

NEW PRIORITIES AFTER THE ADOPTION OF THE CTBT*

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The Comprehensive Test Ban Treaty (CTBT) - a product of forty years of consistent efforts by the international community - is at long last a reality. As of today it is signed by 144 countries of the world and ratified by two: Fiji and Qatar. For all its deficiencies it is a major accomplishment. This is a document of immense importance to the future of mankind and in the quest for nuclear disarmament. It raises a barrier to the development and qualitative improvement of nuclear weapons thus constituting an important measure of nuclear disarmament. Its full power will be felt if or when this legal document comes into force and becomes mandatory to all, especially the nuclear and near nuclear powers alike. At issue, however, is the question whether India will be one of the 44 states that must ratify the Treaty for it to enter into force. Without the participation of that threshold country it may well be impossible to enforce the Treaty.

Putting aside merits or demerits of that Treaty the world community can be expected to be gratified by the fact that the first priority task envisaged in the documents adopted by the NPT Review and Extension Conference two years ago was successfully fulfilled. Other commitments dealt with in the documents of the NPT Conference were the early conclusion of an agreement banning the production of fissile material for nuclear weapons and the determined pursuit of systematic and progressive efforts to reduce nuclear weapons globally with the ultimate goal of eliminating those weapons. Another important element in the nuclear agenda was the agreement on the need for consideration of further steps to guarantee that nuclear weapons states would not use or threaten to use nuclear weapons against non-nuclear parties to the NPT.

It goes without saying that the above-mentioned measures do not exhaust the list of steps to be undertaken at various levels. Indeed, a lot can and should be done in order to demonstrate the commitment of all nuclear weapon states to conduct in "good faith"⁷ negotiations toward nuclear disarmament. It should be borne in mind that such a determination on the part of nuclear weapon powers will, for all practical reasons, also help put into operation the CTBT

Will the "new" priorities, as I see them, after the conclusion of the CTBT that I am going to list below become a realistic agenda for the remaining years of

**Views expressed in this paper are solely the responsibility of the author*

this century and the beginning of the next, certainly, will remain to be seen. I have put the word new in parenthesis because the priorities that I will be briefly discussing in this paper are, in fact, not new; rather many of those issues had been shelved and/or have been a matter of discussion for many years in different foray.

The end of this century coincided with the end of the “Cold War”. The ideological barriers that once were the cause and the justification for retaining huge arsenals of warfare and developing still new and more destructive weapons of mass destruction are no longer valid. The Warsaw Pact was dissolved and NATO is expecting soon new members from the former enemy camp. Though hotbeds of tension and conflicts are not diminishing in numbers, the threat of a nuclear conflagration has been dramatically reduced. Thus, a catastrophe on a world-wide scale is no longer something that hangs as a Sword of Damocles over the mankind. This is clearly demonstrated by the new national security doctrine for the 21st century recently adopted by the Russian Federation which places higher priority on issues of economic and social security.

It would seem logical that the new security pronouncement will lead to the serious and profound review of doctrines that underlined the cold war regime. The first step in the new era of partnership in terms of security-related issues should necessarily be a fundamental change in the doctrine of deterrence. The state of affairs in this regard does not reveal any tangible shift in the mental status of policy makers of the big and strong. Unless this is done it would be difficult if not impossible to persuade the rest of the world community of the real intentions, no matter how good they may be, of the nuclear weapon powers in regard to the goal of achieving nuclear disarmament.

Revoking the doctrine of deterrence will become a clear-cut statement of future intentions and actions of the nuclear-weapon powers and will bring requisite changes in their military posture and planning. This will also demonstrate their firm commitment to the total elimination of nuclear weapons which the non-nuclear weapon states are demanding all along. However, the first session of the NPT Preparatory Committee for the 2000 Review Conference held last April seems to suggest that the negotiations will not be easy and that the positions of major groups differ substantially as was the case during the NPT Review and Extension Conference two years ago. This has been, *inter alia*, discerned during the session of the Preparatory Committee where the discussions were strayed to a highly contentious and irresolvable issue of the varying importance of different articles of The NPT and that of the document on the Principles and Objectives adopted by the NPT Review and Extension Conference.

The documents adopted as part of the package to extend the NPT may not carry the weight as the Treaty itself. And it is understandable because three out of four are politically binding documents containing important commitments by the parties to the NPT, whereas only the decision on the indefinite extension, by virtue of the nature of the issue, carries legal weight.

During the Preparatory Committee session another highly controversial issue has been the priority to be given to nuclear disarmament. Although non-proliferation is an important issue jib its own right, one cannot divorce this problem from that of nuclear disarmament. Unless there is an unequivocal commitment of nuclear-weapon states to the elimination of nuclear weapons coupled with the phased and deep reductions in nuclear arsenals there is an increasing risk that the whole system of non-proliferation might be put in danger.

Therefore it seems important that an Ad Hoc Committee on nuclear disarmament be established as soon as possible in the Conference on Disarmament with a view to reaching an agreement on the realistic, step-by-step effective measures leading to nuclear disarmament.

One of these measures is related to the problem of banning fissile material for weapon purposes. Although there is a general agreement to deal with this issue differences in approach have stalled the practical consideration of the problem in the Conference on Disarmament. However, the current impasse on this issue should not frustrate the initiation of further efforts to move this problem forward. One such step would be for nuclear powers to put, on a voluntary basis, their entire stocks of fissile material under IAEA safeguards which would put on an equal footing all states, nuclear and non-nuclear alike. Proposals regarding the provision of detailed information on their stocks of plutonium and highly-enriched uranium, international inspections of such stocks, reduction in stocks deserve serious attention and consideration. A moratorium on the production of fissile material for nuclear weapons by all nuclear weapon states, either unilaterally or multilaterally, would constitute an important step in the right direction. Another approach to the cut-off of production of fissile material for weapons is to make it one step in an agreed program of nuclear disarmament leading to the elimination of nuclear weapons, as was proposed by the Group of 21 in the Conference on Disarmament last year.

The issue of providing negative security assurances to all non-nuclear states party to the NPT needs to be resolved at an early date prior to the 2000 NPT Review Conference. It seems only logical that those countries which renounced the possession of nuclear weapons altogether are entitled to such

guarantees that would give the maximum assurances that they will not be threatened and/or attacked by means of nuclear weapons. The need to take further steps in that direction was recognized in the documents adopted by the NPT Review and Extension Conference. The measures taken so far by the nuclear powers collectively do not sufficiently meet the concerns of the non-nuclear weapon states. Ideally this could be settled by the adoption of a legally binding international instrument which would, to the fullest extent possible, ensure the security of non-nuclear weapon states against the use or threat of use of nuclear weapons.

Nuclear-weapon-free zones (NWFZs) are of great significance in strengthening the non-proliferation regime and contribute to the attainment of the ultimate objective of achieving a world free of nuclear weapons and other weapons of mass destruction. As such zones concern specific regions of the world they, by necessity, require the necessary political will and agreement of the countries of the region concerned. In order that such zones are effective instruments of non-proliferation agreements arrived at by the countries should ensure that they are genuinely free of nuclear weapons. In addition, it is incumbent upon the states outside the region, especially nuclear-weapon states, to respect the status of such zones. More importantly, nuclear-weapon states should undertake specific commitments in regard to such zones. It is a matter of course that the establishment of NWFZs should not contravene the generally accepted principles of international law.

Proceeding from the above, it seems timely for the nuclear-weapon states to assume obligations at an early date in regard to the NWFZs established in Africa and South-East Asia. It is in the same spirit that all states, especially the nuclear powers are called upon to encourage in every way possible the establishment of such zones in other parts of the world, like, for instance, in Central Asia and Eastern Europe where specific initiatives were launched by the countries concerned. It is gratifying to see the second wind blowing in Central Asia since the idea of creating NWFZs in that part of the world was first put forward several years ago. Five Central Asian nations - Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan and Uzbekistan - issued the Almaty Declaration on 28 February 1997 that "formally endorsed" the creation of NWFZs in Central Asia. It was announced that these countries will hold an international conference to take place in Tashkent, Uzbekistan, in September this year. As far as the idea of NWFZs in Eastern Europe is concerned the situation there is more complex since it would involve countries seeking entry into NATO.

Mongolia became a single-state NWFZ in 1992. The fact that the nuclear-weapon powers in their individual statements gave assurances to respect Mongolia's nuclear-free status testifies that the creation of such zones within the boundaries of a single state is not only possible but also desirable. It is, however, important that the assurances being provided by the nuclear-weapon states be uniform and as far reaching as possible and be in a legally binding instrument.

As I discussed above some of the issues dealt with in the NPT and its Review and Extension Conference I wish to make a reference to a conference that was directly associated with the NPT. I have in mind the Conference of Non-Nuclear-Weapon States (CNNWS) in which ninety-six countries participated, including the four nuclear powers - France, the Soviet Union, the United Kingdom and the United States who participated without vote. That Conference took place in August-September 1968, i.e. after the NPT was endorsed by the General Assembly and opened for signature (1 July 1968). I am underlining the word "after" because the issue of timing of the Conference was one of crucial importance. There is no doubt in one's mind that, if the non-nuclear-weapon states (NNWS) had insisted on holding the conference before the NPT was adopted, it might have had an important impact on the nature of the non-proliferation regime.

In three years time there is going to be another NPT Review Conference. It will take place in changed circumstances, the most important of which is the indefinite extension of the Treaty. There will be no more controversies about the extension issues. But it does not mean that it will in any way be an easier conference. The problems to be tackled are many and highly complex. Therefore, it may seem advisable to have another forum where non-nuclear-weapon states could discuss the issues and come to common positions or understandings which would enable them to enter into a fruitful and more efficient dialogue with nuclear powers. From such a perspective it would only be logical to try to have such a conference before the 2000 NPT Review Conference. Such a conference might also attract the active participation of the three "threshold nuclear states" that are not parties to the NPT. There may be greater interest by the NNWS in holding such a conference if there is no SSOD-IV in the remaining years of this century.

Let me briefly turn now to some other no less important issues in the nuclear agenda whose solutions will help make the world a safer place to live in. Pride of place certainly belongs to the bilateral START negotiations, which

received a fresh impulse through the understandings, reached by the Russian and US Presidents at their Summit in Helsinki last March. Here I wish to underscore the importance of their statement to the effect that once START-II enters into force, the United States and Russia will immediately begin negotiations on a START-III agreement which would, inter alia, establish by 31 December 2007 lower aggregate levels of 2.000-2.500 strategic nuclear warheads for each of the parties. This statement, one would hope, is an indication of an accelerated process of ratification of START-II, especially by the Russia Federation. But there is some uncertainty on when or whether the Duma (Russian Parliament) is disposed to ratify the START-II Treaty.

The bilateral negotiations should, as is expected by the overwhelming majority of the international community, aim at creating a situation with regard to the reduction strategic armaments so that the other three declared nuclear powers will begin to be involved in the negotiations at an early date.

The following ideas and proposals which are advocated by many countries, NGOs and reflected also in the Canberra Commission's report of August 1996 deserve serious consideration and early action. They, for instance, include such measures, as:

- Taking nuclear forces off alert status.
- Removing warheads from strategic missiles and other delivery' vehicles and eliminating the missiles according to an agreed plan.
- No-first-use of nuclear weapons and negotiation of a treaty to this effect. Declarations to that effect would represent negative security assurances to all states and could serve a good basis for the negotiations of a treaty for that purpose. Such declarations can be made as early as today since they would not require a change in the policy of nuclear deterrence. But the reluctance to follow that line of thinking in the West during the cold war years was mainly due to the fear of an overwhelming conventional attack from the East. Today we see a mirror image of the West's position in the new Russian security doctrine according to the media statements being made of late by high Russian officials. Eventually, one would hope, high level of confidence between the two major nuclear powers, partnership and cooperation will overpower the nearly forgotten images of the cold war era and will bring us closer to the new brighter realities making it possible to discuss seriously the issue of no-first-use.
- Ending deployment of non-strategic nuclear weapons outside of their own territories, and then eliminating them according to an agreed plan.
- Closing down and dismantling of infrastructure of nuclear weapons, in particular testing sites.

I wish to conclude few of the above remarks by emphasizing an historic decision taken by the International Court of Justice on 8 July 1996 regard to the issue of legality of the threat or use of nuclear weapons as requested by the United Nations General Assembly.

Although there was no unanimity in each and every case, the Advisory Opinion as a whole will, undoubtedly, influence the tone and character of future nuclear disarmament debates. The Advisory Opinion will continue to be a subject of lively and heated discussions by politicians and legal experts alike, however, there are a few points indicative of the general approach to the issue of nuclear disarmament to which I wish to draw the attention of the reader.

Of special significance, as I see it, is the unanimous statement by the Court that “there exists an obligation to pursue in good faith and to bring to a conclusion negotiations leading to nuclear disarmament in all its aspects under strict and effective international control”. It should be noted that this statement goes well beyond Article VI of the Nuclear Non-Proliferation Treaty as it stipulates the obligation not only “to pursue negotiations in good faith” but an obligation to achieve a specific result, i.e. nuclear disarmament in all its aspects. As was noted by the President of the ICJ, this unanimous statement by the Court, as he considered, bore the force of a customary law.

This obligation requires the nuclear-weapon powers to bring the negotiations to a successful conclusion. These statements may well be the most significant and enduring results of the Advisory Opinion. And as is eloquently noted by a prominent disarmament scholar Mr. William Epstein, they “put to rest any questions about linking the elimination of nuclear weapons to a treaty on general and complete disarmament; it is now settled that complete nuclear disarmament is a separate and distinct obligation under Article VI of the NPT.