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## The Hierarchy of Arms Control and Disarmament Treaties

### Keywords

Disarmament, Treaties, Dispute Resolution, National Defense, Military, War and Peace, Weapons, Weapons of Mass Destruction

# The Hierarchy of Arms Control and Disarmament Treaties

JAYANTHA DHANAPALA\*

Throughout history men and nations have forged agreements in various forms to regulate the conduct of war which, in the words of Clausewitz, was regarded as "nothing but a continuation of political intercourse with an admixture of other means."<sup>1</sup> In more recent times with the horrors of warfare forcing men to realize that war should not be resorted to in order to settle disputes, efforts were made to limit the possession of armaments and actually disarm. Following wars, there have been armistice arrangements or disarmament treaties imposed on the vanquished by the victors. These form a distinct category in contrast to arms limitation and disarmament treaties freely concluded in times of peace between or among sovereign states in good faith and aimed at the prevention of war. Together they represent a quest for security through arms control or disarmament. For the purpose of this discussion, I propose to confine myself to treaties and agreements voluntarily reached by sovereign nations after World War II for the purpose of arresting and reversing the arms race both nuclear and non-nuclear.

While international agreements restricting the possession of arms are themselves a means of achieving security, it is clear that they cannot be viewed in isolation. For example, compliance with treaty obligations and the durability of treaties are important aspects to be considered. The recent emphasis on verification of treaties, and the convergence of views that we are witnessing on challenge and on-site inspections illustrate this. The present trend is towards detailed provisions for verification to be embodied in treaties.

We have also seen how some treaties can be jeopardized by technological advancement such as when the 1972 bilateral US-USSR Treaty on the Limitation of Anti-Ballistic Missile Systems<sup>2</sup> appeared to be under threat as a result of moves to construct ballistic missile defense systems based on "other physical principles" and futuristic weapons.<sup>3</sup> In addition, signed treaties are of tenuous or no value unless they are ratified. This was the fate of the 1979 US-USSR Treaty on the Limitation of Strategic Offensive Arms<sup>4</sup> or SALT II, which was not ratified although both parties

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1. K. CLAUSEWITZ, *ON WAR* 596 (1943).

2. Treaty on the Limitation of Anti-Ballistic Missile Systems, May 26, 1972, United States-U.S.S.R., 23 U.S.T. 3435, T.I.A.S. No. 7503 [hereinafter ABM Treaty].

3. *Id.* arts. II, III.

4. Limitation of Strategic Offensive Arms and Protocol (did not enter into force), June

stated initially that they would abide by its provisions as long as the other party did. Had SALT II been in force it would have expired at the end of 1985, and by May, 1986, the United States announced that it no longer felt constrained by the SALT II limits.<sup>5</sup>

Finally, we must not ignore the importance of unilateral measures for arms control and disarmament as well as confidence-building measures. These are not substitutes for concrete arms limitations and disarmament measures embodied in treaties, but they do provide a conducive atmosphere for the conclusion and implementation of treaties.

Treaties are therefore landmarks in the tortuous and difficult path towards achieving security at lower armament levels. They do not by themselves transform an international situation. However, they do represent the result of a coincidence of national interests and political will on the part of sovereign nations to achieve arms control or arms reductions. International legal principles govern the operation of these treaties and agreements. However, their efficacy and durability are finally determined by the international political climate. Article XV(2) of the ABM Treaty,<sup>6</sup> for example, provides for either party to withdraw from the Treaty, with due notice, in the exercise of its national sovereignty leaving it to the judgement of each party "that extraordinary events related to the subject matter of this Treaty have jeopardized its supreme interests."<sup>7</sup> Political relationships among states and the process of treaty negotiations are also key aspects in the disarmament process. Thus, the act of concluding treaties should be viewed in its broader context.

The theme I have set is a "hierarchy of treaties," implying a graded system or a multi-tiered arrangement. The immediate question that arises is what criteria one should adopt in establishing this hierarchy. Treaties are international agreements concluded in written form between two or more states and governed by international law.<sup>8</sup> We have multilateral treaties at both global and regional levels, as well as bilateral treaties. Are multilateral treaties involving more states more important than bilateral treaties? Likewise, a treaty between the two major nuclear powers, U.S. and USSR to eliminate an entire category of nuclear weapons is of indisputable global importance because of the awesome destructive capability of nuclear weapons. Because of their global impact, the bilateral and multilateral processes of arms negotiations can no longer be strictly

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18, 1979, United States-U.S.S.R., Senate Treaty Doc. No. 96-1, Executive Y, 96th. Cong. 1st. Sess. (1979) [hereinafter SALT II].

5. President's Statement on Nuclear Test Bans, May 1986, 86 DEP'T ST. BULL. 54 (1986).

6. ABM Treaty, *supra* note 2, art. XV(2).

7. *Id.*

8. Article 2 of the Vienna Convention on the Law of Treaties, *opened for signature* May 23, 1969, 1155 U.N.T.S. 331, *reprinted in* 8 I.L.M. 679 (1969) (entered into force Jan. 27 1980), defines a treaty as "an international agreement concluded between States in written form and governed by international law, whether embodied in a single instrument or in two or more related instruments and whatever its particular designation."

segregated.

Another question that arises in establishing a hierarchy of treaties is whether treaties which envisage the actual destruction or elimination of weapons and the halt on their testing, development and production are more important than treaties that set limits to the number of such weapons nations might retain, prohibit the deployment of certain weapons in specified zones or ban the use or first use of specific weapons. Are treaties relating to nuclear weapons to be placed at a higher level in a hierarchy of treaties than those dealing with chemical weapons or conventional weapons?

This line of debate leads one inevitably into a cul-de-sac. I do not believe we can establish a rigid order of precedence among treaties and even if we did, according to some highly subjective and arbitrary criteria, what benefit would it be in an analysis of the impact of treaties in the achievement of the important goal of "general and complete disarmament under effective international control?"<sup>9</sup> In 1925 when the Protocol for the Prohibition of the Use In War of Asphyxiating, Poisonous or Other Gases and of Bacteriological Methods of Warfare (commonly referred to as the Geneva Protocol)<sup>10</sup> was concluded, it was the result of the horrendous experience of the First World War in which the use of poison gas is reported to have caused 1.3 million casualties. At the time, it did achieve its objective. A draft convention providing for a total ban was discussed a few years later but without success. With the passing years, the failure of that Protocol to prohibit the development, production, stockpiling or deployment of chemical or biological weapons and to provide for mechanisms and procedures for violations of the Protocol has been exposed as serious lacunae which the Conference on Disarmament is working to rectify with a new convention. This is no reason to detract from the historical importance of the 1925 Geneva Protocol.

Similarly, the SALT I Interim Agreement of 1972,<sup>11</sup> a product of US-USSR detente at the time, set limits on launchers for five years. Today, seventeen years later, the fifty percent reduction in strategic arms that the bilateral US-USSR negotiations aim at will result, *inter alia*, in a limit of 1600 launchers. Again, one cannot assign an order or precedence between these treaties. They have to be viewed in their historical context and as part of a slow process of arresting and reversing the arms race.

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9. Since the unanimous adoption of G.A. Res. 1378, U.N. GAOR Annex (Agenda Item 70) at 13, U.N. Doc. A/4265 (1959), calling for general and complete disarmament under effective international control, this has remained an agreed objective of the international community.

10. Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare, June 17, 1925, 26 U.S.T. 571, T.I.A.S. No. 8061, 94 L.N.T.S. 65 [hereinafter Geneva Protocol].

11. The Interim Agreement on Certain Measures with Respect to the Limitation of Strategic Offensive Arms, May 26, 1972, United States-U.S.S.R., 23 U.S.T. 3462, T.I.A.S. No. 7504 (no longer in force) [hereinafter SALT I].

Thus, the classification of treaties into different categories rather than the establishment of a hierarchy appears to be a more useful mode of analysis.

Nevertheless, it is arguable that among disarmament treaties those that completely eliminate weapons have a greater impact in achieving peace and security than treaties that seek to place limits on the possession of weapons. A prohibition of use of weapons while permitting their development, manufacture and possession is still weaker as a constraint on states.

In the post World War II context, the Charter of the United Nations<sup>12</sup> to which the 159 member states of the United Nations have a fundamental allegiance must remain *sui generis* of all multilateral agreements on international security and disarmament. The prevention of war and the maintenance of international peace and security are declared objectives of the Charter. It also prohibits the use or threat of the use of force in international relations, provides for the peaceful settlement of international disputes, and establishes mechanisms for the U.N. to deal with threats to peace and acts of aggression. The only specific reference to disarmament is when the General Assembly is mandated to consider, "principles governing disarmament and the reduction of armaments" and the Security Council is made responsible for formulating plans for "a system for the reduction of armaments" the objective being the establishment and maintenance of international peace and security with the least amount of diversion for armaments from the world's human and economic resources."<sup>13</sup> Nuclear disarmament is of course not mentioned in the Charter which was signed before Hiroshima and Nagasaki.

Notwithstanding this relatively perfunctory reference to disarmament in its charter, the United Nations has from the adoption of its very first resolution in January, 1946, addressed the subject of disarmament and arms control continuously.<sup>14</sup> Institutions for the deliberation and negotiation of disarmament have been in existence and a number of multilateral treaties have been concluded under the aegis of the United Nations.

Goldblat<sup>15</sup> divides arms control agreements according to the obligations assumed by States. Thus, treaties are grouped into seven categories which are:

1. Restrictions on nuclear weapon testing;
2. strategic arms limitation;

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12. See generally U.N. CHARTER.

13. *Id.* art. IX.

14. *Resolution Adopted in Reports of 1st Comm.: Establishment of a Commission to Deal with the Problems Created by the Discovery of Atomic Energy*, G.A. Res. 1, 1 U.N. GAOR at 5, U.N. Doc. A/267 (1949).

15. J. GOLDBLAT, *AGREEMENTS FOR ARMS CONTROL* 596 (1982).

3. non-proliferation of nuclear weapons;
4. prohibition of non-nuclear weapons of mass destruction;
5. demilitarization, denuclearization and other measures of restraint in certain environments of geographic areas;
6. prevention of war; and
7. humanitarian laws of war.

As stated earlier, it is also possible to classify agreements into global, regional and bilateral treaties. A broader and more helpful distinction however would be to divide agreements into nuclear and non-nuclear categories. This acknowledges the indisputable fact that the prospect of nuclear war which has confronted mankind since Hiroshima and Nagasaki is qualitatively different from the prospect of conventional war. It is true that since World War II conventional wars have accounted for some 20 million deaths and must be prevented by conventional disarmament and the peaceful settlement of disputes. The destructive capacity of nuclear weapons, however, is unprecedentedly imperiling for the first time in human history, the planet we live on, all human life on it and its support systems. The Final Document of the Tenth Special Session of the General Assembly<sup>16</sup> (the First Special Session devoted to Disarmament) states this very clearly at paragraphs 19 and 20:

19. The ultimate objective of the efforts of States in the disarmament process is general and complete disarmament under effective international control . . . . Progress towards this objective requires the conclusion and implementation of agreements on the cessation of the arms race and on genuine measures of disarmament, taking into account the need of States to protect their security.

20. Among such measures, effective measures of nuclear disarmament and the prevention of nuclear war have the highest priority . . . .<sup>17</sup>

The Final Document also calls for measures and agreements to achieve the prohibition or control of other weapons of mass destruction such as chemical weapons and the balanced reduction of conventional armaments and armed forces.<sup>18</sup> Provision is also made for partial and comprehensive measures.<sup>19</sup>

The language of the Final Document makes a distinction between measures and agreements at paragraph 19 and 21.<sup>20</sup> The implication is clear. Agreements are by themselves not effective in achieving disarmament. The implementation of disarmament agreements however repre-

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16. U.N. GAOR, Tenth Special Session (Agenda Item 10), U.N. Doc. A/S-10-23 (1978) [hereinafter SSOD I].

17. *Id.* at ¶¶ 19-20.

18. *See Id.*

19. *Id.* at ¶¶ 24-26.

20. *Id.* at ¶¶ 19, 21.

sents an effective or genuine measure. The Programme of Action adopted at the First Special Session devoted to Disarmament<sup>21</sup> prescribes a range of issues on which multilateral agreement is necessary.

To consider the Treaties and agreements themselves, there is no doubt that the INF Treaty<sup>22</sup> between the U.S. and USSR, entered into force on 1 June 1988, is the first genuine nuclear weapons disarmament agreement. It eliminates all of the ground-launched intermediate range (1000-5500 km) and shorter-range (500-1000 km) missiles and launchers of both parties and all of the support equipment. The verification provisions of the Treaty have been described as being unprecedented, combining systematic on-site inspection, challenge inspection and national technical means of verification. A detailed analysis of the Treaty is not relevant to this discussion. Its significance is obvious despite the fact that the number of weapons eliminated comprise only three to four percent (3-4%) of the total nuclear arsenal in the world.

Linked to the current improvement in the relationship between the U.S. and the USSR are the bilateral talks going on regarding the ratification of the 1974 bilateral Threshold Test Ban Treaty (TTBT),<sup>23</sup> and the 1976 US-USSR Peaceful Nuclear Explosions Treaty (PNET).<sup>24</sup> The former prohibits underground nuclear weapon tests having a yield in excess of 150 kilotons which many commentators dismiss as far too high to act as a curb on the development of nuclear weapons. The latter regulates explosions conducted outside nuclear weapon test sites.

The most important treaty in this category of restricting nuclear weapon tests is the 1963 multilateral Partial Test Ban Treaty (PTBT)<sup>25</sup> prohibiting any nuclear explosions in the atmosphere, outer space or under water. The failure to achieve a comprehensive test ban treaty to include underground testing has been regarded as a major lacuna. Following the initiative of a group of non-aligned countries, an amendment conference has been called for so that the PTBT can be converted into a CTBT.<sup>26</sup> The depositary states are required to convene such a conference but the proposal is unlikely to achieve the necessary consensus among the three nuclear-weapon states for it to be adopted.

#### The 1968 Treaty on the Non-Proliferation of Nuclear Weapons

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21. U.N. GAOR, Tenth Special Session (Agenda Item 11), U.N. Doc. A/S-10/23 (1978).

22. Treaty on the Elimination of their Intermediate-Range and Shorter-Range Missiles, Dec. 8, 1987, United States-U.S.S.R., S. TREATY DOC. No. 11, 100th Cong., 2d Sess. (1988), reprinted in 27 I.L.M. 84 (1988) [hereinafter INF Treaty].

23. Threshold Test Ban Treaty, July 3, 1974, United States-U.S.S.R., reprinted in 13 I.L.M. 906 (1974) (unratified) [hereinafter TTBT].

24. Peaceful Nuclear Explosions Treaty, May 28, 1976, United States-U.S.S.R., reprinted in 15 I.L.M. 891 (1976) [hereinafter PNET].

25. Treaty Banning Nuclear Weapons Tests in the Atmosphere, in Outer Space and Underwater, Aug. 5, 1963, United States, U.K. and U.S.S.R., 14 U.S.T. 1313, T.I.A.S. No. 5433, 480 U.N.T.S. 43 [hereinafter PTBT].

26. *Id.* art. III, ¶ 1.



(NPT)<sup>27</sup> has become the most important part of the nuclear non-proliferation regime today. It embodies a carefully structured arrangement of reciprocal obligations between nuclear-weapon and non-nuclear weapon states. The Treaty aims at preventing the spread of nuclear weapons to non-nuclear weapon states, commits the parties to the cessation of the nuclear arms race and nuclear disarmament, and facilitates the peaceful uses of nuclear energy. Despite the refusal of some important countries to join the NPT there has been a steady growth in the number of countries joining the NPT regime. The Fourth Review Conference of the Treaty is scheduled for 1990 but more important will be the result of the 1995 Conference which will have to decide on the period of extension of this Treaty.

In the category of treaties dealing with nuclear weapons there is the 1971 Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof<sup>28</sup> under which parties to the Treaty are prohibited from placing nuclear and other weapons of mass destruction and facilities for such weapons on or under the sea-bed outside a 12-mile limit from the coast line. The 1959 Antarctic Treaty<sup>29</sup> demilitarized the Antarctic region which became the first nuclear weapon-free zone to be created by treaty. This aspect of the Treaty is widely acclaimed by its exclusivity, the fact that signatories have full rights in contrast to those acceding to the Treaty, the presence of South Africa as a party, and more recently the agreement for the exploitation of mineral resources in Antarctica has been the subject of controversy. The 1967 Treaty for the Prohibition of Nuclear Weapons in Latin America (Treaty of Tlatelolco)<sup>30</sup> also created a nuclear weapon free zone for the first time in an inhabited part of the world by prohibiting the testing, use, manufacture, production or acquisition by any means, and the receipt, storage, installation, deployment or any form of possession of any nuclear weapons in Latin America. More recently the 1985 South Pacific Nuclear Free Zone Treaty or the Treaty of Rarotonga<sup>31</sup> established a nuclear free zone in the South Pacific where parties are forbidden to manufacture or acquire by other means any nuclear explosive device, as well as to possess or control any such a device inside or outside the zone. Nuclear testing and the dumping of radioactive waste is also prohibited. The 1967 Outer Space Treaty<sup>32</sup> bans

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27. Treaty on the Non-Proliferation of Nuclear Weapons, July 1, 1968, 21 U.S.T. 483, T.I.A.S. No. 6839, 729 U.N.T.S. 161 [hereinafter NPT].

28. Treaty on the Prohibition of the Emplacement of Nuclear Weapons and Other Weapons of Mass Destruction on the Sea-Bed and the Ocean Floor and in the Subsoil Thereof, Feb. 11, 1971, 23 U.S.T. 701, T.I.A.S. No. 7337.

29. Antarctic Treaty, Dec. 1, 1979, 12 U.S.T. 794, T.I.A.S. No. 4780, 402 U.N.T.S. 4780.

30. Treaty for the Prohibition of Nuclear Weapons in Latin America, Feb. 14, 1967, 22 U.S.T. 762, T.I.A.S. No. 7137, 634 U.N.T.S. 3265.

31. South Pacific Nuclear Free Zone Treaty, Aug. 6, 1985, *reprinted in* 24 I.L.M. 1442 (1985).

32. Treaty on Principles Governing the Activities of States in the Exploration and Use

the placing of nuclear or other weapons of mass destruction in Earth's orbit and on celestial bodies or the stationing of nuclear weapons in outer space. The establishment of military bases and testing of weapons on celestial bodies is also banned. The 1979 Moon Treaty<sup>33</sup> declares that the Moon shall be used exclusively for peaceful purposes and bans the use of the Moon and other celestial bodies for military purposes. As of 1987, this treaty had only eleven parties.<sup>34</sup>

Among the bilateral treaties the 1972 ABM Treaty, the SALT I Agreement, the TTBT, PNET and SALT II have been mentioned.

In the non-nuclear category, the 1925 Geneva Protocol has been mentioned. In 1972 the Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological (Biological) and Toxin Weapons and on their Destruction<sup>35</sup> was concluded eliminating all forms of biological weapons and toxins. The Convention contains a commitment of the parties to negotiate for a similar ban on chemical weapons. These negotiations are going on in the Conference on Disarmament, the Geneva based 40-nation negotiating forum. In 1977, a Convention on the Prohibition of Military or Any Other Hostile Use of Environmental Modifications Techniques (ENMOD Convention)<sup>36</sup> was concluded multilaterally to ban the manipulation of nature to cause such phenomena as earthquakes, tidal waves, flooding, etc.

The 1981 Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to be Excessively Injurious or to Have Indiscriminate Effects<sup>37</sup> has three protocols restricting the use of land mines, booby traps, incendiary weapons and fragmentation weapons. This Convention was the initiative of the International Committee of the Red Cross.

A distinct category of treaties encompass confidence-building measures which are not themselves disarmament or arms control measures. Nevertheless, they are relevant to our discussion since they are aimed at the prevention of nuclear war and have been concluded between the U.S. and the USSR. These bilateral treaties include the 1963 Memorandum of

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of Outer Space, Including the Moon and Other Celestial Bodies, Jan. 27, 1967, art. IV, 18 U.S.T. 2410, T.I.A.S. No. 6347, 610 U.N.T.S. 205.

33. Agreement Governing the Activities of States on the Moon and Other Celestial Bodies, Dec. 5, 1979, *reprinted in* 18 I.L.M. 1434 (1979) [hereinafter Moon Treaty].

34. Moon Treaty signatories as of 1987: Austria, Chile, France, Guatemala, India, Morocco, The Netherlands, Peru, The Philippines, Romania and Uruguay.

35. Convention on the Prohibition of the Development, Production and Stockpiling of Bacteriological and Toxin Weapons and Their Destruction, April 4, 1972, 26 U.S.T. 583, T.I.A.S. No. 8062.

36. Convention on the Prohibition of Military or any Other Hostile Use of Environmental Modification Techniques (ENMOD), May 18, 1977, 31 U.S.T. 333, T.I.A.S. No. 9614.

37. Convention of Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May Be Deemed to Be Excessively Injurious or to Have Indiscriminate Effects, U.N. Doc. A/CONF.95/15 (1980), *reprinted in* 19 I.L.M. 1523 (1980).

Understanding<sup>38</sup> which established the famous Moscow-Washington "hot-line;" the 1971 Agreement on Measures to Improve the US-USSR Direct Communication Link<sup>39</sup> which modified the 1963 agreement; the 1971 Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War;<sup>40</sup> the 1972 Agreement on the Prevention of Incidents on and over the High Seas;<sup>41</sup> the 1973 Agreement on the Prevention of Nuclear War;<sup>42</sup> the 1987 Agreement on the Establishment of Nuclear Risk Reduction Centres;<sup>43</sup> the Agreement on Notification of Launches of International Ballistic Missiles and Submarine Launched Ballistic Missiles<sup>44</sup> and the June 1989 Agreement between the U.S. and the USSR on the Prevention of Dangerous Military Activities.<sup>45</sup> Some of these agreements such as the Agreement to Avoid Nuclear Accidents have also been concluded bilaterally between the USSR and France and USSR and the UK.

The most important multilateral agreement on confidence building measures is the Helsinki Document on the Confidence-Building Measures and Certain Aspects of Security and Disarmament in Europe (1975).<sup>46</sup> It is part of the Final Act of the Helsinki Conference on Security and Cooperation in Europe and envisages the notification of major military maneuvers in Europe.<sup>47</sup> As a follow-up to the Helsinki Accords the Stockholm Agreement on Confidence-Building Measures of 1986<sup>48</sup> was concluded to prevent surprise attack or accidental war in Europe. The verification arrangements of the agreement were innovative. The Agreement covers important troop movements, military exercises and similar activities within designated limits.

Despite the number of treaties and agreements described above, the arms race both nuclear and non-nuclear continues and threatens to enter outer space as well. The idea of having a comprehensive treaty for general

38. Memo of Understanding Establishing the U.S.A.-U.S.S.R. Direct Communications Link, United States-U.S.S.R., *signed* June 20, 1963, 14 U.S.T. 825, T.I.A.S. No. 5362.

39. Agreement on Measures to Improve the U.S.-U.S.S.R. Direct Communications Link, United States-U.S.S.R., *signed* Sept. 30, 1971, 22 U.S.T. 1590, T.I.A.S. No. 7187.

40. Agreement on Measures to Reduce the Risk of Outbreak of Nuclear War, United States-U.S.S.R., *signed* Sept. 30, 1971, 22 U.S.T. 1590, T.I.A.S. No. 7186.

41. Agreement on the Prevention of Incidents on and Over the High Seas, United States-U.S.S.R., *signed* May 25, 1972, 23 U.S.T. 1168, T.I.A.S. No. 7379.

42. Agreement on the Prevention of Nuclear War, United States-U.S.S.R., *signed* June 22, 1973, 24 U.S.T. 1478, T.I.A.S. No. 7654.

43. Agreement on the Establishment of Nuclear Risk Reduction Centers, United States-U.S.S.R., *signed* Sept. 15, 1987, *reprinted in* 27 I.L.M. 76 (1988).

44. Agreement on the Notification of Intercontinental Ballistic Missile and Submarine Launched Ballistic Missile Launches, United States-U.S.S.R., *signed* May 31, 1988, *reprinted in* 27 I.L.M. 1200 (1988).

45. Agreement on the Prevention of Dangerous Military Activities, June 12, 1989, *reprinted in* 28 I.L.M. 877 (1989).

46. See Conference on Security and Co-operation in Europe: Final Act, Aug. 1, 1975, 73 DEP'T. ST. BULL. 323 (1975), *reprinted in* 14 I.L.M. 1292 (1975).

47. *Id.*

48. Conference on Confidence-and-Security-Building Measures and Disarmament in Europe: Final Stockholm Document, Sept. 19, 1986, *reprinted in* 26 I.L.M. 190 (1987).

and complete disarmament has been the subject of discussions in the past. In 1961, the U.S. and USSR issued a "Joint Statement of Agreed Principles for Disarmament Negotiations"<sup>49</sup> known as the McCloy-Zorin Agreement. This agreement was unanimously endorsed by the U.N. General Assembly. Negotiations to implement the principles broke down in later years but some of these principles have been embodied in the Final Document of SSOD I.<sup>50</sup> More recently, bilateral US-USSR statements have contained important statements of principle such as the statement that a "nuclear war cannot be won and must never be fought."<sup>51</sup> Important as these agreed statements are, until they are formally embodied in treaties which impose legal obligations on states they will only remain declaratory and not mandatory.

In the category of multilateral treaties it is also important to note the status of implementation of the agreements and the number of parties to them. The Nuclear Non-Proliferation Treaty, as of 1 January 1989, had 139 parties and ranks as the multilateral disarmament treaty with the largest number of adherents.<sup>52</sup> The PTBT with 118 parties, the 1925 Geneva Protocol with 115, the BW Convention with 111, and the Outer Space Treaty with 91 parties are other agreements with a large number of adherents.

Looking to the future in the present context of improving US-USSR relations, it is reasonable to expect further agreements in disarmament and arms control. A fifty percent reduction of strategic nuclear weapons has been agreed upon in principle and negotiations are proceeding. In Vienna, the CFE talks hold promise of an agreement reducing conventional weapons in Europe. In the Conference on Disarmament, negotiations on achieving a chemical weapons ban are being pursued energetically although problems remain. The body of treaties must be steadily expanded to achieve disarmament while ensuring that existing agreements are implemented.

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49. *Report of the United States and the Soviet Union to the 16th General Assembly on the Results of Their Bilateral Talks*, U.N. Doc. A/4879 (Sept. 20 1961), in U.S. ARMS CONTROL AND DISARMAMENT AGENCY 1961 DOCUMENTS ON DISARMAMENT 439-431.

50. SSOD I, *supra* note 16.

51. United States-Soviet Summit in Geneva, Joint Statement of Nov. 21, 1985, Weekly Compilation of Presidential Documents, Nov. 25, 1985, at 1422.

52. NPT, *supra* note 27.