CHAPTER V

INDIA AND THE NON-PROLIFERATION TREATY (NPT)

The concept of proliferation of nuclear weapons has been analysed in Chapter II and the initiatives taken for banning the nuclear tests have been assessed in Chapter III. This chapter endeavours to critically examine the Non-Proliferation Treaty (NPT) and India's attitude towards it. Before a critical appraisal of the NPT is undertaken, it may be appropriate to briefly survey the initiatives taken prior to the conclusion of the NPT.

The first proposals having direct bearing on the spread of nuclear weapons were mooted by the Soviet Union and the United States in the Sub-Committee of the Disarmament Commission during 1956-57. With a view to thwart measures about the possible stationing of nuclear weapons in West Germany, the Soviet Union proposed, in 1956, for creating a zone of limitation and inspection of armaments in Central Europe.¹

In 1957, the United States also came out with proposals aimed at envisaging partial disarmament which entailed that from the date of the cessation of production of fissionable material for weapon purposes, each party would undertake not to transfer out of its control any nuclear weapons, or accept transfer to it of such weapons without prior arrangements between the transferer and transferee. The US proposals also aimed at restricting their use only in an eventuality of an armed attack.

Thus by the latter-half of 1950s, two different approaches with regard to the nuclear proliferation had developed. The Soviet proposal of 1956 aimed at curbing the spread of nuclear proliferation by establishing nuclear-weapon-free zones. However, the US proposal envisaged an agreement or a treaty which would ban the spread of nuclear weapons by the nuclear powers and the acquisition of nuclear weapons by the non-nuclear-weapon states (NNWS). Thus even at this juncture, the nuclear weapon states (NWS) were planning to devise measures to curb the horizontal proliferation, which was almost non-existent then.

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2 Ibid., supplement for January to December 1957, Doc. DC/113, Annex 5 (DC/SC.1/66).

3 For details, see, Chapter IV.
During the thirteenth session of the General Assembly in 1958, Ireland submitted a draft resolution\(^4\) seeking to foreclose all options for additional countries to join the nuclear club. Though the Irish proposal was not pressed to vote but it did pave way for future United Nations decisions in this regard. In the subsequent year, Ireland urged for the inclusion of question of prevention of the wider spread of nuclear weapons on the agenda for the fourteenth session of the General Assembly.\(^5\) On 28 October 1959 Ireland submitted a revised draft resolution\(^6\) urging the General Assembly to recognize the danger posed by the spread of nuclear weapons and suggested that the Ten-Nation Disarmament Committee (TNDC) should consider appropriate means of averting the danger, including the possibility of an international agreement subject to inspection and control, whereby NWS would refrain from handing over the control of such weapons to the NNWS.

The Soviet Union though concerned about the wider dissemination of nuclear weapons, pointed out that the Irish draft resolution did not deal with cases where nuclear weapons

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4 UN GAOR. Thirteenth Session, Annexes, Agenda items 64, 70 and 72. Doc. A/C.1/L.206.

5 Ibid., Fourteenth Session, Agenda item 67, Doc. A/4125.

were transferred by a NWS to the territory of an ally so long as the control of those weapons remained in the hands of that nuclear Power. The United States supported the Irish proposal on the ground that the question raised by the latter were in the context of the disarmament problem as a whole. After deliberations, the Irish proposal was adopted by the General Assembly on 2 November 1959, by 68 votes to none with twelve abstentions as Resolution 1380 (XIV). The resolution 1380 (XIV) while recognizing the danger posed by an increase in the number of countries possessing nuclear weapons, suggested that the TNDC should consider appropriate means "whereby this danger may be averted, including the feasibility of an international agreement subject to inspection and control, whereby the powers producing nuclear weapons would refrain from handing over the control of such weapons to any nation not possessing them and Powers not possessing such weapons, would refrain from manufacturing them".

However, seeing that the TNDC had not taken up the problem of nuclear proliferation as required by Resolution 1380 (XIV)

7 Ibid., First Committee, mtg. 1056.
8 Ibid., plen. mtgs., mtg. 841.
9 Ibid.
Ireland again requested for consideration of the problem by the fifteenth session of the General Assembly. The Irish draft resolution, was subsequently revised and co-sponsored by Ghana, Japan, Mexico and Morocco. This draft resolution called upon:

- all governments to make every effort to achieve permanent agreement on the prevention of the wider dissemination of nuclear weapons;

- powers producing such weapons, as a temporary and voluntary measure pending the negotiations of such a permanent agreement, to refrain from relinquishing control of such weapons to any nation not possessing them, and from transmitting to it the information necessary for their manufacture; and

- powers not possessing such weapons, on a similar temporary and voluntary basis, to refrain from manufacturing such weapons and from otherwise attempting to acquire them.

The Soviet Union supported the draft while emphasising on the dangers that might follow by supplying nuclear weapons


12 Ibid.
to West Germany. However, the United States abstained from voting on the plea that it had failed to recognize the major responsibility of the nuclear Powers since they could not expect other nations indefinitely to deny nuclear weapons to themselves if the former declined to accept the responsibility of halting the stockpiling of nuclear weapons.

After deliberations the General Assembly adopted it as Resolution 1576 (XV)\(^{13}\) on 20 December 1960 by 68 votes to none, with 26 abstentions. The Resolution 1576 (XV) regretted TNDC's failure to consider the problem of proliferation as referred to it by the General Assembly Resolution 1380 (XIV).

While the United Nations was seized of the problem of nuclear proliferation during 1960-61, the first Summit Conference of the Non-aligned countries held at Belgrade in early September 1961 also expressed concern about problem of the dissemination of nuclear weapons. Jawaharlal Nehru, India's then Prime Minister while addressing the Belgrade Summit emphasised that the most urgent problem facing the world was not colonialism but dissemination of nuclear and conventional weapons. He said "The fact is that while we have talked about disarmament, the world has gone on arming

\(^{13}\) Ibid., plen. mtgs., mtg. 960.
more and more ... the effects of war will not be confined to those great powers or their lives but that other countries which are not in the war will also suffer." At India's initiative, the Belgrade Summit adopted unanimously a declaration on 'Danger of War and Appeal for Peace' which appealed to the Soviet Union and the United States to make most immediate and direct approaches to each other to avert the imminent conflict and help establish permanent peace.

At the United Nations in 1961, the Irish proposal was retaken on the agenda of the General Assembly at its sixteenth session. On 17 November 1961, Ireland submitted a draft resolution urging the General Assembly to persuade the member countries especially the NWS, to use their best endeavours to secure the conclusion of an international agreement which should contain inter alia:

— ... provisions under which the nuclear States would undertake to refrain from relinquishing control of nuclear weapons


15 Ibid., pp. 261-2.

16 UN GAOR, Sixteenth Session, Annexes, Agenda item 81, Doc. A/4845.

17 Ibid., Doc. 5002, para 5. Also see, Doc. A/C.1/L.298/Rev.1.
from transmitting the information necessary for their manufacture to States not possessing them; and

— provisions under which States not possessing nuclear weapons would undertake not to manufacture or otherwise acquire control of them.  

There was unanimous support for the Irish proposal which was adopted on 4 December 1961 by the General Assembly as Resolution 1665 (XVI). The resolution urged all the countries to cooperate in realizing the objectives envisaged in it.

On 17 November 1961, Sweden submitted a new draft resolution was co-sponsored by 7 other countries. This draft resolution requested the UN Secretary General to make an inquiry as to the conditions under which the NNWS might be willing to enter into specific undertakings to refrain from manufacturing or otherwise acquiring such weapons.

This eight-power draft resolution was criticised by Soviet

18 Ibid.
19 Ibid., plen. mtgs., 1070.
20 Ibid., Annexes, agenda item 19, Doc. A/4980/Add.1. Also see, First Committee, mtg. 1196.
21 These countries were: Austria, Cambodia, Ceylon, Ethiopia, Liberia, Sweden and Tunisia.
Union as well as the United States. The Soviet Union regarded it as weak and not sufficiently categorical. However, the Soviet Union supported the draft resolution since it was designed to contribute to the reduction of the dangers of a nuclear war. The US opposition to the draft resolution was on the ground that it sought to shift the emphasis entirely to NNWS receiving nuclear weapons on their territories on behalf of any other country thus prejudicing the existing defensive arrangements.

However, the Swedish draft resolution was adopted on 4 December 1961 by the General Assembly by 58 votes to 10 with 23 abstentions as Resolution 1664 (XVI). The Secretary General was requested to make such an inquiry as soon as possible and to submit a report on its results to the Disarmament Commission not later than 1 April 1962. The Disarmament Commission was also requested to take adequate measures in the light of the Secretary General's report. Consequently the Secretary-General, on 2 January 1962, requested the member Governments to apprise him of their views regarding the conditions under which the NNWS might be willing to enter

23 Ibid.
24 UN GAOR, Sixteenth Session, plen. mtgs, 1070.
into specific arrangements as envisaged in resolution 1664 (XVI). Consequently 62 countries including India sent their replies to the Secretary General who in turn submitted it to the General Assembly. These were circulated among all the members. 25

There were mixed reaction to the proposal. Reciprocity to the adherence to the proposed treaty was frequently voiced by majority of countries. Some signed out specific states or all states within specified areas whose reciprocal adherence was required. Others demanded universal adherence, especially of the countries not members of the United Nations. 26 The three Western nuclear powers — US, UK and France expressed the view that the best solution was general and complete disarmament under effective international control.

To refer briefly to the position taken by India, India in its reply to the UN Secretary General on 26 March 1962 had said that "the elimination of nuclear weapons is imperative and urgent as an initial step towards the achievement of general and complete disarmament". 27 India further maintained

26 UN and Disarmament, n. 22, p. 194.
27 DCOR, n. 25, p. 70.
that the elimination of dangers emanating from the nuclear weapons entailed that:

- All those states not yet manufacturing these weapons or permitting them on their territory, should undertake not to do so;

- The weapons already in existence should be confined to the territory of the states which manufactured them;

- The latter, as required by General Assembly resolution 1648 (XVI), should bind themselves by a treaty banning nuclear tests under appropriate controls; and pending such treaty, they should refrain from such tests.28

It further reiterated that India had no intention of manufacturing itself or accepting nuclear weapons on its territory and "the Government of India is, therefore, willing to enter into any general agreement or specific undertaking in this regard in accordance with the resolution of the United Nations".29 Thus India had expressed its willingness to the probable treaty without attaching any conditions.

In March 1962, when the Eighteen-Nation Committee on Disarmament (ENDC) opened its first session at Geneva on

28 Ibid.
29 Ibid.
15 March same year, both the Soviet Union and the United States introduced draft treaties for general and complete disarmament.

On 15 March 1962, the Soviet Union submitted a "Draft Treaty on the General and Complete Disarmament under strict International Control". The Soviet draft treaty envisaged among the first stage measures the following articles:

- The states parties to the Treaty which possess nuclear weapons undertake to refrain from transferring control over nuclear weapons and from transmitting information necessary for their production to states not possessing them.

- The States parties to the Treaty not possessing nuclear weapons undertake to refrain from producing or otherwise obtaining nuclear weapons and shall refuse to admit the nuclear weapons of any other states into their territories.

Subsequently on 18 April 1962, the United States also submitted "Outline of Basic Provisions of a Treaty on General and Complete

30 For full text of the Soviet draft treaty see, Ibid., Doc. DC/203, Annex 1, Section c. Also see, ENDC/2.

31 Ibid., p. 115.
Disarmament in a Peaceful World'. It envisaged, among other, the first stage measures as follows:

The parties to the Treaty would agree to seek to prevent the creation of further national forces, and to this end, the parties would agree that:

--- any party to the Treaty which had manufactured or which at any time manufacture a nuclear weapon would —

- not transfer control over nuclear weapon to a state which had not manufactured a nuclear weapon before an agreed date;
- not assist any such state in manufacturing any nuclear weapons;

--- any party to the Treaty which had not manufactured a nuclear weapon before the agree date would —

- not acquire, or attempt to acquire control over any nuclear weapon; not manufacture, or attempt to manufacture any nuclear weapons. 33

A close analysis of the aforementioned two draft treaties reveals that both Soviet Union and the United States were worried about the horizontal proliferation. These draft treaties were essentially aimed at depriving the NNWS from

32 Ibid., Section F, pp. 140-60. Also see, ENDC/30.
33 Ibid.
acquiring nuclear power even for peaceful purposes. No measures were stipulated to control the vertical proliferation.

The General Assembly during its eighteenth session adopted a unanimous Resolution 1908 (XVIII) on 27 November 1963 which called upon the ENDC "to seek agreement on measures which could serve to reduce international tension, lessen the possibility of war and facilitate agreement on general and complete disarmament". However, efforts in the First Committee to specify, measures to prevent the proliferation of nuclear weapons failed to materialise.

Consequently in 1964 the ENDC in the course of its meetings discussed the measures to prevent the spread of nuclear weapons, especially with a view to explore the possibility of reaching an international agreement on the basis of General Assembly Resolution 1665 (XVI) of 4 December 1961. However, differences of opinion between the Super Powers especially on the Western plan for establishing a NATO multilateral nuclear forces (MLF) presented the main obstacle

34 UN GAOR, Eighteenth Session, Resolution 1908 (XVIII), 27 November 1963.

35 UN and Disarmament, n. 22, p. 196.
in the ENDC to arrive at any unanimous agreement during 1964.

In July 1964, the Organization of African Unity (OAU) in its meeting held in Cairo declared the readiness of its member states to undertake, in an international treaty to be concluded under the UN auspices, not to manufacture or acquire control of nuclear weapons. The declaration of the OAU was placed before the nineteenth session of the General Assembly.36 The General Assembly was urged to convene an international conference for the purpose of concluding an agreement on non-proliferation. However, no specific action was suggested by the General Assembly on the question of nuclear proliferation at this session. Another agenda item entitled 'Non-proliferation of Nuclear Weapons', was submitted by India demanding "a more equitable and practical basis of agreement . . . a package or integrated approach consisting of a non-proliferation agreement and some other measures affecting directly the nuclear weapons capability of the nuclear powers".37 Concomitantly, all the non-aligned members of the General Disarmament Committee in a joint memorandum stressed that "measures to prohibit the spread of nuclear weapons should . . .

36 **UN Doc. A/5763.**
37 **UN GAOR, Nineteenth Session, Annex 2, Doc.A/5768.**
be coupled with or followed by tangible steps to halt the nuclear weapons and the means of their delivery". 38

In the wake of impending impasse, The Disarmament Commission, convened at the request of the Soviet Union, met for seven weeks from April to June 1965 and discussed thoroughly the question of nuclear non-proliferation. India reiterated its stand on the issue on the lines taken by it during the nineteenth session of the General Assembly.

The Disarmament Commission, in a resolution adopted on 15 June 1965 by 83 votes to 1 with 18 abstentions, called upon the ENDC to reconvene as soon as possible and to "accord special priority to the consideration of the question of a treaty or convention to prevent the proliferation of nuclear weapons giving close attention to the various suggestions that agreement could be facilitated by adopting a programme of certain related measures". 39

The problem of nuclear non-proliferation became a dominant issue at the reconvened meeting of the 27 July 1965. The


39 DCOR, Supplement for January to December 1965, Doc. DC/225.
United States emphasised the urgent need to prevent the further spread of nuclear weapons and urged for the conclusion of a non-proliferation agreement on the basis of Resolution 1665 (XVI) of December 1961. The Indian representative in the ENDC, V.C. Trivedi, told the Committee on 12 August 1965 that India's "opposition to the concept of nuclear monopoly or privileged club membership is thus our fundamental response in any examination of a draft treaty or convention on non-proliferation". 40

The ENDC considered the US draft treaty presented on 17 August 1965 seeking to prevent the spread of nuclear weapons. 41 The Soviet Union also submitted a draft treaty on the same subject in September 1965. 42 A close scrutiny of these two respective draft treaties reveals two major differences. The first is about the meaning of "proliferation", especially in the context of military alliances. The Soviet Union expressed the fear that the US draft treaty envisaged loopholes which might permit West Germany to have "indirect" access to nuclear weapons. The Soviet apprehensions were expressed in the context of Multilateral Nuclear Force (MLF) debate that was going on during that period within the NATO. Secondly as pointed out by

40 ENDC/PV.223, p. 19.
41 ENDC/152 and ENDC/152, Add. I.
42 ENDC/164 and ENDC/175.
the United States the Soviet draft was so sweeping that it would bar existing practices for the deployment of nuclear weapons, under US control, on the territory of the NATO Allies and even preclude consultation on nuclear strategy among the alliance members.

The Soviet draft explicitly referred to the Soviet concern behind the dissemination of nuclear weapons with regard to West Germany acquiring the nuclear weapons through the MLF arrangement. The United States, though formally ignored the Soviet anxiety in the ENDC debate but had taken due notice of the basic Soviet position and reformulated its draft accordingly. The US did not emphasize on the MLF on account of inbuilt pressure within the NATO as well as Soviet objections to it.

The non-aligned members of the ENDC played a significant role in shaping the draft treaties on nuclear non-proliferation as submitted by the Soviet Union and the United States. The salient feature of the drafts were:

- that the nuclear weapons Powers should in no manner contribute to the further dissemination of nuclear weapons; and

- that the non-nuclear weapon states should give up their nuclear options.
These ideas were clearly discernible in Articles I and II of the final draft of the Nuclear Non-Proliferation Treaty (NPT). However, the NNWS were mainly concerned about the following issues:

- the sovereign right of all countries to conduct research and benefit from the peaceful uses of nuclear technology;
- their right to peaceful nuclear explosions;
- the responsibility of nuclear weapon states to bring about nuclear disarmament; and
- the NNWS to be assured of their security when they forego their nuclear options.

There were, however, no corresponding provisions in this regard in the respective Soviet and US draft treaties. Under these circumstances, the non-nuclear weapon states had to think of a comprehensive framework for the Non-Proliferation Treaty.

THE CONCEPT OF PROLIFERATION AND NPT NEGOTIATIONS

One can discern from the term dissemination widely used in the ENDC and General Assembly deliberations that the nuclear-weapon states were emphasising on the 'Nth Country' or horizontal problem. Dissemination was understood by the
Soviet Union as essentially acquiring 'access to nuclear weapons', especially by the West Germany. In Gromyko's letter accompanying the Soviet Memorandum on nuclear proliferation, dated 24 September 1965, it was stated:

> The achievement of agreement on prevention of the wider dissemination of nuclear weapons must occupy an important place among such measures . . . . In the resolutions adopted on this question, the General Assembly expressed the conviction that an increase in the number of states possessing nuclear weapons was growing more imminent and threatened not only to extend and intensify the arms race but also to increase the difficulties of avoiding war and of establishing international peace and security . . . . If in the present circumstances, other states, besides the USSR, the United States, the United Kingdom, France and China, which already possess nuclear weapons and are permanent members of the Security Council, set about making their own nuclear weapons or acquire the means of owning, controlling and using such weapons, it will no longer be possible to halt their further spread.43

Subsequently on 22 March 1968, the Soviet Union further made its stand on horizontal proliferation more clear:

> . . . The Non-Proliferation Treaty does not provide for the prohibition of nuclear weapons and their manufacture by the nuclear weapon countries - although it is indeed a step toward that objective. Therefore,

according to the sense of the Non-Proliferation Treaty, there arises no question of control over the activities of the nuclear Powers in the atomic field. . . . It is quite reasonable that the States possessing nuclear weapons and the States not possessing such weapons, in concluding of a treaty on the non-proliferation of nuclear weapons should assume obligations of a different nature.44

At a time when the ENDC was engrossed in the deliberations over the draft NPT, India and other non-aligned NNWS members of the ENDC had pointed out that there was a significant difference between "dissemination" and "proliferation". India had emphasised that the NPT should deal with all aspects of proliferation:

. . . which have been variously termed as present and future proliferation or existing and further proliferation or vertical and horizontal proliferation. Both these aspects of proliferation of nuclear weapons form part of a single whole and the problem cannot be dealt with by dealing with any one aspects of it. This element is central and essential to our concept of a non-proliferation treaty.45

In the wake of these developments, the non-nuclear weapon states had developed identical interests. Thus on 19 November

45 ENDC/PV. 370; A/C.1/PV. 1551, p. 52.
1965, Eight-Power draft Resolution 2028 (XX) was introduced in the First Committee which reflected their views about a non-proliferation treaty.

This draft was adopted as a resolution by the General Assembly on 23 November 1965 by 93 votes to none with 5 abstentions as Resolution 2028 (XX). This was a basic document as far as the non-nuclear weapon states were concerned because it envisaged the following five principles central to the non-proliferation treaty:

— The treaty should be void of any loopholes which might permit nuclear or non-nuclear weapon Powers to proliferate, directly or indirectly nuclear weapons in any form;

— The treaty should embody an acceptable balance of mutual responsibilities and obligations of the nuclear and non-nuclear powers;

— The treaty should be a step toward the achievement of general and complete disarmament, and especially nuclear disarmament;

46 Brazil, Burma, Ethiopia, India, Mexico, Nigeria, Sweden and the United Arab Republic (Egypt).


48 Ibid., plen. mtgs., 1382.
— There should be acceptable and workable provisions to ensure the effectiveness of the Treaty; and

— Nothing in the treaty should adversely affect the right of any group of States conclude regional treaties in order to ensure total absence of nuclear weapons in their respective territories.  

The following issues relating to the NPT were:

— the discriminatory safeguards position in the draft NPT (Art. III);

— the absence of a separate provision pertaining to vertical proliferation.

— the absence of a security guarantee clause.  

At the several stages of the debate on NPT until the final draft was approved, the non-nuclear weapon States like India, Brazil, Burma, Ethiopia, Mexico, Nigeria, Romania and Sweden raised the issues of mutual obligations and security

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49 Ibid.
50 Ibid.
51 For details views of these countries on mutual guarantees see: UN Doc.:

...continued
During this period India also proposed a two-stage proliferation treaty. The first stage would apply only to the nuclear weapon states and be designated as a partial non-proliferation agreement. They would agree:

— not to transfer nuclear weapons or nuclear weapon technology;

— to stop all production of nuclear weapons and delivery vehicles, and to agree on the beginning of a programme of reduction of their nuclear weapon stockpiles; and

— incorporate other measures. 53

52 For detailed views of these countries on security guarantees see: UNDoc.

53 UN and Disarmament 1945–65, n. 22, p. 201.
In the second stage, the non-nuclear weapon States would undertake not to acquire or manufacture nuclear weapons.

During the intervening period between the partial and comprehensive non-proliferation treaty, the Italian draft resolution suggested:

— There should be no manufacture or acquisition of nuclear weapons by any other nation;

— Non-nuclear States would not seek or receive assistance from nuclear weapon states in manufacturing nuclear weapons; and

— They should accept application of the IAEA safeguards on their nuclear activities.\(^{54}\)

As has been seen in the preceding pages, once the Soviet objections over MLF were conceded by the United States, both the Super Powers started responding to the criticism of the non-aligned countries in unison. An example was found in the US and Soviet opposition to the linkage issues raised by the eight non-aligned countries' Joint Memorandum\(^{55}\) which visualized that a non-proliferation treaty would be a means to nuclear disarmament and thus, there should be reduction

\(^{54}\) DCOR, supplement for January to December 1965, Doc.DC/227, Annex *, Section D (ENDC/157).

\(^{55}\) Ibid., Doc. DC/227, Annex I, Section E (ENDC/158); for eight countries, see, n. 46.
and elimination of nuclear weapons to be followed by the treaty. 56

The UN Secretary-General's Report for 1965-66 also referred to the dangers of nuclear proliferation and observed:

The risks that now exist of the further spread of nuclear weapons hold such peril for humanity and international safeguards should be established not only over nuclear power reactors but also over other nuclear plants which produce, use of process significant quantities of fissionable materials. 57

By 1966, the differences between the two Super Powers had gradually subsided. On 4 November 1966, the General Assembly adopted by 110 to one with one abstention, Resolution 2149 (XX) urging all countries to conclude a non-proliferation treaty as early as possible. Again on 17 December 1966, the General Assembly vide its Resolution 2153 (XXI) urged all the countries to hasten the process of agreeing to the NPT and urged the ENDC to consider with utmost urgency the question of non-proliferation of nuclear weapons.

Subsequently the United States and the Soviet Union presented almost identical drafts of the NPT to the ENDC. 58

56 Ibid., ENDC/178.

57 UN GAOR, Twenty-First Session, supplement 1A(A/6301/Add.1).

The non-aligned countries represented in the ENDC submitted several amendments\textsuperscript{59} in 1967 on the Super Powers' draft treaties which ranged from right to the benefit of peaceful uses of atomic energy to nuclear-weapon free zones, security guarantees and linkages between non-proliferation and nuclear disarmament. The UN Secretary-General in his annual Report for 1966-67 observed:

... if the spread of nuclear weapons is to be prevented, this can only be done by a treaty ... I regard the successful conclusion of a treaty for the non-proliferation of nuclear weapons as an indispensable first step towards further progress in disarmament.\textsuperscript{60}

It looked as if measures for concluding NPT were taking positive turn at a faster pace. On 19 December 1967, the General Assembly adopted Resolution 2346 A (XXII) urging the ENDC:

\begin{quote}
urgently to continue its work, giving all due consideration to all proposals submitted to the Committee and to the views expressed by Member States during XII session of the General Assembly and provide a full report to the Assembly after 15 March 1968.\textsuperscript{61}
\end{quote}

\textsuperscript{59} Ibid., Annex III and IV.

\textsuperscript{60} UN GAOR, Twenty-second Session, Supplement IA(A/6701/Add.1).

\textsuperscript{61} Ibid., Resolution 2346A (XXII).
On the occasion of the reconvening of the ENDC on 18 January 1968, the US and the Soviet Union submitted almost identical revised drafts. However, the non-aligned countries insisted on further amendment. On 11 March 1968, both US and the USSR submitted a joint revised draft NPT to the ENDC and the latter submitted the same to the General Assembly on 14 March 1968 as a part of the ENDC Report.

However, on 7 March 1968, the three nuclear powers — the United States, the Soviet Union and UK, introduced a draft resolution on security assurances in the ENDC with a view to submit it later to the UN Security Council. These three nuclear Powers perhaps regarded the issue of security as a subject outside the scope of the NPT. On 12 June 1968, the General Assembly endorsed the NPT as Resolution 2373 (XXII).

The NWS preferred a draft resolution on Security Guarantees by the UN Security Council. Consequently the draft resolution was placed before the Security Council reiterat-

63 Ibid., Annexes III and IV.
64 Ibid., Annex II, ENDC/222.
ing that in the event of a nuclear threat or nuclear blackmail, the Security Council would provide appropriate assistance. France though did not oppose the resolution but differed on the point of providing solution to nuclear threats which rested on nuclear disarmament. However, India, Nigeria, Brazil and Pakistan were critical of the resolution. On 19 June 1968, the Security Council adopted the draft resolution as Resolution 255 (1968) by 10 votes to none with five abstentions.

All aforementioned efforts brought the Non-Proliferation Treaty into effect on 1 July 1968. The UN Secretary General hailed it "as the most important international agreement in the field of disarmament since the nuclear age began and a major success for the cause of peace". The NPT came into force on 5 March 1970.

THE NON-PROLIFERATION TREATY: AN ASSESSMENT

Before we examine the attitude of India, it may be worthwhile to undertake clause by clause analysis of the NPT. The NPT comprises eleven article. Only the first six articles deal

66 UN GAOR, Twenty-third Session, supplement IA (A/7201/Add.1).
67 Full text of the NT is given in Appendix-A.
with policy aspects. The remaining articles refer to administrative aspects like amendment duration etc. An analysis of only the first six articles is therefore being undertaken in the pages ahead.

Article I imposes obligation on the part of NWS not to transfer nor in any way assist, encourage or induce any NNWS to acquire nuclear weapons, and other nuclear explosive devices. It implied that NWS were reluctant to give us physical custody of their nuclear weapons or provide sufficient access to their weapons by the NNWS. The NWS were not prepared to give up their right to final decision with regard to launching of these weapons. This article also stipulates NWS not to assist, encourage or induce NNWS to acquire nuclear weapons or nuclear devices. However, it is silent about such relationship between the NWS. The nuclear cooperation between London and Washington was allowed to continue but NNWS European allies were precluded from gaining control of US nuclear weapons.

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70 SIPRI Yearbook 1969, p. 68.
The sub-section as envisaged in this Article are applicable not only to nuclear weapons but also to other nuclear explosive devices. Even nuclear devices developed for peaceful purposes are interpreted as nuclear weapons. The plea taken by the NWS is that such devices have military implications.\textsuperscript{71} Putting the nuclear devices at par with nuclear weapons was opposed by many countries including Brazil, India and Japan. Japan urged that the restrictions may not be put on nuclear explosive devices for peaceful purposes.\textsuperscript{72} According to Mason Willrich, the terms 'nuclear weapons' or 'other nuclear explosive devices' having not been defined. Their interpretation has remained vague.\textsuperscript{73}

The Article II stipulates main obligations on NNWS. They are prohibited from acquiring or manufacturing the nuclear weapons and nuclear explosive devices, even for the peaceful purposes. It, however, imposes no explicit prohibition on research or other preparations for the making of nuclear weapons up to the stage of testing.\textsuperscript{74} The Article makes no


\textsuperscript{73} For details see, Mason Willrich, *Non-Proliferation Treaty; Framework for Nuclear Arms Control* (Indian Reprint) (Calcutta, 1971), pp. 67-98.

\textsuperscript{74} *SIPRI Year book 1969*, n. 68, p. 161.
reference to the prospects of cooperation in the preparation of nuclear weapons between one NWS which is a party to the treaty with another NWS which is not a signatory to the NPT.

Both Articles I and II are complementary to each other. They are favourable to the NWS who endeavour to perpetuate and retain their nuclear monopoly. The proliferation of nuclear weapons within the NWS and among themselves is permissible under these provisions. These Articles are discriminatory to the NNWS. Alva Myrdal while commenting on the structural weaknesses of the NPT, points out that NWS are free to transfer to one another both nuclear weapons and nuclear explosive devices as well as to assist, encourage and induce one another to acquire and manufacture nuclear weapons and devices. Only NNWS are forbidden from doing any such thing. 75

The provisions contained in Articles I and II uphold the nuclear monopoly of NWS. "The prohibitions on the development of peaceful nuclear devices by the NNWS have rendered these states to the status of dependents even for deriving economic benefits from the peaceful use of nuclear devices". 76 These


76 Pathak, n. 71, p. 111.
provisions are directed solely against the interests of the NNWS. 77

Article III is the main article dealing with the control of nuclear weapons. The NNWS are obliged to accept control and inspection of safeguards as envisaged in this Article of the Treaty. The NWS are exempted from such obligations. Besides, this article provides no means to verify how NWS regulate the control of nuclear weapons stationed on the territory of their allies. 78

The safeguards provided in this Article are exclusively applicable to the NNWS mainly for the purpose of verification of the fulfilment of their obligations as per the Treaty in order to prevent the diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices.

Provisions of this article are again discriminatory. The NWS are under no obligation and enjoy the freedom of using nuclear energy for peaceful as well as military purposes. The NWS are not subject to any safeguards provided in the Treaty. There are no sanctions on the NWS for proliferating nuclear weapons either quantitatively or qualitatively. But the NNWS

77 Willrich, n. 73, p. 98.
78 SIPRI Yearbook 1969, no. 68, p. 162.
are denied even the peaceful application of nuclear energy.

Article IV affirms the 'right of NNWS to launch research, production and harnessing of nuclear energy for peaceful purposes. The undertakings in this Article to share the benefits of peaceful application of nuclear energy are, however, of even more interest to the developing countries. India had made the stand clear on this issue that "the civil nuclear powers can tolerate a nuclear weapons apartheid, but not an atomic apartheid for their economic and peaceful developments". It was emphasised that exclusively for peaceful purposes the benefits of nuclear energy enjoyed by the NWS should be shared with the NNWS also.

Insertion of Article V in the NPT was a subsequent addition to the USSR-US drafts treaty of August 1967. This Article read along with Article II virtually vests monopoly of the technology of peaceful nuclear explosions in the NWS. Under this Article 'benefits' from 'explosions' would be made available to NNWS but not the nuclear explosive devices. Though the

79 Willrich, n. 73, p. 127.
80 ENDC/PV.298, 23 May 1967, p. 4.
82 Willrich, n. 73, pp. 136-37.
Article provides an assurance to the NNWS parties to the Treaty to obtain such benefits on a non-discriminatory basis in essence the treaty remains discriminatory to the NNWS because the monopoly of supplying Plowshare explosives is vested with NWS. The appropriate measures which the NWS will be obliged to "undertake to make Plowshare benefits available remain to be spelled out". However, the United States declared that Article V "binds the parties explicitly and emphatically".

This Article also provides a leverage to the NWS over NNWS. It promises to make available to all States party to the Treaty, the benefits of peaceful nuclear explosions and this obligation is undertaken by the NWS to provide peaceful explosions to NNWS under appropriate international observation and procedure with the object to "discourage non-nuclear weapon states from claiming that they need to develop their own peaceful nuclear explosives for economic reasons".

Article VI is also a subsequent addition for the NPT originally missing in the draft treaty of August 1967. When

83  Ibid.
84  Statement by the American Representative to the First Committee, 31 May 1968. UN Doc. A/C.1/PV. 1577 (Prov.) p. 78.
the draft treaty of August 1967 was proposed by Moscow and Washington, the NNWS had emphatically laid stress in the ENDC as well as in UN General Assembly for linking of non-proliferation treaty with measures of disarmament especially the nuclear disarmament. This approach of the NNWS was not well appreciated by the NWS and the latter argued that disarmament should not be traded against the NPT and further measures would be politically more practicable once the NPT was introduced.\(^{86}\) Thus, this article could be called "a bait to the non-nuclear weapon states to secure their adherence to the non-proliferation treaty co-authored by the two super-powers".\(^{87}\)

**INDIA'S ATTITUDE TOWARDS NPT**

The NPT was hailed as "man's latest effort to achieve political control on a global scale over the distributive potential of his science and technology . . . also a step toward the stabilization of the international political environment".\(^{88}\) But the NPT, as we have seen in the preceding

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\(^{87}\) Pathak, *n. 71*, p. 116.

\(^{88}\) Such a view was highlighted mostly by American authors. See Curtin Winsor Jr., "The NonProliferation Treaty: A Step Toward Peace", *Orbis* (Pennsylvania), vol. XII, No. 4, Winter 1969, p. 1004.
pages, was more discriminatory to the NNWS and it helped NWS to retain their nuclear monopoly. India found the NPT unsatisfactory and riddled with many loopholes. India had made its stand very clear at the draft stage itself. The then Indian Foreign Minister said on 27 March 1967 that "when the draft of NPT is given to us, we will carefully consider it" and "that the primary consideration . . . is our national security". 89 India further made it clear that it was in a position to use nuclear energy for peaceful purposes and thus India was opposed to anything in the treaty which would impede its plan to use nuclear energy for peaceful purposes. 90 This stand was reiterated by Indian delegate, V.C. Trivedi in the ENDC on 23 May 1967 when he said that nuclear weapons apartheid could be tolerated but not an atomic apartheid for economic and peaceful development. 91

While commenting on the draft NPT, India's Deputy Minister of Foreign Affairs, told Lok Sabha on 14 March 1968 that "the present draft Treaty does not promote disarmament". 92 Explaining India's attitude towards the NPT as not being rigid, Mrs Gandhi


90 Ibid.

91 See, n. 80.

said that "if the Treaty were to be changed and we feel that it was in our interests, we shall sign it and we have made it clear in no uncertain terms that the present draft treaty does not give us any satisfaction". 93

While not formally signing the treaty, India took care to clarify that her not signing the NPT at this stage in no way meant that India was planning to manufacture atom bomb. Mrs Gandhi said on 14 March 1968 that "India has repeatedly announced that it is not making an atom bomb and that it is developing her atomic energy programme exclusively for peaceful purposes". 94 Again on 24 April 1968, Mrs Gandhi reiterated that "we think that nuclear weapons are no substitute for military preparedness. The choice before us involves not only the making of few atom bombs but of engaging in an arms race... our programme of atomic energy development for peaceful purposes is related to the real needs of our economy and would be effectively geared to that end". 95

It is in this background that India raised objections to the discriminatory provisions of the NPT and refused to sign it. India's objections to the NPT were aptly summed up by its

93 Ibid.
94 Ibid.
95 Ibid., Vol. 6, 11 April - 25 April 1968, col. 2870.
representative to the First Committee of the General Assembly on 14 May 1968. An analysis of this statement shall help in

96 Mohammed Azim Hussain, Indian representative to the UN, while addressing 57th meeting of the First Committee of the UN General Assembly listed Indian objections to the NPT as follows:

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- The treaty did not ensure the non-proliferation of nuclear weapons but only stopped the dissemination of weapons to non-nuclear weapon states without imposing any curbs on the continued manufacturing, stockpiling and sophistication of nuclear weapons by the existing nuclear weapon states.

- The Treaty did not do away with the special status of superiority associated with power and prestige conferred on those powers which possessed nuclear weapons.

- The Treaty did not provide for a balance of obligations and responsibilities between the nuclear weapon states and the non-nuclear weapon states. While all the obligations were imposed on non-nuclear weapon states, the nuclear-weapon states had not accepted any.

- The treaty did not constitute a step by step approach towards nuclear disarmament.

- The treaty did not prohibit one nuclear weapon state from assisting another nuclear weapon state by providing technical aid.

- The long period of a quarter of a century provided in Article X of the treaty would appear to endorse and legitimise the present state of affairs and legalise, if not encourage, an unrestricted vertical proliferation by the present nuclear weapon powers.

- Article VI did not create a juridical obligation in regard to the cessation of nuclear arms race at an early date.

- The treaty imparted a false sense of security to the world.

...continued
the understanding of Indian attitude towards the NPT.

Imbalanced Obligations

India regarded the pattern of obligations between NWS and NNWS in the Treaty as imbalanced. It questioned the absence of any method to assess whether the NWS and their NNWS allies were adhering to their obligations under first two articles of the treaty. The NPT was inconsistent with the General Assembly resolution 2028 (XX) and was replete with all ingredients of discrimination. It avoided equal and mutual obligations of NWS and NNWS. Despite the well known fact that the NWS were in possession of an over-kill capacity, the Treaty failed to prohibit proliferation of nuclear weapons within the NWS. The

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- The treaty was discriminatory in regard to the peaceful benefits of nuclear explosions.
- The treaty was discriminatory in regard to the safeguards and controls which were all imposed on the non-nuclear weapon states while none whatsoever were imposed on the nuclear weapon states.
- The security assurances to the non-nuclear weapon states could not be a quid pro quo for the acceptance of the treaty. This must be obligatory for the nuclear weapon states.


controls applied to the NNWS could be applied to the NWS with a view to facilitate a balance of obligations and responsibilities between the former and the latter "but the treaty did not concern itself with the existing stockpiles of nuclear weapons or their augmentation or their further sophistication".98

**Discriminatory Safeguards**

India has been a staunch critic of the safeguards requirements under Article III of the NPT. It was of the view that atomic reactors engaged in peaceful pursuits and atomic power stations of the developing countries, did not in themselves, pose any threat to the security of the international society. The Indian representative to the ENDC told that India had satisfactory arrangements for safeguards with the countries who helped in its nuclear programme. "But that is entirely different from entering into an international instrument providing for International Atomic Energy Agency or other international guards over the reactors and power stations of the developing countries". India further argued that it was the chemical separation plants and the gaseous diffusion plants which produced the fissile material used in bombs "and it is these facilities which need to be controlled

98 Pathak, n. 71, p. 118.
in any system of controlled disarmament". Mason Willrich finds some logic in the Indian position "since plutonium encased in fuel elements lodged in a reactor cannot be used for nuclear weapons".

India had already agreed in principle, but subject to certain conditions, to accept IAEA safeguards on its major power reactor projects assisted by the United States and Canada. It further conceded its acceptance to observe any safeguards requirements if negotiated on a bilateral ad hoc basis.

India had consistently expressed the view the guiding principle that should be followed in regard to safeguards "is that they should be universally applicable and be based on objective and non-discriminatory criteria". The Indian representative to the UN observed that the NPT placed all safeguards and controls on the NNWS and non whatsoever on the nuclear weapon states. India felt that acceptance of safeguards by the NWS being subject to reservation about national security,

99 ENDC/PV.223, 12 August 1965, pp. 5-7.
100 Willrich, p. 73, p. 124.
101 For instance see, Article VIII of United States - India Agreement for Cooperation, 8 August 1963, Foreign Affairs Record (New Delhi), Vol. 10 (1963).
the scope of which was to be defined by the NWS themselves, made the acceptance of safeguards illusory. India further objected to the system of safeguards as unsatisfactory and which brought in discrimination among the NNWS. The Indian representative made a special reference to paragraph 4 of Article III which related to the non-nuclear weapon states parties to the Treaty, concluding agreements with the International Atomic Energy Agency either individually or collectively with other States. India was of the view that since it was not mentioned that those agreements would be uniform "one not being more onerous than another, the interpretation which is being given by interested countries would suggest that different criteria might be established, which is objectionable". 103

India, however, had no objections to the presence of the IAEA in relation to safeguards. It did agree that the IAEA was fully competent to negotiate and conclude agreements with the States parties to the NPT. It laid emphasis on the fact the application of safeguards had to be in accordance with the provisions of the Statute of the IAEA. This meant that the IAEA would not be guided by any political, economic, military or other considerations in the discharge of its functions and

103 Ibid.
the sovereign rights of states.\textsuperscript{104}

In the wake of the continuous rise in expenditures on safeguards, India further pointed that the safeguards activities, either by their operation or costs, should not lead to diminution or stagnation or imbalance in the desired growth of the promotional and technical assistance activities of the IAEA. The NPT was expected to bring under the IAEA's system of safeguards bulk of the nuclear activities of member states both party or non-party to the NPT, resulting in increased expenditures on IAEA. India, therefore, wondered as to how such huge costs could be met without exerting heavy financial burden on the developing countries. It urged for evolving a more rational and equitable system to be applicable to trilateral safeguards, transfer arrangements as also to multilateral arrangements like the NPT.\textsuperscript{105}

Indian representative, V.C. Trivedi further told the Safeguards Committee of the IAEA on 17 June 1970 that the onus of safeguards to be shared by the IAEA in respect of States parties to the NPT was already within the framework of the

\textsuperscript{104} J.P. Jain, \textit{Nuclear India} (New Delhi, 1974), Vol. 1, p.99.

\textsuperscript{105} Indian Representative's speech in the Safeguards Committee of the IAEA, \textit{IAEA Document GOV/COM. 22/2, 15 May 1970.}
Statute of IAEA and its existing safeguards system. The provisions in the IAEA Statute contained preventive measures to deal with the question of the furtherance of military purposes, whereas the NPT was an attempt to stop the diversion of nuclear energy from various peaceful uses to nuclear explosive devices. In this way, the NPT, in India's view, was limited instrument. India found the IAEA safeguards system as more comprehensive and non-discriminatory as compared to the NPT safeguards. It, therefore, called for the simplification and rationalization of IAEA's safeguards systems.

**Security Implications**

The NPT had referred to the security implications for the NNWS. In India's view, the problem of the security of the NNWS from the use or the threat of use of nuclear weapons arose from the possession, the continued stockpiling and the further sophistication of nuclear weapons. India firmly believed that the real and credible guarantee of security to NNWS against the use or threat of use of nuclear weapons could be provided only through nuclear disarmament especially when the nuclear weapons were completely eliminated. The discrimina-

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106 Ibid., 19 June 1970.
107 Ibid.
108 Foreign Affairs Record, n. 102, p. 117.
tory provisions of the NPT permitted NWS to retain their nuclear monopoly whereas the NNWS were prevented from going nuclear.

India conceded that steps towards lasting security would take time and had to be sought through stages. At the same time, India pleaded that as an interim measure, so long as nuclear weapons remained the monopoly of a few countries, the NWS had an obligation to guarantee the NNWS that their security would not be threatened by the use or the threat of use of such weapons. It was made clear that India would welcome any steps by the NWS and the NNWS to make the United Nations more effective for the purpose of providing effective security to the NNWS. India also cautioned that any security assurances offered by the NWS to the NNWS could not and should not be construed as a quid pro quo for signing the NPT. In India's view, any attempt to link security assurances to the signing of the NPT was contrary to the UN Charter because the latter did not discriminate between the states adhering to a particular treaty and those who might not do so. Such a distinction was in violation of the principle of equal rights of all nations as envisaged in Article (2) and the principle of sovereign equality of all member States enshrined in paragraph I of

109 Ibid.

110 Pathak, n. 71, p. 119.
Article 2 of the UN Charter. In the light of this, India demanded that the whole question of security assurances should be dealt with "separately and independently" of the NPT.  

Peaceful Uses of Atomic Energy Denied

The NPT denied even the peaceful use of atomic energy to the NNWS and for this reason also India did not sign the NPT. M.C. Chagla, the Indian Foreign Minister, told the Lok Sabha on 31 May 1967 that the most important thing in the Treaty which went against the NNWS was in respect of nuclear technology. The NWS which monopolised the nuclear weapons also sought to retain their monopoly of nuclear technology under the NPT. M.C. Chagla further declared: "we seriously object to it. We strongly resist any attempt at preventing this country from making progress towards betterment and improvement of nuclear technology."  

While discussing the Indian criticism of the NPT for denying the peaceful use of nuclear energy to NNWS, it may be pointed out that India's interests in harnessing nuclear explosions for peaceful purposes dates back to 1964. The late

111 Foreign Affairs Record, n. 102, p. 118.

Dr Homi J. Bhabha while addressing the Eighth General Conference of IAEA on 17 October 1964 had asserted that there was no reason why the benefit of harnessing atomic explosions for civil engineering works should be denied so long as such explosions were subject to international supervision. 113

Again on 24 October 1964, Dr Bhabha had referred to the potentialities of peaceful nuclear explosions for economic development. 114 In November 1964, the Prime Minister, late Lal Bahadur Shastri, had informed the Lok Sabha of India's possibility of using peaceful nuclear explosions for making tunnels and blasting mountains. He had further made it clear that the Atomic Energy Commission (AEC) of India was seriously exploring such possibilities and hoped that the peaceful nuclear explosion technology would benefit India as well as the world. 115

Under these circumstances, it was but natural for a developing country like India which was exploring the possibilities of peaceful application of nuclear explosions to oppose any attempt aimed at preventing such application. When the draft NPT was at the deliberative stage, India strongly opposed the discriminatory provisions which prevented NNWS from using

113 IAEA Doc. GC (VIII) OR 88, pp. 22-25.
114 Nuclear India (Bombay), November 1964, p. 1.
India's Foreign Minister, M.C. Chagla, while referring to the NPT, told the Lok Sabha on 31 May 1967 that India would strongly "resist any attempt at preventing this country from making progress towards betterment and improvement of nuclear technology".  

Reiterating India's policy the Indian representative told the First Committee of the General Assembly on 14 May 1968 that such a decision had been taken "at a time when the international Community was not seized of the question of a non-proliferation treaty". India could not be expected to relinquish its right of developing nuclear technology of its own and become a dependent on few privileged NWS for nuclear technology. Because of India's assertion of its sovereign right for peaceful nuclear explosions, it came to be described as a "recalcitrant state".

India was excluded from the scheme of security assurances envisaged by the NPT and attempts were also made to thwart India's nuclear energy programme by withholding the supply of necessary nuclear materials and equipment. Canada, one of the suppliers of nuclear material and equipment to India, had

117 Foreign Affairs Record, n. 102, p. 118.
118 Jain, n. 104, p. 150.
adopted a stiff attitude towards India in the wake of latter's refusal to sign the NPT. Consequent upon India's peaceful nuclear explosion in May 1974, Canada announced the suspension of all its shipments of nuclear material and equipment to India.\textsuperscript{119}

The NWS largely viewed India's civilian energy programme with suspicion. The University of Virginia organised a conference on International Security Ramifications of Civil Nuclear Power in May 1970. India was represented by M.A. Vellodi.

In reply to a suggestion that the NNWS need not have any nuclear power reactor when a fossil fuel plant could be more economical, the Indian representative told the conference that every country disliked the idea of complete dependence on one fuel only and each had to take into account the many beneficial applications derived from nuclear power programme and the technological spin-off.\textsuperscript{120}

The supporters of NPT advanced a query as to why the NNWS were anxious to have or opt for a natural uranium reactor

\textsuperscript{119} Statement by the Canadian Secretary of State, Mitchell sharp, on 22 May 1974. Canadian High Commission, New Delhi's Press Release, cited in Ibid.

capable of producing more plutonium than the light water reactors, fuelled by enriched uranium. Presenting India's viewpoint, M.A. Vellodi told the conference that the question of a country's deciding in favour of a particular type of reactor was largely a question of what could be done with the resources available. He further said that "we would want to work our reactor with the fuel that is presently available in India, instead of having to depend on others".  

Bader, a US expert suggested that in order to force non-signatory NNWS to sign the treaty, penalties could be imposed on them by way of making civil nuclear assistance to them subject to their agreeing to have IAEA safeguards applicable to all the materials and facilities that are exported to that country. The Indian representative while opposing such a stand, said that supply of civil nuclear assistance must be considered keeping in view the overall relations between the countries concerned. He further added that in case India did not receive assistance, its programme would probably slow down to some extent but at the same time it would provide incentive for redoubling efforts in this direction and go it alone. He further observed that any attempt to seriously consider "what other steps can be taken to bring

121 Ibid., p. 29.
in those countries that have not signed the NPT will be a fruitless exercise".\textsuperscript{122}

Thus India regarded NPT as an incentive to proliferation. "Indian government's opposition to the use of nuclear weapons was therefore consistent with its objection to the NPT as constituting neither a contribution to the principle of non-proliferation for a step-by-step approach towards nuclear disarmament".\textsuperscript{123}

India wanted the provisions of the NPT to be universal, objective and non-discriminatory. Recognising the fact that the eradication of nuclear menace was a universal objective, India believed that "prevention of the proliferation of nuclear weapons, which would halt the arms race, even if it did not encompass a reduction of nuclear arms, is the first step that we must take in our quest for that objective".\textsuperscript{124}

Thus India's opposition to the discriminatory provisions of the NPT and its refusal to sign the latter on this basis has remained coherent and unequivocal. India's stand is vindicated by the fact that a large number of nations which had signed the treaty with the hope that it would lead to

\begin{enumerate}
\item 122 \textit{Ibid.}, pp. 67-69.
\item 123 K. Subrahmanyan, \textit{n. 96}, p. 260.
\item 124 \textit{Foreign Affairs Record}, vol. XIII, No. 9, September 1967, p. 137.
\end{enumerate}
genuine non-proliferation and that the NWS would honour their commitments under Article VI of the Treaty, have rather got disillusioned. This was apparent at the First Review Conference of the NPT held in 1975.

Even the ardent supporter of the NPT like William Epstein, who had been associated with disarmament work at the United Nations, had to admit that "upto the present, Article III on safeguards, Article IV on promoting peaceful uses of nuclear energy, Article VI on halting the nuclear arms race and nuclear disarmament have been ignored and violated".\(^{125}\)

The failure of the NPT to check the proliferation of the nuclear weapons and the discriminatory nature of the NPT has been clearly brought out by an eminent scholar of the subject:

The split into two discontinuous categories of "super powers" and "other nations" has not only become more apparent to us during the disarmament negotiations, it has been made even more bluntly manifest by a conscious design on their part. The best example of this is the NPT. . . what we are witnessing today it seems to me is the emergence of duopoly of the two super powers in regard to modern technology giving them a more and more dominating hegemony over world affairs.\(^{126}\)


Between 1970 and 1975 two important events took place. The first was India's underground peaceful nuclear explosion on 18 May 1974 and the other, the first NPT Review Conference at Geneva in 1975.

The right to PNE had been recognized in the Tlatelolco Treaty (Article 18) and the NPT (Article V). India which had not signed the NPT decided to conduct the PNE satisfying itself that it was not in violation of any international agreement and even the relevant clauses in the NPT. Despite this India's PNE evoked world wide interest as well as criticism as being the first among the non-nuclear weapon states. The UN Secretary-General in his annual Report for 1973-74, made reference to the possible military consequences of the PNEs:

Recent developments have highlighted the importance of the relationship between the peaceful and military uses of nuclear explosions. Available scientific evidence shows that there is little essential difference between explosive devices for peaceful purposes and those for nuclear weapons. The conduct of peaceful nuclear explosions, may, in the future, become a practical means for releasing energy and resources for the benefit of mankind. It is, however, of overriding interest that these goals be pursued in a manner which does not involve danger of nuclear weapon proliferation. The United Nations has already taken action in this context by recommending universal acceptance of the Treaty on the Non-Proliferation of Nuclear Weapons . . . If the States not party to
the non-proliferation Treaty should pursue the path of conducting their own peaceful nuclear explosions, the nations of the world may soon find themselves in a most precarious predicament.\textsuperscript{127}

The deliberations at the UN General Assembly in 1974 laid emphasis on the suggestion that the PNEs should be subjected to severe international control and that the NPT Review Conference, IAEA, and CCD should pay serious attention to all the aspects of the problem. A 15-Power\textsuperscript{128} draft resolution was approved by the General Assembly as Resolution 3261 (XXIX) by 115 votes to 3 (Albania, China and India) and 12 abstentions. The resolution reminded the Super Powers about the setting up of an international regime for conducting the PNEs in terms of their statements made at the 1577th meeting of the First Committee on 31 May 1968.

The First NPT Review Conference

The first NPT Review Conference was held at Geneva from 5 to 30 May 1975. It was attended by fifty-eight states.

\textsuperscript{127} UN GAOR, Twenty-Ninth Session, Supplement \textquoteleft A\textquoteright (A/9601/Add.1), Section X.

\textsuperscript{128} These countries were: Austria, Belgium, Canada, Costa Rica, Finland, the Democratic Republic of Germany, Ghana, Ireland, Japan, the Netherlands, New Zealand, Nigeria, Norway, Sweden and Venezuela.
seven signatory states and seven observer states. Prior to
the commencement of the Review Conference, the Preparatory
Committee for the Review Conference, under the auspices of
the UN Secretariat, had prepared four papers covering the
basic aspects of the operation of Articles I, II, IV, V and
VI. The IAEA also prepared papers on the functioning of
Articles III, IV and V. The Agency on the Prohibition of
Nuclear Weapons in Latin America (OPANAL) also submitted a
study about Article VII of the NPT with regard to the function-
ing of nuclear weapon free zones. These documents were issued
as documents of the Conference.

The UN Secretary-General in his message to the Review
Conference said that the NPT embodied a balance of mutual
responsibilities and obligations of the nuclear and non-nuclear
weapon states: "The task of the Conference will be to review

129 The papers prepared under the UN Secretariat's auspices
were: (a) NPT/CONF/8 and Add. 1; (b) NPT/CONF/5;
(c) NPT/CONF/10 and Add. 1; and (d) NPT/CONF/7 and Add. 1.

130 The papers prepared by the IAEA were: On Article III -
NPT/CONF/6/Rev. 1 and Annex 9 and Add. 2-3; on Article IV -
NPT/CONF/11 and Add. 1, and on Article V, NPT/CONF/12 and

131 For the OPANAL document see, NPT/CONF/9 and Add. 11; and
For the Final Document of the Review Conference, see,
NPT/CONF/35, I, II and III.
how these obligations have been implemented, with a view to strengthening the role of the Treaty on the promotion of non-proliferation, nuclear disarmament and international peace and security. . . ."132

The non-nuclear weapon States represented at the Review Conference, criticised the non-implementation of Article VI regarding nuclear disarmament; the policy of denial of peaceful nuclear technology through more stringent safeguard measures which was contrary to the spirit of Article IV; the non-implementation of Article V regarding PNEs and about the inadequacy of the security guarantee as envisaged under Resolution 255 (1968) of the Security Council.

Various constructive proposals were mooted at the First NPT Review Conference with a view to attain the twin goals of stopping the vertical and horizontal proliferation on the one hand and achieve nuclear disarmament on the other. In the Final Declaration of the First Review Conference it reaffirmed the strong common interest of the state parties to the Treaty in averting the further proliferation of nuclear weapons.

With regard to Article III, the Final Declaration rendered strong support for effective IAEA safeguards with a view to

132 UN Information Centre (New Delhi), Press Release SG/SK/2181, 5 May 1975.
prevent the diversion of nuclear explosive devices and called for further standardization and universality of their application.

In case of Article IV, the Declaration reaffirmed the inalienable right of countries to use nuclear technology for peaceful purposes without discrimination and in consonance with the provisions of Articles I and II with the assistance through IAEA.

In regard to Article V, the Review Conference felt that the IAEA should be the appropriate international body and the nuclear weapon states could render assistance of PNE to non-nuclear weapon states. However, the Conference expressed dissatisfaction with the progress made thus far in regard to Article VI.

India, being a non-signatory to the NPT, was not represented at the first NPT Review Conference (1975). Since the recommendations of the Review Conference did in no way answer India's basic objections to the provisions of the NPT, there was no change in India's attitude towards the NPT.

Following the change of Government at the Centre in 1977, when Janata Government replaced the Congress, which had been in power since India attained independence, it was apprehended
in certain quarters that India might change its stand on the
NPT. The conflicting statements by Janata leaders on India's
nuclear policy had given rise to these speculations. But as
regards the NPT, there was no change in Janata Government's
attitude towards it. Prime Minister, Morarji Desai, in a
message to the UN Special Session on Disarmament in June 1978
reiterated his Government's stand:

... India is among those who have not
signed the NPT. Our objection to the
Treaty is because it is so patently
discriminatory. It makes an invidious
distinction between countries having nuclear
weaponry and those devoted to the pursuit
of nuclear research and technology
entirely for peaceful purposes.

UN Special Session on Disarmament (UNSSCD) - I

In accordance with the Resolution 31/1893 of 21 December
1976, the first UN Special Session on Disarmament (UNSSCD-I)
was convened in New York from 23 May to 30 June 1978. The
Special Session in its Final Document adopted on the concluding
day reiterated the need to "prevent the proliferation of

133 For details see, R.R. Subramanian, "The Janata Government's
Nuclear Policy", Punjab Journal of Politics (Amritsar),
vol. III, October 1979, pp. 43-49.

nuclear weapons in order to effect nuclear disarmament and prevent nuclear war”. It further observed:

Non-proliferation of nuclear weapons is a matter of universal concern. Measures of disarmament must be consistent with the inalienable right of all states without discrimination to develop, acquire and use nuclear technology, equipment and materials, for the peaceful uses of nuclear programmes, in accordance with their national priorities, needs and interests, bearing in mind the need to prevent the proliferation of nuclear weapons.\textsuperscript{135}

In its \textit{Programme of Action}, the Final Document stressed on the need for nuclear disarmament. It observed \textit{inter alia}:

The goal of nuclear non-proliferation is on the one hand to prevent the emergence of any additional nuclear weapon states besides the existing five nuclear weapon states, and on the other progressively to reduce and eventually eliminate nuclear weapons altogether.\textsuperscript{136}

While acknowledging the NPT and Tlatelolco Treaty as instruments of non-proliferation, the Final Document further noted:

Non-proliferation measures should not jeopardise the full exercise of the inalienable rights of all states to apply nuclear energy for economic and social development in conformity with their priorities, interests and needs. All states should also have access to and be

\textsuperscript{135} UN GAOR, Tenth Special Session, Supplement 4 (A/5-10/4), Section III.

\textsuperscript{136} Ibid.
free to acquire technology, equipment and materials for peaceful uses of nuclear energy, taking into account the particular needs of the developing countries.\footnote{Ibid.}

The main achievement of the Special Session was the establishment of a new multilateral control negotiating body based in Geneva, which is composed of 5 NWS and 35 NNWS.\footnote{Thirty-five NNWS in CD: Algeria, Argentina, Australia, Belgium, Brazil, Bulgaria, Burma, Canada, Cuba, Czechoslovakia, Egypt, Ethiopia, The German Democratic Republic, The Federal Republic of Germany, Hungary, India, Indonesia, Iran, Italy, Japan, Kenya, Mexico, Mongolia, Morocco, The Netherlands, Nigeria, Pakistan, Peru, Poland, Romania, Srilanka, Sweden, Venezuela, Yugoslavia and Zaire.}

The CD is the successor of the ENDC (1962-1969) and the Conference of the Committee on Disarmament.

The second major change has occurred with regard to the Chairmanship of the Committee. The US-USSR Co-Chairmanship has now been abolished. France and China had not only criticized but also did not participate in the CCD. Now in the new body the Chairmanship will rotate among all its members on a monthly basis.

\textbf{The Second NPT Review Conference, 1980}

The Second NPT Review Conference was held in Geneva from 11 August to 7 September 1980. A total of 75 countries of
which 43 belonged to the Third World, 24 from the West and 8 from East Europe participated. 11 countries were invited as observers. The Nigerian delegate drew the attention of the Second Review Conference towards the fact that 10 near-nuclear weapon states were not parties to the Treaty. During the course of general discussions, the major criticism was directed at the non-implementation of Article VI. The nuclear weapon States put the blame on the non-nuclear weapon states. The main suggestions put forward during the conference can be summarized as follows:

- early conclusion of a comprehensive test ban treaty;
- early ratification of SALT-II;
- gradual reduction of the nuclear arsenals; and
- more effective security guarantees for non-nuclear weapon States.

The non-nuclear weapon States severely criticised the more restrictive and stringent nuclear export policy by the nuclear-weapon States as amounting to virtual denial.

The Second Review Conference established two Main Committees. The Main Committee-I to deal with Articles I, II, VI and VII. The Main Committee-II concerned with the peaceful uses of nuclear energy and especially with Articles III and IV.
The Group of 77 presented a paper on nuclear disarmament before the Main Committee-I which recommended inter alia:

— The nuclear weapon States should prove by their deeds (and not purely by lip service about their commitment to Article VI of the NPT;

— The Super Powers should ratify the SALT-II Agreement;

— The nuclear weapon Powers should conclude a comprehensive Test Ban Treaty;

— Pending such an agreement, they should stop nuclear testing; and

— They should agree on the non-use of nuclear weapons.139

The Second NPT Review Conference concluded due to lack of consensus, without even issuing a final declaration.

The Second Special Session of the United Nations on Disarmament (UNSSOD-II) was held in June 1982. Prime Minister Mrs Indira Gandhi in her message to the UNSSOD-II proposed:

— The negotiations of a convention for the non-use of nuclear weapons;

139 NPT/CONF.II/C-1/2, 26 August 1980.
— A freeze on nuclear weapons including the total stoppage of further production; and

— An immediate suspension of nuclear weapon tests.140

While referring to the NPT, India's Foreign Minister, P.V. Narasimha Rao in his address to the UNSSCD-II on 11 June 1982 said that NPT, as it had emerged, was based on the faulty notion of checking horizontal proliferation alone "without placing simultaneous and equal curbs on the existing nuclear weapons". He further added:

Under Article VI of the Treaty, there was an obligation upon the nuclear weapon States to reduce their nuclear arsenals. This obligation has been treated by the nuclear weapon States as non-binding and mere oratory as good faith declaration. In actual fact, their arsenals have more than doubled, and now threaten to proliferate at a still faster pace. This has been the main reason why the NPT has proved to be a fragile instrument.141

Even the Third NPT Review Conference held in Geneva from 21 September to 27 October 1985 has failed to concede the demands of non-aligned non-nuclear weapon states. This has created a stalemate between the NWS and NNWS. The NPT is valid up to 1995. If the current stalemate continues, the

141 Ibid., Vol. XXVIII, No. 6, June 1982, p. 169.
possibilities of the NPT ending in a fiasco cannot be ruled out.

India being a non-signatory to the NPT has not been represented in the three NPT Review Conferences. But India's standpoint has been vindicated by the Group of 77 represented in these Review Conferences. India has abjured the production of war bombs preferring peace bombs instead because the country's interest is economic reconstruction and not political power. Unless the discriminatory provisions of the NPT are removed, India and some other non-nuclear weapons States are not expected to be a Party to the NPT.