

April 11, 1968

Note from Ambassador M.A. Husain, 'NPT and Security Assurances'

Citation:

"Note from Ambassador M.A. Husain, 'NPT and Security Assurances'", April 11, 1968, Wilson Center Digital Archive, PN Haksar, III Installment – Subject File #200
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Summary:

Indian objections to the Non-Proliferation Treaty.

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Original Language:

English

Contents:

Transcript - English

TOP SECRET

DATE: 4-19-68

FROM: PN HAKSAR

TO: PM

PM may kindly see once again the note recorded by Shri Azim Husain in which he had certain problems and sought Government's instructions. This note was discussed by the Secretaries after the Cabinet Committee meeting. The results of the discussions are set out in the note at Slip "B". The only doubt I have is about the portion sidelined A with red pencil on page 3. It might be more appropriate for us to abstain from voting on operative paragraph 2 rather than vote against it as suggested by Secretaries' Committee. After PM has approved the instructions, I shall prepare a self-contained paper and send it to the Ministry of External Affairs for onward transmission to New York.

FROM: MA Husain

TO: PM

DATE: April 11, 1968

TOP SECRET

Subject: NPT and Security Assurances

Hitherto our main publically stated objection to the draft NPT has been that it is discriminatory and, therefore, unacceptable because : □□ does not stop vertical proliferation

- . it does not establish a purposeful link with general and complete disarmament in particular nuclear disarmament
- . it would hamper peaceful uses of nuclear energy policy by non-nuclear weapons powers
- . it imposes inspection and control only on non-nuclear weapon powers

□□

If a government's decision not to sign the NPT continues to remain firm despite the persuasion exercised by the USSR, USA, Canada and UK, urging us to reconsider our position, then, in the General Assembly views would need to be expressed similar to those expressed in the ENDC as outline above, and this would have to be done, as before,

□□ Without canvassing support for our views or proposing any amendments to the draft treaty so as to avoid any implication of committing ourselves to signing the treaty

- . without taking in any way a lead in opposing or obstructing the approval and conclusion of the treaty so as not to unnecessarily offend USSR/USA who are determined to open the treaty for signature in July/August 1968
- . Avoiding acrimony, bitterness and a polemical tone against the nuclear powers, so as not to provoke sharp rejoinders
- . Without making any pointed reference to France or anyone else, which would offend France, so as not to prejudice any chance of assistance in the future in the nuclear field by France as a nuclear power not bound by the NPT
- . While mentioning Chinese nuclear threat not to overplay it so as to avoid giving the impression that this is the principled reason for our not signing the NPT, which could be removed by nuclear weapon powers providing more security assurances to us, and also so as not to enhance the fear in India which may give support to the demand for changing the national policy of not building the bomb

. By reiterating our policy of using nuclear energy only for peaceful purposes so as not to escalate the arms race and to avoid jeopardizing the national, social and economic program of development of the country.

□□

The procedure of ENDC as a negotiating body enabled us without difficulty to play completely passive role, but this, while technically possible, would otherwise be difficult in the General Assembly because of the procedure of voting on amendment's and adopting resolutions. The following issues are likely to arise on which clear Government decisions should be taken:

□□ ~~Vertical~~ Proliferation: It is our interpretation that General Assembly Resolutions 2028 and 2153 A(XII) require stoppage of further production of nuclear weapons or a cut off of fissionable material for weapons purposes, but this interpretation is not shared by most countries of the world because this treaty, as stated clearly in the preamble, concern "the prevention of wide dissemination of nuclear weapons," so when we speak of vertical proliferation we speak, as pointed out by several countries in ENDC, of a different treaty or a different type of treaty. Even the most ardent opponents of the treaty, Rumania and Brazil, have not suggested any amendment to stop vertical proliferation. However, to justify our decision not to sign NPT, we may continue to use this as an argument, but for ourselves we should be aware that our posture over this is purely tactical, and it does not carry much conviction, apart from the view expressed privately by USSR/USA to us that the lead which USSR/USA have over China must be maintained so long as China continues its nuclear weapon development and poses a threat to us and others.

□□

□□ ~~Link~~ with Disarmament: The link of NPT with nuclear disarmament is, however, as mentioned in the preamble, within the scope of the treaty. Practically all the four amendments accepted by USSR/USA in their draft of 18th January concerned this question of showing that this was admitted to be its weakness. While it is difficult to justify the inclusion of nuclear disarmament measures as such in a treaty which concerns itself with only non-dissemination, it is entirely justifiable to introduce a sense of urgency and compulsiveness, and to exercise pressure and persuasion on nuclear weapon powers to take early steps towards nuclear disarmament. For this purpose the following proposals have been or are likely to be made in the General Assembly.:

□□

□□ ~~Automatic~~ review conference every 5 years - Italy, Rumania, Spain, West Germany
. Failure to move to nuclear disarmament within reasonable period should be an additional ground for withdrawal from NPT - Burma

. If specific nuclear disarmament measure not taken within 5 years, the situation created should be examined for action to be taken - Rumania

. The withdrawal from the treaty should not be accompanied by an explanation to the Security Council of "extraordinary events" for action taken in exercise of national sovereignty - Brazil, Romania

. Article VI should be redrafted to delink nuclear disarmament as "pursuant to" general and complete disarmament as mentioned in the preamble, and stated separately with specific mention of

□□ ~~Nuclear~~ arms race, i.e. suspension of underground tests, cut off of production of material for weapons, freeze of production of delivery vehicles

. Eventual production and elimination of nuclear arsenals and means of delivery - West Germany, Brazil

□□ ~~The duration~~ of the Treaty should be reduced to 20 years - Spain

□□ □□

If such proposals gather support in the General Assembly, which would undoubtedly improve the treaty, considering the views we have expressed and to be consistent we obviously cannot oppose them, and it would be difficult not to lend support to them.

But in order not to prejudice our stand not to sign the treaty, we would need to say that while these changes are welcome they do not go far enough. Government should take a decision on this.

☐☐☐ Peaceful uses: Our basic objection has been to the banning of "nuclear explosive devices" for peaceful purposes. The only country that has supported this view in Brazil on the ground that Article 18 of the Latin American Treaty permits such explosions under appropriate international safeguards. In the past we have tried to make a distinction between the two types of explosions which is scientifically untenable, and we have also talked of the intention behind the carrying out of such explosions, which concept was proposed but expressly rejected in the Latin American Treaty. USSR/USA are firmly and strongly of the view that since explosions for the two purposes are indistinguishable, the banning of both is basic to the very concept and validity of the Treaty. But conceding the demand for the spin-off of peaceful nuclear explosions, they have provided in Article V for such spin-off to be made available to parties to NPT without discrimination "on a bilateral basis or through an appropriate international body with adequate representation of non-nuclear weapon states." On this Sweden has taken the view that the discretion to dispense "benefits on a bilateral basis" gives the nuclear weapon powers latitude for discriminatory treatment, and, therefore, peaceful nuclear explosions should be institutionalized under international control and the benefits made available to all without discrimination. This would necessitate the establishment of a special body in which non-nuclear weapons states would be represented to determine the conditions under which nuclear explosions for peaceful purposes could take place. This proposal would be pursued by Sweden in the General Assembly, and should it gather support, as is likely, we would need to take a stand whether or not we approve of this idea. Considering our general position I personally feel that we should lend support to it. Government should take a decision on this.

☐☐

In connection with peaceful uses we have also expressed objection to the controls being applied only to non-nuclear weapon states and suggested that as a measure of balance of obligations it should be extended to nuclear weapon states. Switzerland, West Germany, Spain, Romania, and Burma have suggested the same to also avoid commercial discrimination. The US and UK have offered to accept controls for peaceful nuclear installations subject to "national security." Since under the guise of a weapons program anything can be hidden the British and American offer would seem illusory except to the extent of opening for inspection of nuclear power stations from which the latest techniques might or might not be learnt. Therefore, pressing this issue can only be to embarrass USSR who are completely opposed to making the kind of gesture made by USA and UK. Otherwise, such information as could become available from voluntarily accepted inspections in USA/UK would probably be available to all. I, therefore, feel that we should not lay stress on this issue, and mention it only lightly and en passant. Government should take a decision on this point.

Apart from these two issues there is a general satisfaction among most countries with Article IV and V which provide for peaceful uses, including research and development of nuclear energy as safeguarded by Article III. While we have in the past and would continue to publically make a general criticism of these provisions so as to defend our decision not to sign the NPT, the Department of Atomic Energy should urgently examine these provisions from two points of view. Assuming that we would not sign the Treaty, are there any provisions relating to peaceful uses which could be improved upon so as to have the least harmful effects of non-signatories? Secondly, assuming that at some future uncertain date we may have to sign the treaty, how can the provisions be improved to provide for more unhampered use of nuclear energy for peaceful purposes? At least the first objective is important, even if the second exercise is to be avoided so as not to appear to be inclined to sign the treaty.

4. Security Assurances: ENDC did not discuss this question but the draft resolution as a part of the report to the General Assembly will be discussed first in the General Assembly and then in the Security Council. The preliminary views we have expressed in Parliament are:

- a) We welcome all steps taken to strengthen international peace and security and UN peace-keeping measures, including responsibility taken by the permanent members of the Security Council to counter threat or use of nuclear weapons;
- b) Since insecurity is created by the very existence of nuclear weapons, the real solution is nuclear disarmament, and till then a credible guarantee;
- c) The problem exists regardless of NPT and should, therefore, be dealt with as such and not as a quid pro quo for signing NPT

Since the draft resolution or the unilateral declarations do not afford immediate, effective and automatic protection or deterrent action, we could criticize the proposed draft as follows:

- Its scope is confined to NPT adherents and as such it is discriminatory among members of UN which is contrary to the Charter

- . To the extent it speaks only of declaration of intent "to provide or support immediate assistance, it is not a binding commitment

- . It does not go beyond the obligations already undertaken under the Charter and, therefore, does not afford any additional assurances to meet the nuclear threat

- . As to positive guarantees, since operative articles I and II speak of "aggression" which has never been defined, necessary action by the Security Council is difficult to envisage. Further, as to the reiteration of the right of "individual or collective self-defense" under Article 51 before the Security Council acts (which could very well be paralyzed by the veto), there is nothing stated that the three nuclear weapon powers would take any positive action beyond what they might do within their existing systems of alliances.

- . As regards negative assurances envisaged in General Assembly Resolution 2153 A XXI) "not to use or threaten to use nuclear weapons against non-nuclear weapon states without nuclear weapons on their territories" (which with some variations has been suggested for incorporation in the treaty by Romania, West Germany and Spain), the draft is silent;

- . Thus the three nuclear weapons powers have retained the absolute freedom to act as they think best - free to decide whether or not "blackmail" or "aggression" has taken place and what action, if any, they should take, which is not acceptable.

□□

As against this, with some degree of validity, it is the contention (apart from propagandist verbiage) of US/USSR/UK that, within the limits of political realities of today, it is not possible for them to go further, and that in the context of the NPT the reiteration by the three of them to take action under Article 51 before the Security Council is able to take action, is a significant commitment on their part. If we are at all interested in security assurances, we could demand, through diplomatic channels or otherwise, that since mere declaration of intent is not good enough, the action to be taken under Article 51 should be made more explicit in the event of a "threat" or "attack" by nuclear weapons.

On the other hand, since the Security Council resolution and the unilateral declarations are definitely and positively linked with NPT, which we are not to sign, it would follow that as in the case of the draft treaty, we may criticize it in broad and general terms, and not propose any amendments or suggest any changes. An additional reason for this is that in order not to foreclose any possible benefit that might accrue from such a resolution and declaration, in the unlikely event of a nuclear threat or attack by China, we should not express strong views or vote against it. This is for decision of government.

Time Table: Since there is a close and clear understanding between USSR and USA and they are both anxious to conclude the treaty as quickly as possible, in the General Assembly they would accept only minor drafting changes or such changes as would command very large support but without changing the basic character of the treaty. The expect to open I for signatures in July/August, 1968, and anticipate the treaty to come into force in about a year by which time 40 non-nuclear weapons countries would ratify the treaty. Thereafter it would take two years (6 months to

apply to IAEA for negotiating safeguards and 18 months in which to do so) before IAEA safeguards become operative. From this it would appear that so far as external assistance is concerned, signatories to the Treaty would be bound by NPT when it comes into force in about a year's time, and for control on all nuclear activities internally two years thereafter.

There may be a move among some Afro-Asian countries to postpone an endorsement of the draft treaty till after the conference of non-nuclear weapons powers due in August/September 1968. While this may be in our interest, but as we do not wish to appear as obstructing the conclusion of the treaty, we may avoid getting involved in such a move., and let it take its own course. This is for decision of government.

Conclusion: The above proposals and recommendations for decision of Government are based on the view that we would not sign the treaty. If, however, this decision was not be modified, to sign the treaty or to sign the treaty provided certain changes (which, for reasons stated above, cannot relate to the basic features of the draft treaty incorporated in Articles I and II) are made concerning link with disarmament and peaceful uses, the whole approach and strategy would need to be different.