

Chapter XIII

The Moscow Treaty

I

Prelude

The Administration Moves to Rebut Domestic Criticisms

While the negotiations in Geneva continued at a low key and reduced tempo, the domestic opposition to the Administration's efforts to achieve a nuclear test ban, which had begun to make itself felt in late January 1963, continued its attacks and appeared to gain strength. However, the Kennedy Administration also moved to rebut the criticisms and demonstrated that it would fight for its policies.

On February 21, 1963, Senator Thomas J. Dodd, a Democrat from Connecticut, gave a long, critical analysis of the American position in the negotiations in a major address on the Senate floor.¹ He argued that the United States had made a number of unwarranted concessions, and that it should return to its "original Geneva formula." On February 28, Senators Richard B. Russell, Stuart Symington, and Henry Jackson, all Democrats especially influential in defense policy matters, sent a letter to President Kennedy advising him that they could not approve the 1962 draft comprehensive treaty in its present form.² In early March, the Joint Committee on Atomic Energy conducted six days of hearings on the technical aspects of verification of a nuclear test ban. In these hearings, Dr. Carl Romney admitted that the seismic system currently being proposed by the United States would generally be unable to detect fully coupled underground nuclear explosions of below 1 kiloton if they were conducted in granite, below 2 to 6 kilotons if they were conducted in tuff, and below 20 kilotons if they were conducted in alluvium.³ He added that some tests below

¹*Congressional Record*, Vol. CIX, Part 2, pp. 2798-2809.

²See *Washington Post*, March 5, 1963.

³*Hearings: Developments in Technical Capabilities for Detecting and Identifying Nuclear Weapons Tests*, 88th Congress, 1st Session (1963), p. 104.

that level might be detected and that the United States would of course have its unilateral intelligence capabilities. On the other hand, decoupling would raise the threshold even higher. The current estimate was that decoupling would muffle a seismic signal by a factor of 200 or more.⁴

The most optimistic statement which the American scientists who had been working on the problem of on-site inspection under the Vela Program would make was that the system envisaged in the Western 1962 draft comprehensive treaty would give some probability, which they could not evaluate, of identifying an underground nuclear explosion.⁵ They also admitted that with careful planning an underground detonation could be executed so that proof of its occurrence would probably be lacking. Thus far there had been no field exercise involving on-site inspection techniques, because the scientists involved did not think that their techniques were "sufficiently advanced," and because the Arms Control and Disarmament Agency was not convinced that given the conditions in the United States—limited areas in which to test and limited abilities to maintain secrecy—such exercises would be useful.⁶

Representative Craig Hosmer played an active role in the hearings, which provided ample material for the use of his Republican Conference Committee on Nuclear Testing. This group continued its assault on the Administration position.

As the attacks against the Administration's efforts mounted, those who favored these efforts rallied to their support, and members of the Administration launched a major effort to justify their course. In early March, Adrian Fisher, Deputy Director of the Arms Control and Disarmament Agency, took the unusual action of writing a letter to the Editor of the *Washington Post*, in reply to a letter which that paper had printed from Senator Dodd.⁷ Senator Humphrey made a major speech in the Senate on March 7.⁸ Four days later, the Senate Committee on Foreign Relations held a hearing which provided a

⁴*Ibid.*, pp. 71, 297.

⁵See the statement of Theodore A. George, General Engineer, Advanced Research Projects Agency, *ibid.*, p. 257.

⁶*Ibid.*, pp. 251, 475.

⁷*Washington Post*, March 1, 1963 (Dodd); and, March 4, 1963, (Fisher).

⁸*Congressional Record*, Vol. CIX, Part 3, pp. 3711-24.

platform from which Secretary of State Rusk could defend the Administration's efforts. Senator Pastore arranged it so that Messrs. Foster and Long of the Arms Control and Disarmament Agency were the concluding witnesses before the Joint Committee on Atomic Energy. President Kennedy utilized his news conferences personally to defend the Administration's position.

These individuals all argued that the ability to detect underground explosions had substantially increased. They also pointed out that the thresholds of detectability were not absolute, that some events under the commonly assumed thresholds would be detected. They maintained that the possibility that an on-site inspection would discover incriminating evidence of a nuclear explosion would be a powerful deterrent to a would-be violator, and they pointed out that unilateral intelligence capabilities could be used in selecting events to be inspected. Presumably such intelligence capabilities would include agents, observation satellites, and other devices. In their view, this would substantially increase the probability of an on-site inspection's being successful. They also argued that the new United States' position emphasizing reciprocal inspection would enhance the effectiveness of inspections. Finally, they argued that the risks of a continued unfettered arms race would outweigh the acknowledged risks of a comprehensive test ban. President Kennedy, in his public remarks, seemed to be particularly impressed with the dangers which he felt would result from the proliferation of nuclear capabilities.⁹

Steps to Break the Deadlock

Although there seemed to be major obstacles to a test ban treaty both in Geneva and Washington, more promising signs soon appeared. On April 5, 1963, in the Eighteen-Nation Disarmament Committee, toward the end of a somewhat polemical speech, Mr. Tsarapkin announced that the Soviet Union was ready to consider the United States proposal, tabled the previous December, to establish a direct line of communication between the governments of the USSR and the United States.¹⁰ The difficulty of insuring reliable communications between the two states had become painfully evident during the Cuban crisis, and the United States had come to emphasize this proposal as an important means of preventing war arising through accident or

⁹See his news conference remarks of March 21, 1963.

¹⁰ENDC/PV. 118, p. 52.

miscalculation. After this announcement, talks began on the technical modalities of establishing a "hot line," as it was called. A memorandum of understanding on this subject was finally signed on June 20, 1963.¹¹ Also in April, negotiations were begun between the Soviet Union and the United States to renew their agreement on cooperation in nuclear research. A new agreement was signed the following month.

In late April, in an interview with an Italian newspaper editor, Chairman Khrushchev raised the possibility that if the Western powers did not soon agree to accept the Soviet offer of from two to three on-site inspections annually, the offer might be withdrawn.¹² At about the same time the American and British Ambassadors in Moscow jointly approached first Foreign Minister Gromyko and then, on April 24, Chairman Khrushchev on the test ban issue.¹³ The move was taken at British urging and without great American enthusiasm. The two ambassadors delivered a letter to Chairman Khrushchev from President Kennedy and Prime Minister Macmillan. This "letter concluded by saying that the writers would be ready in due course to send to Moscow very senior representatives empowered to speak for them directly with Khrushchev."^{13a} Despite Chairman Khrushchev's unpromising initial reply, this touched off another round of correspondence between the heads of government in May and June.

There were also developments within the United States. On May 8, the Atomic Energy Commission and the Department of Defense announced that they would detonate three low-yield nuclear explosions in Nevada later that month. Five days later the two agencies announced the cancellation of these shots.¹⁴

On May 27, Senator Dodd submitted a resolution stating that it was the sense of the Senate "that the United States should again offer the Soviet Union an immediate agreement banning all tests that contaminate the atmosphere or the oceans, bearing in mind that such tests can already be monitored by the United States without on-site inspection on Soviet territory."¹⁵ The resolution suggested that if the Soviet Union should reject this offer, the United States should reiterate

¹¹ENDC/97.

¹²The transcript was published in *New York Times*, April 22, 1963, p. 1.

¹³*New York Times*, April 23, 1963, p. 1; April 25, 1963, p. 1.

^{13a}Arthur M. Schlesinger, Jr., *A Thousand Days*, p. 898.

¹⁴*New York Times*, May 14, 1963, p. 1.

¹⁵*Congressional Record*, Vol. CIX, Part 7, p. 9483.

it, and seek the widest possible international support for it. If the Soviet Union should continue to refuse such an agreement, the resolution proposed that the United States should commit itself "before the world to conduct no nuclear tests in the atmosphere or under water so long as the Soviet Union abstains from them." As far as was known in the West, the USSR had not conducted any nuclear tests since its December 1962 series. The resolution added that the United States should maintain its readiness so that it would not be unprepared if the Soviet Union suddenly resumed nuclear testing in the atmosphere or underwater. Senator Humphrey joined Senator Dodd as the principal cosponsor of the resolution. Thirty-two other senators from both parties also became cosponsors,¹⁶ making a total of thirty-four. Although Senator Dodd informed the Administration of his proposal in advance, he did not act at its behest. Indeed, President Kennedy had some concern that it might undercut American efforts to achieve a comprehensive test ban.^{16a} During the course of his speech introducing the resolution, Senator Dodd stated that although he felt that a comprehensive test ban would be preferable to a partial ban, he had serious reservations about the current American proposal for a comprehensive treaty, which he knew several Senators shared.

Ten days earlier, Senator William Proxmire had asserted in a major address that it was unlikely that the Senate would ratify the comprehensive treaty currently being proposed by the Administration,¹⁷ and after a private survey conducted by members of his staff during the month of May, Senator Joseph S. Clark concluded that, at that time, at most, fifty-seven Senators would support the current American proposal.¹⁸ This was ten less than the required two-thirds

¹⁶They were Senators: Bartlett, Brewster, Burdick, Case, Church, Clark, Dominick, Douglas, Engle, Gruening, Hart, Hartke, Inouye, Javits, Keating, Kefauver, Lausche, McCarthy, McGee, McGovern, Metcalf, Morse, Moss, Muskie, Neuberger, Pell, Prouty, Randolph, Ribicoff, Scott, Sparkman, and Yarborough.

^{16a}Arthur M. Schlesinger, *A Thousand Days*, p. 899.

¹⁷*Congressional Record*, Vol. CIX, Part 7, p. 8894. Jerome B. Wiesner has gone even farther. In his book, he wrote that "Many times during the bitter Senate hearings on the partial test ban treaty we [The Kennedy Administration] had reason to wonder whether a comprehensive treaty would indeed have been acceptable given any number of inspections." (*Where Science and Politics Meet*, p. 167.)

¹⁸Senator Joseph S. Clark, "Would the Senate Ratify a Nuclear Test Ban Treaty?," *War/Peace Report*, Vol. III, No. 6 (June 1963), p. 6.

majority. On the other hand, it was obvious that the resolution submitted by Senator Dodd commanded much wider support.

The extent to which the Senate resolution affected the Soviet position cannot be known. It must have been obvious, though, if that many Senators had grave reservations about the American proposal involving 7 on-site inspections annually, to obtain Senatorial consent to a treaty involving only 3 on-site inspections annually would have been virtually impossible.

On June 10, Harold Wilson, leader of the British Labour Party, stated, at a news conference in Moscow where he was visiting, that he had gained the impression in a three-hour interview with Chairman Khrushchev that the prospects for an immediate agreement on a comprehensive test ban were not very hopeful.¹⁹ Mr. Khrushchev apparently implied that the Soviet Union had withdrawn its offer of two or three on-site inspections annually. Mr. Wilson also said, though, that he thought that prospects for a partial ban were fairly good.

That same day President Kennedy delivered the commencement address at The American University. He titled his remarks "Toward a Strategy of Peace."²⁰ Earlier in the spring, the President had decided that he would make a speech about "peace."²¹ Norman Cousins contributed to the timing of the speech by suggesting in a letter to Kennedy on April 30 that such a step at this time might affect the course of Soviet policy and would certainly help the American image in the world. The letter was written just after Cousins' return from a trip to the Soviet Union, during which, among other things, he told Khrushchev—at Kennedy's request—that the President really did want a test ban treaty.

In his address, President Kennedy called for a reexamination of American attitudes toward peace itself, toward the Soviet Union, and toward the Cold War, and called for a new context for world discussions and increased understanding with the USSR. He announced—as Harold Wilson did also—that he, Prime Minister Macmillan, and Chairman Khrushchev had agreed that high level discussions would begin shortly in Moscow on a nuclear test ban treaty. Unlike Mr. Wilson, however, he stated that the negotiations would be "looking for-

¹⁹*New York Times*, June 11, 1963, p. 1.

²⁰U.S. Department of State *Bulletin*, Vol. XLIX, No. 1253 (July 1, 1963), pp. 2-6.

²¹Theodore C. Sorenson, *Kennedy*, p. 730.

ward toward early agreement on a comprehensive test ban treaty.”^{21a} The President apparently was determined to pursue the objective of a comprehensive ban despite the feeling in the Senate and the apparent retraction by the Kremlin.²² As evidence of American good faith, President Kennedy declared that “the United States does not propose to conduct nuclear tests in the atmosphere so long as other states do not do so.” His hand was strengthened in this regard by the resolution which Senator Dodd had introduced. Moreover, as far as is known, neither side had tested in the atmosphere since the end of December 1962. Some within the Administration had proposed that the United States also suspend underground testing for a limited period, but the President rejected this suggestion.^{22a}

Apparently, the agreement to hold the meeting resulted from the exchange of correspondence between the heads of government initiated in April, and more specifically from Chairman Khrushchev’s response on June 8 to a joint proposal of Prime Minister Macmillan and President Kennedy, delivered on May 31, 1963.

Prior to this there had been important developments on the Soviet scene. The quarrel between the Soviet and Chinese Communist parties had deepened, and a conference between the two groups on their ideological differences had been scheduled to meet on July 7. A plenum of the Central Committee of the Communist Party of the Soviet Union had also been scheduled to open on June 18. Thus it seemed that events on various fronts were moving toward a climax.

II

Drafting the Treaty

American Preparations

Even before President Kennedy’s American University speech, the Administration had begun preparing for the forthcoming Moscow negotiations. The first steps consisted of the relevant agencies of the Administration reviewing current Western positions. Most of the American preparation concerned a comprehensive treaty. Almost simultaneously, the Preparedness Investigating Subcommittee of the

^{21a}“Toward A Strategy of Peace,” *supra* note 20, p. 6.

²²See *New York Times*, June 3, 1963, p. 1.

^{22a}Theodore C. Sorenson, *Kennedy*, p. 730.

Senate Committee on Armed Services began a series of executive session hearings.

In the process of the review of American policy, the Joint Chiefs of Staff concluded that the current Western proposal for a comprehensive nuclear test ban was "not consistent with the national security," because it was "not adequate to prevent the Soviet Union from making important advances in nuclear weaponry that could alter the present military relationship in favor of the Soviets."²³ There were several reasons for their decision. First, they concluded that the present proposal would prohibit all tests, including those "which have essentially no probability of detection."²⁴ They felt that this would prevent the United States from testing while providing "the opportunity for the Soviets to test clandestinely." The Joint Chiefs felt that any test ban treaty should "permit testing below appropriately specified and realistic detection thresholds." The Joint Chiefs also concluded that 7 on-site inspections "would not provide a reasonable deterrent considering the number of suspicious events likely to occur in the Soviet Union annually." They regarded the criteria for initiating an on-site inspection as too restrictive, and the area within which the inspection would be confined as being too small. They objected to the fact that the host country would provide the logistic support. They disliked the fact that the International Commission would have the sole right to order inspections on the territory of the nonnuclear powers. Finally, they felt the withdrawal provisions were too time consuming, and that at most 60 days should be required to complete a legal withdrawal. What the position of the Joint Chiefs was when the 1962 draft treaty was formulated has never been satisfactorily explained.

After the individual agency reviews, the American position was discussed in the Committee of Principals. Interestingly, on May 22, 1963, the Chairman of the Joint Chiefs of Staff was made an official member of the Committee of Principals; prior to that time he had routinely attended the Committee, but as an advisor. The change was made to mollify Congressional criticism. On June 14 the Committee of Principals met, and decided that in the forthcoming Moscow nego-

²³U.S. Senate, Committee on Armed Services, *Hearings: Military Aspects and Implications of Nuclear Test Ban Proposals and Related Matters*, 88th Congress, 1st Session (1964), 2 vols., Vol. I, p. 305.

²⁴*Ibid.*, p. 303.

tiations the United States should continue to give priority to efforts to achieve a comprehensive treaty, essentially on the basis of the draft which had been prepared in March. The Joint Chiefs of Staff dissented. The Secretary of Defense, however, concurred in this recommendation, which the President accepted. It was in accord with his own thinking on the matter.

Two days earlier it was announced that W. Averell Harriman, onetime Ambassador to Moscow and then the Under Secretary of State for Political Affairs, would head the American delegation to Moscow.²⁵ Lord Hailsham, who was Minister of Science, was chosen to head the United Kingdom delegation.²⁶ He was known to take a passionate interest in achieving a nuclear test ban treaty. On June 18, the United Kingdom pledged that it would not be the first nation to resume atmospheric testing.

President Kennedy visited Prime Minister Macmillan during his Western European trip on June 29 and 30. The two leaders coordinated Western strategy for the forthcoming talks, and Kennedy arranged to have the American delegation take the lead in the negotiations. He had much more confidence in Harriman than in Hailsham.

Before the American delegation departed for Moscow, according to Theodore C. Sorenson, President Kennedy

. . . made clear his belief (1) that this was the last clear chance to stop the diffusion of nuclear tests and poisons and to start building mutual confidence with the Russians; (2) that the delegation should keep in daily contact with him; and (3) that extreme precautions should be taken to prevent their prospects of success from being ruined by any premature leak of their position.^{26a}

²⁵The other members of the American negotiating team were: Adrian W. Fisher, Deputy Director of the Arms Control and Disarmament Agency; Carl Kaysen, Deputy Special Assistant to the President for National Security Affairs; William R. Tyler, Assistant Secretary of State for European Affairs; John T. McNaughton, General Counsel, Department of Defense; Frank E. Cash, Department of State; Alexander Akalovsky, Franklin A. Long, and Neville E. Nordness, Arms Control and Disarmament Agency; and Frank Press, a seismologist at California Institute of Technology.

²⁶The other members of the British delegation were Duncan Wilson, Under Secretary of the Foreign Office, and Sir Sully Zuckerman and Sir William Penney, scientific advisors.

^{26a}Theodore C. Sorenson, *Kennedy*, p. 734.

Again according to the same source, "he made arrangements for only six top officials outside the White House (Rusk, Ball, McNamara, McCone, Thompson, and Foster) to read the cables from Moscow on a hand-delivered, 'for-your-eyes-only' basis." When the actual negotiations were in progress, he would meet each evening with these six officials to discuss the progress of the talks, and he insisted that all communications to the delegation in Moscow be cleared through him.

Soviet Preliminary Moves

As these developments were in process, the USSR gave various indications of the position which it would take. On June 14, in an interview with a Pravda correspondent, Chairman Khrushchev stated that the USSR would not permit any on-site inspections as part of a nuclear test ban treaty.²⁷ He also said, though, that President Kennedy's American University speech had made "a favorable impression." Immediately after it was broadcast, Khrushchev had told Harold Wilson that it was "the greatest speech by any American President since Roosevelt."^{27a} Moreover, Soviet jamming of the BBC and the Voice of America, which had begun to slacken off in May, was stopped completely shortly after the President's speech. When the speech itself was rebroadcast, the USSR did not jam a single passage.

On July 2, in East Berlin, Chairman Khrushchev gave what could be considered a formal reply to the President's speech. Much of his address was devoted to an analysis of the past negotiations. He argued that underground nuclear tests could be monitored by national detection systems combined with automatic seismic stations, and that on-site inspections were not necessary. He reiterated the Soviet charge that the Western powers sought on-site inspection for intelligence purposes, and then went on to say:

. . . it is time for the imperialist gentlemen to know that the Soviet Government will never abandon the security interests of its country and of all the Socialist countries and will not open its doors to NATO intelligence agents. This is no subject for bargaining.²⁸

²⁷*New York Times*, June 15, 1963, p. 1.

^{27a}Arthur M. Schlesinger, *A Thousand Days*, p. 904.

²⁸U.S. Congress, Senate, Committee on Foreign Relations, *Hearings: Nuclear Test Ban Treaty*, 88th Congress, 1st Session (1963), p. 1000.

After asserting that a treaty banning nuclear tests in all environments was impossible because of the Western position, he declared that the Soviet Government would be willing to conclude a treaty banning nuclear tests in the atmosphere, in outer space, and under water. He said that the USSR had "made this proposal before, but the Western Powers had frustrated an agreement by advancing supplementary conditions which envisaged large-scale inspection of our territory." The record of the negotiations contains no evidence to substantiate this claim of a prior Soviet offer. Until June 1963 the USSR had always refused to consider a partial ban without an unpoliced moratorium on underground testing. Now for the first time, the USSR did not insist that a moratorium on underground tests accompany a partial ban. At the conclusion of his speech, Khrushchev attempted to link the conclusion of a partial nuclear test ban with the signature of a nonaggression pact between the NATO countries and the Warsaw Pact states; however, it was not clear whether or not he intended the latter to be a condition of the former.

On July 3, seemingly in response to Chairman Khrushchev's speech, Prime Minister Macmillan declared in the House of Commons that although the West ought to seek a comprehensive test ban, an agreement banning tests in the sea, the atmosphere, and space "would still be an advance." That same day the Administration officials in Washington also revealed that the United States would be willing to accept a partial test ban.

The Moscow Negotiations

Negotiations between the three nuclear powers opened in Moscow on July 15, 1963. The day before, in the midst of the Sino-Soviet ideological talks, the Soviet Communist Party chose to make public a full statement of its grievances against the Chinese Communist Party. The Moscow test ban talks thus would be held in the context of seriously deteriorating Sino-Soviet relationships.

Chairman Khrushchev opened the first meeting of the treaty negotiations, and during the course of this meeting he tabled a draft treaty banning nuclear tests in the atmosphere, in outer space, and under water. Except for the fact that it provided for a partial ban, it bore a strong resemblance to the treaty which the USSR had tabled on October 31, 1958, the opening day of the Conference for the Discontinuance of Nuclear Weapon Tests and to the USSR's draft treaty

of November 28, 1961. It was simple and brief. It merely stated that the three governments agreed to ban nuclear tests in the three environments. There was no withdrawal clause or provision for peaceful detonations. Significantly, however, there was provision for the accession of other states.

In response the Western powers tabled their draft partial test ban treaty of August 27, 1962. The Western delegates also attempted to engage the Soviet Union in negotiations on a comprehensive ban but without avail. They even were unsuccessful in their attempts to arrange meetings between Professor Press, the seismologist member of the American delegation, and Soviet seismologists, all of whom were said either to be out of town or otherwise engaged. After a few days, the Western delegates abandoned their efforts to achieve a comprehensive treaty, and by mutual agreement discussion was based on the Western draft partial test ban treaty of August 27, 1962. Even after accepting this draft as a basis for discussions, however, Soviet delegates continued to argue for the title from their draft, "Treaty Banning Nuclear Weapon Tests." They finally agreed, but with great reluctance, to the more accurate but more cumbersome Western title—"Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space, and Under Water."

There was some talk of the "nth country" problem, both with respect to France and Communist China, and for a while the USSR maintained that France would have to be brought into the treaty. However, it soon dropped this condition. On the other hand, the USSR, despite Western queries, refused to be drawn into a discussion of the problem of the adherence of Communist China.

The USSR pushed, although not too hard, for the signature of a nonaggression pact between the governments of the North Atlantic Treaty and the Warsaw Pact. The Western delegations made it clear that they were not authorized to negotiate such a treaty. Eventually the matter was disposed of by a sentence in the final communique stating that the three delegations had discussed the matter and had agreed "fully to inform their respective allies in the two organizations concerning these talks and to consult with them about continuing discussions on this question with the purpose of achieving agreement satisfactory to all participants."²⁹ This met the contention of the

²⁹U.S. Department of State *Bulletin*, Vol. XLIX, No. 1259 (August 12, 1963), p. 239.

Western powers that they could not negotiate on such an issue without involving all of the NATO allies.

On July 25, 1963, Soviet Foreign Minister Gromyko, Lord Hailsham, and Mr. Harriman initialed a treaty, which was formally signed, again in Moscow, on August 5 by Mr. Gromyko, Foreign Secretary Lord Home, and Secretary of State Dean Rusk. Prime Minister Macmillan had wanted to convene a summit meeting to sign the treaty.^{29a} President Kennedy had thought this unwise, but he had told Harriman that he would go to a summit meeting if necessary. Happily from his point of view, it was not. The President regretted that because it would be politically inexpedient he could not include Adlai Stevenson in the delegation which accompanied Secretary of State Rusk when he signed the treaty. Stevenson, of course, regarded the treaty as a vindication of his proposal made in the midst of the 1956 Presidential election campaign.

The Moscow Treaty

The Moscow Treaty closely resembled the Western August 27, 1962, draft proposal. There were two principal differences. The first was that the 1962 draft contained a provision allowing nuclear detonations for peaceful purposes if the original parties agreed, or if the detonations were carried out in accordance with the provisions outlined in an annex. The Moscow Treaty did not include such a provision. The Soviet Union took the attitude that it was already allowing the West to conduct nuclear explosions underground and that it did not want to extend this right to explosions in other environments. The Western delegates argued for retention of the provision. They had an annex partially worked out, although there were some uncertainties concerning the degree of disclosure which the United States would insist upon and accept. The USSR was adamant, however, and President Kennedy eventually ruled that the American delegates should agree to the Soviet position, even though he knew that the Atomic Energy Commission would oppose this and that the absence of such a provision would create certain difficulties for the Plowshare peaceful uses program. The necessary change in the text was effected by including the phrase "or any other nuclear explosion," in the first paragraph of the first article immediately after the state-

^{29a}Theodore C. Sorenson, *Kennedy*, p. 735.

ment that the parties were not to carry out any nuclear weapon test explosion, and again prior to the listing of the environments in which nuclear explosions are prohibited. This same phrase was also included in the second paragraph of this article, which imposed the obligation to "refrain from causing, encouraging or participating in" nuclear weapon tests in the prohibited environments. In other words, the broadened provisions prohibited the signatories to the treaty both from conducting peaceful nuclear explosions in the prohibited environments themselves and also from assisting others to conduct such explosions. As a consequence of agreeing to drop the provision allowing nuclear detonations for peaceful purposes, the Western Powers insisted on reducing the number of ratifications required for amending the treaty from that of two-thirds of the parties, including the original parties, to that of a majority, including the original parties. They hoped that this would make it easier in the future to obtain an amendment allowing such explosions.

The second principal difference concerned the withdrawal clause. As will be recalled, the 1962 draft treaty embodied a complicated procedure for withdrawal, which would have taken up to 120 days and would have involved the convocation of a conference of all signatory states. In addition, the permissible grounds for withdrawal were specified in a fairly detailed fashion. The Moscow Treaty simply stated:

This Treaty shall be of unlimited duration. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty three months in advance.

At first, Foreign Minister Gromyko argued that there was no need for a withdrawal clause; that the right to withdraw was an inherent right of sovereignty. The Western negotiators insisted that the treaty had to have a withdrawal clause because they felt that the absence of such a clause would be a more severe restraint on the Western powers than on the Soviet Union. In all, two days were spent on this issue. One of the complicating problems was that the Western delegates wanted to specify the grounds for withdrawal in as much detail as possible. These would have included testing by "nth countries."

Soviet delegates, in contrast, apparently wanted to avoid pointing too directly at Communist China, which obviously was not going to sign the treaty. The compromise, ultimately suggested by the United States and accepted by the other parties, was to insert the qualifying phrase "related to the subject matter of this Treaty," after the words "extraordinary events." Thus a conference as a possible forum for discussion of violations of the treaty and an instrument for mobilizing political pressure, as well as the enumeration of specific grounds for withdrawal were dropped from the treaty. Both features had been designed by American policy-makers to make withdrawal as difficult as possible. In the opinion of the Joint Chiefs, it will be recalled, they would have made it too difficult.

A third change involved listing all three of the Original Parties as depository governments, instead of naming just one government as is the normal practice. The reason for this was to ease the embarrassing problems which might arise from the attempted accession of governments which an Original Party did not recognize, such as East Germany and Nationalist China. Because of this change, there is no single agreed list of the parties to the treaty, since each depository government keeps its own list. The only circumstances in which this conceivably could cause a problem would be in determining whether or not a majority of parties had ratified an amendment.

A final change consisted of the addition of a hortatory paragraph in the preamble which proclaimed the objective of an agreement on general and complete disarmament under strict international control.

During the negotiations the delegates had ample time to go over the Treaty word by word and to achieve a consensus on the meaning to be attached to each. Among other things, they agreed that the Treaty in no way inhibited the use of nuclear weapons in time of war. Chairman Khrushchev publicly confirmed this understanding in replying to written questions from Soviet correspondents the day after the Treaty was initialed.

III

The Epilogue to the Negotiations

Ratification of the Treaty

President Kennedy submitted the Treaty to the Senate for its advice and consent to ratification on August 8, 1963. Hearings in the

Committee on Foreign Relations began on August 12 and lasted through August 27. The Committee had, however, been shown the Treaty as early as July 23, before it was initialed, and a bipartisan group of Senators had been included in the delegation for the official treaty-signing ceremony. The hearings before the Preparedness Investigating Subcommittee, which had started in May, also continued through this period. Administration witnesses before both committees appeared to be quite candid in their appraisal of the Treaty. All of the civilian officials, though with varying degrees of enthusiasm, argued that on balance the admitted risks of the Treaty—which they assessed in much the same terms as Paul Nitze had the previous September—were outweighed by its advantages. The Joint Chiefs of Staff individually and collectively recommended ratification, though somewhat ambiguously. They concluded that while there were military disadvantages to the Treaty, they were “not so serious as to render it unacceptable.”³⁰ Because of its “broader advantages,” they felt that the Treaty was “compatible with the security interests of the United States,” and consequently supported its ratification. The Joint Chiefs insisted that if the Treaty were ratified, certain safeguards would have to be implemented to protect the security interests of the United States.

It transpired that General Curtis LeMay, Chief of Staff of the Air Force, probably would have been against the Treaty if it had not already been signed.³¹ Appearing before the Preparedness Investigating Subcommittee, General Thomas S. Power, Commander in Chief of the United States Strategic Air Command, stated that he did not feel that the Treaty was “in the best interest of the United States.”³² In somewhat oversimplified form, his position was that the United States could only maintain its security through the further development of nuclear weapons.

Edward Teller also opposed the Treaty before both committees.³³ His arguments essentially were that the United States needed to know

³⁰*Hearings: Nuclear Test Ban Treaty*, *supra* note 28, p. 275.

³¹*Ibid.*, p. 372.

³²*Hearings: Military Aspects and Implications of Nuclear Test Ban Proposals and Related Matters*, *supra* note 23, p. 790.

³³*Hearings: Nuclear Test Ban Treaty*, *supra* note 28, pp. 417-506, and *Hearings: Military Aspects and Implications of Nuclear Test Ban Proposals and Related Matters*, *supra* note 23, pp. 542-84.

more about the effects of nuclear weapons and this information could be gained only through atmospheric testing. He also wanted more proof tests and more work on the development of a defense against intercontinental ballistic missiles. Dr. John Foster, Director of the Lawrence Radiation Laboratory at Livermore, California, did not go quite as far as Dr. Teller, but he concluded that "from purely technical-military considerations," the Treaty appeared to him to be "disadvantageous."³⁴

Interestingly, one of the principal witnesses from the Administration was Dr. Harold Brown, Director of Defense Research and Engineering, Department of Defense. He had been on the staff of the Lawrence Radiation Laboratory from 1952 through 1961, ultimately serving as Director from 1960 through June of 1961. He was also one of the two American scientists who did the basic work in Geneva on the system recommended by the Conference of Experts. In supporting the Treaty, he was in effect arguing against his former colleagues. One might speculate that one of the reasons for this was that as the Defense Department's Director of Defense Research and Engineering, the position which he then occupied, Dr. Brown had to face daily choices of trying to assess value in making decisions on expenditures for military purposes. In such a role, taking the position that cost did not matter when national defense was at stake, as many Livermore scientists were prone to, was simply not feasible. Dr. Norris E. Bradbury, Director of the Los Alamos Scientific Laboratory, the other center for nuclear weapons development in the United States, speaking for himself and for the majority of his staff, also supported the Treaty.³⁵ He acknowledged that it had risks, but felt that they could be minimized through a vigorous program of underground testing. Throughout the negotiations the scientists at Los Alamos had generally been more sympathetic toward efforts to achieve a nuclear test ban than their counterparts at Livermore.

Among those who had been associated with the test ban negotiating over the years, Harold E. Stassen and Arthur H. Dean, John J. McCloy, Hans Bethe, and Dr. Herbert York, the first director of the Lawrence Radiation Laboratory and Director of Defense Research and Engineering in the Eisenhower Administration, Professors

³⁴*Hearings: Nuclear Test Ban Treaty, supra* note 28, p. 616.

³⁵*Ibid.*, p. 583.

I. I. Rabi, Linus C. Pauling, and Edward M. Purcel supported the Treaty. Dr. Willard F. Libby and Dr. George B. Kistiakowsky did also, though somewhat less enthusiastically.

Admiral Lewis L. Strauss, although he did not oppose the Treaty, gave essentially negative testimony. Former members of the Joint Chiefs of Staff, Admirals Burke and Radford and General Twining, went somewhat further and expressed grave misgivings about the treaty.

Former President Eisenhower ultimately gave the Treaty a qualified endorsement.³⁶ He said that his recommendation that the Treaty should be ratified was conditional upon the safeguards recommended by the Joint Chiefs of Staff being implemented. He also suggested that a reservation might be added to the Treaty specifying "that in the event of any armed aggression endangering a vital interest of the United States this Nation would be the sole judge of the kind and type of weaponry and equipment it would employ, as well as the timing of their use." Later, he said that he did not have in mind a formal reservation.

In the course of their testimony Administration officials, who included Secretary of State Rusk, Secretary of Defense McNamara, and Chairman of the Atomic Energy Commission Seaborg, emphasized that the Treaty did not affect the use of nuclear weapons during war. They also emphasized that the Administration intended to do all that it could to maintain American readiness, including increasing the underground testing program. As if to underscore this point, on the day that the hearings of the Senate Committee on Foreign Relations opened, the Atomic Energy Commission detonated a nuclear device with intermediate yield underground in Nevada. Administration officials also declared that in their view the Treaty would not interfere with the development of a NATO Multilateral Force. Finally, Secretary of State Rusk asserted that, in the event of a Soviet abrogation of the Treaty, the United States would not feel itself bound by the Treaty and would feel free to resume testing whether or not it had complied with the withdrawal provision.³⁷

On September 3, 1963, the Committee on Foreign Relations filed its report on the Moscow Treaty. By a vote of 16 to 1, the

³⁶*Ibid.*, pp. 846-48.

³⁷*Ibid.*, p. 37.

Committee recommended that the Senate give its advice and consent to ratification. The lone dissenter was Senator Russell B. Long, of Louisiana.

Six days later, the Preparedness Investigating Subcommittee filed its report. Although this committee did not make a recommendation, it concluded that the Treaty would "result in serious, and perhaps formidable, military and technical disadvantages."³⁸ It also concluded that it was not convinced that comparable military disadvantages would accrue to the USSR. Senator Symington signed the report, although in a separate statement he said that he would vote for the Treaty, because of its other advantages. Senator Saltonstall filed a dissenting statement in which he said that he felt that the conclusions drawn were "overly adverse."³⁹ The other five members of the Subcommittee presumably approved the report without reservation.

Floor debate in the Senate opened on September 9, 1963. On September 11, President Kennedy sent a letter to Senators Mansfield and Dirksen, the majority and minority leaders respectively, giving them several "unqualified and unequivocal assurances."⁴⁰ These were (1) that the underground testing program would be "vigorously and diligently carried forward"; (2) that the United States would maintain its readiness to test in the prohibited environments, and that it would "resume atmospheric testing 'forthwith' if the Soviet Union violated the treaty"; (3) that the United States facilities to detect nuclear weapons tests "will be expanded and improved as required"; (4) that the Treaty in no way limited the "authority of the Commander-in-Chief to use nuclear weapons for the defense of the United States or its allies"; (5) that if the Island of Cuba should be used to circumvent or nullify the Treaty, the United States would take all necessary action in response; (6) that the Treaty in no way changed the status of East Germany; (7) that the government would "maintain strong weapons laboratories in a vigorous program of weapons development," and that it would "maintain strategic forces fully ensuring that this Nation will continue to be in a position to destroy any aggressor, even after absorbing a first strike by a surprise attack"; and (8) the

³⁸U.S. Congress, Senate, Committee on Armed Services, Preparedness Investigating Subcommittee, *Interim Report on the Military Implications of the Proposed Limited Nuclear Test Ban* (1963), p. 11.

³⁹*Ibid.*, p. 14.

⁴⁰*Congressional Record*, Vol. CIX, Part 12, pp. 16790-91.

United States would continue to pursue the development of nuclear explosives for peaceful purposes underground, and when developments made possible constructive uses for peaceful shots in the atmosphere, the United States would seek international agreements to permit this. The President also gave assurances that any amendments to the Treaty would be submitted to the Senate for its approval.

Again, as if to underline the President's assurances, on September 13, the Atomic Energy Commission detonated two underground explosions in Nevada. One of these was reported to have a yield equivalent to 1 megaton.

President Kennedy intervened in the Senatorial debate in other ways too.^{40a} He was concerned that a sufficient number of Southern Democrats might join with Republicans and prevent the necessary two-thirds majority. He wanted a large majority, and he wanted to ward off possible formal reservations. He spoke individually with key Senators. He encouraged the creation of a private "Citizens Committee for a Nuclear Test Ban," a group of leaders from both parties organized to gain support for the Treaty. He "advised them which Senators should hear from their constituents, . . . counseled them on their approach to the unconvinced, and suggested particular business and other leaders for them to contact."^{40b} Kennedy felt so strongly that he remarked to his associates on one occasion "that he would gladly forfeit his re-election, if necessary, for the sake of the Test Ban Treaty."^{40c}

On September 24, the Senate, by a vote of 80 to 19 gave its advice and consent to ratification of the Moscow Treaty. According to Theodore C. Sorenson, President Kennedy called the vote "a welcome culmination." No other single accomplishment in the White House ever gave him greater satisfaction."^{40d} The 19 who voted against the treaty included 11 Democrats and 8 Republicans.⁴¹ The list included Senator Goldwater, who would become the Re-

^{40a}See Theodore C. Sorenson, *Kennedy*, pp. 737-40.

^{40b}*Ibid.*, p. 739.

^{40c}*Ibid.*, p. 745.

^{40d}*Ibid.*, p. 740.

⁴¹They were Senators: Bennett (Utah), H. F. Byrd (Va.), R. C. Byrd (W. Va.), Curtis (Neb.), Eastland (Miss.), Goldwater (Ariz.), Jordan (Idaho), Lausche (Ohio), Long (La.), McClellan (Ark.), Mechem (N.M.), Robertson (Va.), Russell (Ga.), Simpson (Wyo.), Smith (Me.), Stennis (Miss.), Talmadge (Ga.), Thurmond (S.C.), and Tower (Tex.).

publican presidential nominee in 1964. Four of the 19 were members of the 7-man Preparedness Investigating Subcommittee, and 2 more were members of the parent Committee on Armed Services. The 19 included 1 member of the Joint Committee on Atomic Energy and 2 members of the Committee on Foreign Relations. Senator Lausche, in keeping with his maverick style, voted against the Treaty, even though as a member of the Committee on Foreign Relations he had voted for the report recommending that the Senate give its advice and consent to ratification. Of the 19, all but 4 (Senators Byrd [W.Va.], Curtis [Neb.], Lausche [Ohio], and Smith [Me.]) were from the conservative strongholds of their parties in Southern or Western states. Some of the Senators who voted for the Treaty—most notably Senator Jackson, another member of the Preparedness Investigating Subcommittee—indicated that they did so reluctantly and with some misgivings.

President Kennedy signed the Moscow Treaty on October 7, completing the United States ratification. The Presidium of the Supreme Soviet unanimously voted to ratify the Treaty for the USSR on September 25, the day after the Senate completed its action. The Treaty formally entered into effect at 1:00 p.m. on October 11, 1963. That same day, it was announced in Oslo that the Nobel Peace Prize for 1962 had been awarded to Linus C. Pauling. Among American scientists, he had clearly been the most outspoken critic of nuclear testing.

"Nth" and Potential "Nth Countries"

While the nuclear powers were completing their ratification, more than 100 other countries signed the Moscow Treaty. By the end of the year this total, so far as those states which signed or acceded to the Treaty in Washington, D.C., were concerned, rose to 116. There were, however, certain notable exceptions. The day after the Treaty was initialed in Moscow, a leading Chinese Communist official flatly asserted that China would have nuclear weapons in the not-too-distant future, and he condemned the efforts of a small number of nuclear powers to restrict nuclear capabilities.⁴² As the days wore on, Chinese denunciation of the Moscow Treaty increased. Of course it did not sign, and on October 16, 1964, Communist China detonated

⁴²*New York Times*, July 27, 1964, p. 1.

its first nuclear explosion, in the atmosphere. Both Albania, China's ally in the ideological struggle within the Soviet camp, and Cuba also refused to sign the Treaty.

President Kennedy and Prime Minister Macmillan made a personal appeal to President de Gaulle for France's adherence. They even offered some assistance with the development of the French nuclear weapons program as an inducement. President Kennedy was prepared to declare that France had achieved a nuclear capability within the meaning of the 1958 amendment of the Atomic Energy Act, thereby rendering it eligible for the same assistance that the United Kingdom received from the United States.^{42a} However, at a news conference on July 29, President de Gaulle definitely ruled out the possibility that France would sign, restating the position that France had maintained during the negotiations.

The Eighteenth General Assembly

When the eighteenth session of the General Assembly opened in September 1963, the Moscow Treaty was widely welcomed. However, there was also a fairly general feeling that it should be extended to cover all environments, which, according to the preamble to the Treaty, was the objective of the three nuclear powers too. The eight new members of the Eighteen-Nation Disarmament Committee wanted the Assembly to adopt a resolution which would pledge the Committee to continue to seek an accord banning all nuclear tests with adequate provision for inspection. Both the USSR and the United States balked at such specific instructions and would agree to no more than a paragraph instructing the Committee to continue its efforts "to achieve the objectives set forth in the preamble of the partial test ban treaty."⁴³ Both the USSR and the United States apparently wanted to avoid reopening the controversial question of monitoring a ban on underground tests, and the USSR gave no indication that it was willing to renew its offer of a limited number of on-site inspections on Soviet territory annually.⁴⁴ Only Albania opposed the resolution, which the Assembly adopted in November, and which was tailored to the nuclear powers' specifications.

^{42a}Arthur M. Schlesinger, Jr., *A Thousand Days*, p. 914, and Theodore C. Sorenson, *Kennedy*, p. 573.

⁴³General Assembly Resolution 1910 (XVIII).

⁴⁴See *New York Times*, October 24, 1962, p. 1; October 29, 1962, p. 1.

Since then there have been no serious negotiations on a ban on underground tests. It may well be accurate to say, as Jerome B. Wiesner has said, that political and military conservatism on the part of both sides prevented the achievement of a comprehensive test ban.⁴⁵ Important groups within the Soviet Union appear to have been most reluctant to agree to a treaty which would involve lifting the USSR's veil of secrecy beyond the most miniscule amount. Important groups within the United States, on the other hand, were unwilling to agree to a treaty which might involve significant risks of the Soviet Union's being able to engage in clandestine testing. Some of these same individuals were also strongly desirous, for a variety of reasons, of being able to continue testing nuclear weapons. The leaders in both camps, Chairman Khrushchev and President Kennedy, both appear to have been willing to go farther than several other policy-makers within their respective countries. But achieving an international agreement in an age of mass and bureaucratic government requires a broader coalescence of forces than agreement merely between two heads of state. There was this broader coalescence for a partial test ban treaty, but not for a comprehensive one.

⁴⁵Jerome B. Wiesner, *Where Science and Politics Meet*, pp. 167-68.