States proclaimed themselves “determined to continue negotiations” aimed at achieving “the discontinuance of all test explosions of nuclear weapons for all time”, a pledge they reiterated in the 1968 non-proliferation Treaty (NPT). Between 1945 and 5 August 1963, those three States had carried out an average of 30 tests per year. Since 1963 the average has been over 40 tests a year. Since 1963 the Conference on Disarmament in Geneva has not been able

to move forward substantially in the drafting of a multilateral agreement banning all nuclear-weapon tests.

We are often told that the 1974 threshold test-ban Treaty (TTBT) between the USSR and the United States is a measure aimed at reducing underground tests, but the Moscow Treaty does not—nor does the NPT—speak of a *partial* ban on underground testing. It does not speak either of limiting those tests to a certain threshold or, even less, of a 150-kiloton limit or threshold, or of “reducing to a minimum” those tests. Moreover, the threshold agreed on in the TTBT is equivalent to over ten times the explosive power of the bomb that destroyed Hiroshima in 1945.

Until 1963, the strategic nuclear arsenals of the super-Powers included, above all, a fleet of long-range heavy bombers, as well as some intercontinental ballistic missiles (ICBMs) and sea-launched ballistic missiles (SLBMs). Today those arsenals include, above all, ICBMs, SLBMs, cruise missiles, intermediate- and short-range ballistic missiles, and some bombers. The increase in the destructive power of those arsenals has kept pace with their qualitative advances.

Twenty-seven years ago the United Kingdom and the United States were ready to ban for ever *all* nuclear-weapon tests if that ban contemplated an international verification system. The USSR appears ready today to accept an international verification system that includes on-site inspections. Why, then, is it not possible to reach an agreement? Because the United Kingdom and the United States, together with their allies in the North Atlantic Treaty Organization (NATO), resort today to the same arguments of thirty years ago, except that they use them for completely opposite purposes. In 1962 they said that a comprehensive test ban was “the key to disarmament”, since it would be “an important first step in bringing the arms race under control”. In other words, a test ban would stop the development and improvement of nuclear arse-

nals. Today they tell us that a comprehensive test ban “would be premature, and perhaps even destabilizing”, since their security depends on deterrence based on the possession of nuclear weapons and that means continued underground nuclear testing to ensure that such weapons remain effective and up to date.

The political and ideological transformation that is occurring in Europe is, in turn, transforming NATO’s military doctrines, the central element of which has for decades been the deterrent power of nuclear arsenals. That deterrent power—if it ever was of value in the past—no longer makes sense in a Europe very different from that of 1945. Who is to be deterred with nuclear weapons in the 1990s? It is obvious that the military leaders in both Washington and Moscow, and thus in London and even Paris and Beijing, will have to change their view of the world, adapting it to the new realities, and they will also have to change the role they assign to nuclear weapons in their respective defence doctrines.

If there really is a will to follow the path towards genuine nuclear disarmament, we must begin where we left off in 1963, namely, by shutting the door on the vertical proliferation of nuclear arsenals. And to do so we must ban *all* nuclear-weapon tests. There is no point in reducing certain types of weapons if, at the same time, others are developed and improved. Moreover, what is the sense of removing nuclear warheads from one region of the globe if later they are going to appear in another? There is no sense in exchanging land-based weapons for sea-launched or air-launched ballistic missiles. What is occurring today is rather a re-deployment of weapons, a redistribution—the weapons are still there. This might have a positive, momentary impact on public opinion, especially in Europe, but it cannot be seen as a genuine disarmament measure.

### **Underground, Out of Sight and Out of Mind?**

The history of the negotiations aimed at a complete ban on all nuclear tests is one of squandered opportunities. Imaginative proposals have been put forward to bridge the perceived differences between the super-Powers, and the technical aspects of verification have been thoroughly studied. And yet, nuclear testing continues. What has been lacking is the political will to reach an agreement, and the lead must come from Washington and Moscow.

It is true that year after year the United Nations General Assembly has called on the nuclear-testing States to conclude a comprehensive test-ban treaty. In fact, it has adopted over 70 resolutions on this item alone and it is quite evident that the overwhelming majority of nations would welcome such a treaty. But it is also true that those nations have not exercised fully their political leverage. Moreover, the public in many countries either has lost interest in the test-ban issue or has shifted its attention to other, apparently more pressing, questions. The fact is that, since testing went underground and the photographs of nuclear mushrooms of atmospheric blasts disappeared from the newspapers, the issue has not aroused public opinion as it did in the late 1950s and early 1960s. And in the Conference on Disarmament in Geneva, whose work in 1962 began with a flurry of publicity and the personal involvement of the leaders of the United States, the United Kingdom and the USSR, the issue has slowly been buried in the soporific confines of the Council Chamber of the Palais des Nations.

In recent years the issue of a comprehensive test-ban treaty has gained increasing visibility. In 1986 the Heads of State or Government of Argentina, Greece, India, Mexico, Sweden and the United Republic of Tanzania underscored the urgency of achieving a comprehensive test-ban treaty and offered their good offices for the establishment of a verification system. On the other hand, the USSR's mora-

toriums on testing have led some analysts to question the need for further testing by others. At last year's Fourth Review Conference of the Non-Proliferation Treaty the issue figured prominently, especially in the light of the fact that in 1995 a decision will be taken regarding extension of the NPT. A comprehensive treaty has also been at the centre of discussions concerning the importance of laying the groundwork for a truly universal and genuine non-proliferation régime. Moreover, a group of non-governmental organizations, headed by Parliamentarians for Global Action, has also been advocating a comprehensive treaty and in 1985 suggested that parties to the Moscow Treaty avail themselves of the provisions of the Treaty by calling for an amendment conference aimed at converting it into a comprehensive treaty. The United Nations General Assembly endorsed the idea, hence the decision of Indonesia, Mexico, Peru, Sri Lanka, Venezuela and Yugoslavia in 1988 to submit a proposal for amendment.

Upon the request of one third of the States parties, the Amendment Conference was convened, but it was not easy. The depositary Governments at first arrogated to themselves the right to decide how, when and where to hold the Amendment Conference. According to recognized international practice, the depositaries should have limited their role to carrying out their obligation to inform the other parties of that request and to act impartially. It was up to the parties as a whole to take the decisions regarding the organization and preparatory work of the Conference. That was achieved at the Meeting of the States Parties for the Organization of the Amendment Conference, held in New York from 29 May to 8 June 1990, in accordance with United Nations General Assembly resolution 44/106 of 15 December 1989. That session of the Conference was followed by a one-week session from 4 to 8 June and a substantive session, held from 7 to 18 January 1991.

The principal purpose of the Amendment Conference is to convert the partial test-ban Treaty into a *comprehensive* test-ban treaty. The amendment to the Treaty proposed by the six nations that initiated the process consists of three parts: first, the addition of a new article VI providing that

“The protocols annexed to the present Treaty constitute an integral part of the Treaty”;

secondly, the text of a “Protocol I”, which would ban underground nuclear tests; and thirdly, a draft “Protocol II” on the verification of the proposed comprehensive test ban.<sup>7</sup>

Given the attitude of two of the depositaries, it was obvious that the amendment would not be adopted. But the broad-ranging general debate and the discussion of the verification protocol, together with the participation of non-governmental organizations, served to underline the widespread international support for a comprehensive treaty. The General Assembly was fully conscious of this situation when it recommended, in its resolution 45/50 of 4 December 1990, “that arrangements be made to ensure that intensive efforts continue, under the auspices of the Amendment Conference, until a comprehensive nuclear-test-ban treaty is achieved”.

The vast majority of the parties thus sought agreement on a follow-up mechanism that would allow the Conference to continue its work after 18 January. The six initiators, together with Nigeria, the Philippines, Senegal and the United Republic of Tanzania, submitted a draft decision to this effect:

Acknowledging the complex nature of certain aspects of a comprehensive test ban, especially those with regard to verification of compliance and possible sanctions against non-compliance, the States Parties were of the view that further work needed to be undertaken. Accordingly, they agreed to reconvene the Conference no later than September 1993

and to establish an intersessional working group, composed of 15 to 20 countries, in order to continue the consideration of verification of compliance of a comprehensive test-ban treaty. The working group will submit a report to the Conference at its reconvened session.

Later, in a spirit of compromise, they amended their proposal to read:

Accordingly, they agreed to mandate the President of the Conference to conduct consultations with a view to achieving progress on those issues and resuming the work of the Conference at an appropriate time.

That was the text of the decision adopted on 18 January by the Conference by 74 votes to 2 (United Kingdom and United States), with 19 abstentions. All of the non-aligned countries supported the decision, as did one of the depositaries (USSR) and a number of countries from the Group of Western European and Other States (Australia, Denmark, Iceland, Ireland, New Zealand, Norway and Sweden).

The President of the Conference, Foreign Minister Ali Alatas of Indonesia, will now have to continue his skilful handling of the work of the Conference. However, to fulfil his mandate, he will have to receive the active support of the parties to the partial-test-ban Treaty. The consultations he will conduct and the future sessions of the Conference must be seen also in the context of the evolution of world public opinion regarding a comprehensive test-ban treaty. Moreover, a comprehensive test ban should be considered one of the key elements in a series of measures to be implemented in the coming years in order to ensure that the international community enters the next century with a real vertical as well as a horizontal non-proliferation régime. One important aspect of that future régime will be the system for verifying compliance with a

comprehensive test-ban treaty; another should be the sanctions that may result from non-compliance.

The Amendment Conference should thus be seen as part of a wider process. It should be seen against the background of what happens (or does not happen) in the Conference on Disarmament in Geneva and of the repeated appeals made in this regard by the General Assembly, the Secretary-General of the United Nations and the international community in general. The Conference should also be placed on a parallel track with the 1995 extension conference on the non-proliferation Treaty. Over the next five years there will necessarily be a collective review of the present nuclear non-proliferation régime in order to identify measures aimed at enhancing the possibilities of extending the non-proliferation Treaty well beyond 1995. For many countries the Amendment Conference is a central element in that collective review.

#### Notes

- 1 Document ENDC/58 of the Eighteen-Nation Disarmament Committee.
- 2 Document ENDC/59 of the Eighteen-Nation Disarmament Committee.
- 3 Document ENDC/165 of the Eighteen-Nation Disarmament Committee, point 4.
- 4 *Official Records of the General Assembly, Twenty-second Session, First Committee*, 1551st meeting, para. 161.
- 5 Document ENDC/PV.150 of the Eighteen-Nation Disarmament Committee, p. 5.
- 6 Document ENDC/PV.148 of the Eighteen-Nation Disarmament Committee, p. 16.
- 7 Documents PTBT/CONF.8/6 and Add. 1.