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Negotiating the Statute of the International Atomic Energy Agency

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# NEGOTIATING THE STATUTE OF THE INTERNATIONAL ATOMIC ENERGY AGENCY

BERNHARD G. BECHHOEFER

## I.

The negotiations leading to the creation of the International Atomic Energy Agency (IAEA), both in their political and psychological contexts, are an interesting and indeed unique episode in post World War II diplomatic history. The most significant feature of the negotiations was that they succeeded. The Soviet Union and the United States reached a measure of agreement in the vital field of atomic energy. Virtually the entire world joined enthusiastically in this agreement. An international organization came into being with vast potential—even though today in a changed political atmosphere doubts exist that the potential will ever be realized.

A negotiation such as this could not possibly have succeeded during the period of complete Soviet political rigidity preceding the death of Stalin. The thaw of frozen positions following Stalin's death created the *possibility* of agreements in many fields. In this and a few other instances, such as the Austrian peace treaty, agreements actually materialized. During the same period, however, and in the same comparatively relaxed atmosphere, other negotiations with the Soviet Union failed. Today, when a new "ice age" in relations between the Soviet Union and the west

seems to be creeping forward, it is especially important to study in perspective the successful negotiations of the period of the thaw to determine the reasons for their success.

## II.

In negotiations with the Soviet Union, procedures are of the essence. Only too often, a procedural decision, such as the phrasing of an agenda item, will predetermine the substantive outcome of the negotiation.

In order to understand a negotiation with the Soviet Union, it therefore becomes necessary to place what would otherwise appear to be an undue emphasis on procedures. The negotiations leading to the formation of IAEA follow this pattern.

The negotiations leading to the organization of any international body involving some 80 states must by their very nature be complex and confusing. It is inevitable that negotiators coming from diverse areas of the world will approach the subject with radically different points of view and that the melding of these points of view into a coherent constitution for the organization will be slow, circuitous, and often incomplete. These inherent confusions were further complicated in connection with the ne-

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gotiation of IAEA by a number of circumstances peculiar to this specific subject and to this negotiation.

The idea of an agency started with the President's statement to the General Assembly of the UN on December 8, 1953, which throughout the negotiations continued as the basic term of reference—almost the Bible. The negotiations took place in six separate stages:

1. The bilateral exchanges between the United States and the Soviet Union in 1954 and 1955.
2. The UN General Assembly discussion in 1954.
3. The eight-state informal discussions in 1954 and 1955 (United States, United Kingdom, Canada, France, Belgium, South Africa, Australia, and Portugal).
4. The General Assembly discussion in 1955.
5. The twelve-state working level meeting in the winter and spring of 1956 (the eight listed in "3" above, plus the Soviet Union, Czechoslovakia, India, and Brazil).
6. The International Conference in the fall of 1956.

To a certain extent these stages overlapped in point of time. Significant bilateral exchanges with the Soviet Union on this subject continued until immediately prior to the twelve-state working level meeting. The eight-state informal

discussions commenced as early as May 1954, four months before the 1954 General Assembly, though the period of active negotiations came much later, beginning in January 1955. This overlap is one element of confusion. Even without the overlap, however, it will be apparent that the negotiating procedures were complex.

Equally confusing was the manner of informing the public of the progress of negotiations. Concise and informative official reports are today available concerning three of the six stages of negotiation. The exchanges with the Soviet Union—a fourth stage—are sufficiently brief so as to speak for themselves.<sup>1</sup> The twelve-stage working level meeting has never been described in any detail in an official report. Ambassador Wadsworth's informative report on the International Conference has not been published.

The complete records, which in most instances are extremely lengthy, are likewise available today in connection with all stages of the negotiation except the eight-state negotiations, where no official records were kept. Thus while students of the agency are *today* in a position to secure through reference to a variety of sources substantially all the useful information concerning the negotiations, this was not true during the negotiations.

Long delays frequently elapsed be-

<sup>1</sup> The following official United States Government Records describe the chief stages of negotiations:

1. Address by President Eisenhower to the United Nations—December 3, 1953, *Atoms for Peace Manual*, 84th Congress, 1st Session, Senate Document No. 55, p. 1.
2. Soviet U. S. Bilateral Exchanges, *Atoms for Peace Manual*, p. 262–284 (through September 1954), Department of State Press Release No. 527, October 6, 1956 (Remainder).
3. UN General Assembly Discussions 1954, Report by the President to the Congress, State Department Publication No. 5769, p. 16–24.
4. 8-State Negotiations, Report of Hon. Morehead Patterson, Department of State *Bulletin*, January 2, 1956 (Vol. 34, No. 862), p. 4–7.
5. General Assembly Discussions 1955, Report by

the President to the Congress, State Department Publication No. 6318, p. 28–41.

6. 12-State Working Level Meeting, Report of the Working Level Meeting, State Department Document 31, Washington, D. C., July 2, 1956.
7. Conference on Statute of IAEA, Report of Ambassador Wadsworth (not published). This Report was submitted to the Secretary of State early in 1957 in the midst of a venal campaign by a small group aimed to prevent ratification of the Statute by the United States Senate. The Report gave full credit to the role of many states in creating the Statute. This might have furnished ammunition to those who were conducting the campaign of vilification. It is possible that this may account for the failure to publish the Report.

tween the completion of a stage of negotiation and the publication of the results. For example, the first exchanges with the Soviet Union remained "top secret" until their publication in September 1954, and the later exchanges were not published until October 6, 1956.

Thus during the negotiations there were great gaps in published information, and even today, the information is nowhere assembled in a convenient package. This patchwork pattern of publicity made it extremely difficult for the public to grasp what was happening during the negotiations. Furthermore, until the Atomic Energy Act was amended in 1954, meaningful explanations of some of the problems might have been security violations, subjecting their authors to severe criminal penalties.

Today, when the agency is a going concern, when all of the basic materials relating to its negotiation have been published, it is possible to view the negotiations from a perspective that previously could not be attained.

### III.

The President's address of December 8, 1953, to the United Nations was a splendid performance. While considerable progress had in fact been made toward developing peaceful uses of the atom, the public, both domestic and foreign, was until then almost completely unaware of any features of atomic energy excepting its destructive potential.

Indeed, we know today that the President's speech as originally planned would have heightened the gloom through concentrating solely on the increased destructive potential of nuclear weapons.

<sup>2</sup> Hearing before Committee on Foreign Relations of Senate on Statute, May 14, 1953, 85th Congress, 1st Session, p. 93.

The shift of emphasis to the peaceful uses of the atom apparently was the President's suggestion, and the speech in its final form was completed only on the day of its delivery during the airplane trip from Bermuda to New York.

The address truly brought rays of hope to a scene which previously had reflected nothing but gloom and despair.

The address reached an educated and articulate audience both in the United States and abroad. This audience strongly supported with moral fervor the general ideas in the address. At all stages of the negotiations, this support for the President's ideas influenced the negotiations. It was regarded as a symbol of United States sincerity.<sup>3</sup> This probably accounts for the fact that the negotiations adhered so strictly to the terms of reference contained in the address.

Perhaps the most important proposal in the address was phrased as follows: "I therefore make the following proposals: The governments principally involved, to the extent permitted by elementary prudence, to begin now and to continue to make joint contributions from their stockpiles of normal uranium and fissionable materials to an International Atomic Energy Agency. We would expect that such an agency would be set up under the aegis of the United Nations."

The address contains a number of statements—some of them repetitive—concerning the objectives of the agency. However, from the standpoint of the later negotiations, it became convenient to classify these objectives under three headings.

#### 1. "The more important responsibility

<sup>3</sup> Address by President Eisenhower to the United Nations—December 3, 1953, *Atoms for Peace Manual*, 84th Congress, 1st Session, Senate Document No. 55, p. 5.

of this Atomic Energy Agency would be to devise methods whereby this fissionable material would be allocated to serve the peaceful pursuits of mankind. Experts would be mobilized to apply atomic energy to the needs of agriculture, medicine, and other peaceful activities.”<sup>4</sup> This comparatively unsensational purpose of the agency caused few problems in later negotiations. The President’s address reflected the great progress that had already been made in these fields, and anticipated that progress would continue, and that the benefits of the discoveries should be extended to all areas of the world.

The peaceful uses of atomic energy, other than those related to atomic power, could be promoted with moderate expenditures and the agency, immediately upon its organization, embarked upon some programs in these fields.

2. The second objective of the agency related to the production of power using atomic fuel. “A special purpose would be to provide abundant electrical energy in the power-starved areas of the world. Thus the contributing powers would be dedicating some of their strength to serve the needs rather than the fears of mankind.”<sup>5</sup> In another section of the address, President Eisenhower stated, “The United States knows that peaceful power from atomic energy is no dream of the future. That capability, already proved, is here—now—today. Who can doubt, if the entire body of the world’s scientists and engineers had adequate amounts of fissionable material with which to test and develop their ideas, that this capability would rapidly be transformed

into universal, efficient, and economic usage?”<sup>6</sup>

The statements of the President concerning nuclear power immediately caught the imagination of the entire world. Orators, particularly in the underdeveloped areas, seemed to believe that by some miracle these areas would be transformed overnight and would have living standards equivalent to those of the United States and western Europe. However, the United States had, in effect, given a promissory note which it could not pay, at least at an early maturity date.

The overly-optimistic terms with which this objective had been presented overshadowed all the negotiations. When the representatives of the industrially less advanced countries saw little visible progress toward immediate atomic power during the first year or two after the President’s statement, they became disillusioned. I recall that one of these representatives expressed his disillusionment in somewhat the following terms: “My country has limitless supplies of uranium located in its hills. We need power. Why do we not have atomic power? Because the United States is holding out on us.”<sup>7</sup>

One of the chief themes throughout the negotiations was in effect to present in proper perspective the prospects for atomic power. It was necessary to educate the representatives who had little knowledge of atomic energy to the fact that nuclear power today could be produced only at a considerably higher cost than conventional power; that no country could utilize even this expensive power without training engineers and

<sup>4</sup> *Ibid.*, p. 6.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*, p. 5.

<sup>7</sup> This is a paraphrase of an oral statement actually

made by a representative of a friendly state during the negotiations. The identity of the speaker or of his country should not be disclosed. Several states held the same view without expressing it so bluntly.

technicians; and that the nuclear power plants comprised only one relatively small part of an electric power system. The turbines and dynamos, the power lines, and all the features of a power system other than the fuel elements and fuel transfer systems were substantially the same in nuclear power plants as in conventional plants. It was necessary gradually to adjust world thinking to the realization that in its earlier stages the agency would be considerably more concerned with the less sensational uses of the atom than with nuclear power.

3. The third main objective of the President was stated as follows: "... open up a new channel for peaceful discussion, and initiate at least a new approach to the many difficult problems that must be solved in both private and public conversations, if the world is to shake off the inertia imposed by fear, and is to make positive progress toward peace". The positive progress which he visualized as a result of the agency's operations was a start toward diminishing "the potential destructive power of the world's atomic stockpiles".<sup>8</sup>

This third objective was clearly related to the subject of disarmament even though the atoms-for-peace proposals were not disarmament proposals. It should be pointed out that the attainment of this third objective called for techniques of negotiation differing from those required for the attainment of the other two objectives.

If the agency were to serve no purposes except to promote the peaceful uses of atomic energy with particular emphasis on the underdeveloped areas of the world, it would have been desirable to negotiate rapidly with a minimum of

negotiating machinery. The sooner that an agency was organized and in a position to operate, the more rapid the progress could be. On the other hand, if, at the same time, one objective was to create better understanding between the east and the west and ultimately to reduce the menace of nuclear warfare, then at all stages of the negotiations, there should be consultation and close understanding with the Soviet Union. Anyone familiar with the Soviet Union's negotiating techniques will realize that this could be accomplished only at the expense of speed and efficient negotiation. Furthermore, this objective tended to shift the emphasis from the positive aspect of developing peaceful uses to the negative aspect of "safeguards" to prevent diversion for military purposes.

It has been asserted that the negotiations on this subject were the most successful east-west negotiations since the end of the Second World War.<sup>9</sup> However, much of this success stemmed from the tactics which subjected the United States to the greatest criticism from other states during the negotiations: secrecy during the early stages and slowness.

The President in his speech gave a clear indication that this third objective of attempting to create some measure of understanding with the Soviet Union should receive the greatest emphasis in the early stages of the negotiations. "The United States would be more than willing—it would be proud to take up with others 'principally involved' the development of plans whereby such peaceful use of atomic energy would be expedited. Of those 'principally involved', the Soviet Union must, of course, be one." The phrase "principally involved"

<sup>8</sup> Address by President Eisenhower, p. 6.

<sup>9</sup> For example, statement of Ambassador Wadsworth,

Hearings before Senate Foreign Relations Committee, May 16, p. 128.



referred to the recently adopted General Assembly resolution calling for private talks on disarmament among the states "principally involved".<sup>10</sup> The President stated, "We shall carry into these private or diplomatic talks a new conception. The United States would seek more than the mere reduction or elimination of atomic materials for military purposes. It is not enough to take this weapon out of the hands of the soldiers, it must be put into the hands of those who will know how to strip its military casing and adapt it to the arts of peace."<sup>11</sup>

Thus the President had clearly indicated that at least the first stage of the international agency discussions should be private and should include the Soviet Union.

#### IV.

In the initial note<sup>12</sup> handed to the Soviet Ambassador by the Secretary of State on January 11, 1954, the United States suggested "that privacy will best serve practical results at this time and that these talks should not be used for propaganda purposes by either side". The Soviet Union, replying on January 19, had "no remarks" concerning the United States request for confidential exchanges. Both the Soviet Union and the United States respected their agreement completely and the negotiations remained private until their publication on September 25, 1954, by agreement.

It should be noted that in the parallel negotiations which were going on in the field of disarmament—the first series of meetings in London of the Subcommittee of the Disarmament Commission—

both the United States and the Soviet Union likewise maintained the secrecy of the negotiations. The later disarmament negotiations did not repeat this pattern. In the few instances in the latter stages of the agency negotiation where secrecy was desirable, both the Soviet Union and the United States again maintained such secrecy.

In general, the bilateral negotiations proceeded at a fairly leisurely tempo. The initial note from the Secretary of State to the Soviet Ambassador on January 11 merely suggested general procedures for negotiation. The reply of the Soviet Ambassador on January 19 accepted the suggested procedures but served notice that the Soviet Union intended to bring into the negotiations its disarmament proposals for an unconditional obligation by the great powers not to use atomic, hydrogen, or any other weapon of mass destruction. On January 30 and again on February 13, the Soviet Foreign Minister asked that the Chinese communists join in the negotiations. However, by March 10, the Soviet government indicated that it was willing to continue the discussions on a bilateral basis.

The United States on March 19 submitted its first tentative views to the Soviet Union concerning the nature of the agency. This short document was more a check list of problems than a proposal. It alluded to the objectives of the agency, its administrative machinery, methods of financing, and relationship to the UN. It purposely avoided rigid solutions at this early stage.

In one instance, it departed materially from the President's original idea of an

<sup>10</sup> General Assembly Resolution 715 (VIII), November 28, 1953.

<sup>11</sup> Address by President Eisenhower, p. 5.

<sup>12</sup> The initial exchanges between the Soviet Union

and the United States concerning an international agency consisted of 13 documents, the first dated January 11, 1954, and the last dated September 23, 1954.

"atomic pool".<sup>13</sup> The agency would act as a channel, a clearing house for international distribution of fissionable materials, rather than as the recipient of the materials. At the next stage of discussions, the negotiating states returned to the President's original concept.

The Soviet Union in a reply to this note dated April 27 made no comment on the proposals, but merely pointed out that the creation of an agency would not solve the problem of disarmament. The remainder of the note reiterated the proposals which the Soviet Union was making contemporaneously in the disarmament discussions in London for an agreement of the great powers not to use atomic weapons. The final paragraph of the Soviet note read as follows: "as far as the other questions dealt with in the U. S. Memorandum of March 19 are concerned, the inadequacy and one-sidedness of which are obvious, they can be considered as a supplement, after arriving at agreement on the fundamental questions". In short, the Soviet Union declined to negotiate about an agency until agreement had been achieved on the Soviet disarmament proposals. On May 1 and again on July 9, at greater length, the United States pointed out to the Soviet Union that the proposals for the agency were not intended as disarmament proposals. The United States further indicated that it would feel free in view of the Soviet position to examine the creation of such an agency with other nations which might be interested.

This ended the bilateral exchanges until September 22, when the Soviet Union modified its previous position and de-

clared its willingness to consider the United States' suggestions at the same time as the Soviets' suggestions on disarmament.

This apparent change of position by the Soviet Union is understandable when related to a number of events which transpired during this period.

1. On August 30, 1954, the President signed the Atomic Energy Act of 1954. In his press release at that time he referred to the proposed IAEA and stated: "Although progress in this plan has been impeded by Soviet obstruction and delay, we intend to proceed—*with* the co-operation and participation of the Soviet Union if possible, *without* it if necessary".<sup>14</sup> It is quite possible that the Soviet Union policy was predicated upon its belief that the United States in fact had no important program for developing the peaceful uses of the atom. During the entire period from the President's speech on December 8, 1953, until August 30, 1954, very little publicity had been given to the United States program. One reason for this was that in fact very little could be done either to develop a program or to publicize it until changes were made in the United States Atomic Energy Act. However, between August 30 and September 24, 1954, the United States program received a vast amount of publicity and it became apparent that the United States could very easily proceed without the Soviet Union.

2. The ninth session of the UN General Assembly convened on September 25 with the peaceful uses of the atom as an agenda item. It would have been extremely damaging politically for the So-

<sup>13</sup> This variance should not be given too great significance because of the tentative and sketchy nature of these proposals. The change may have reflected the views of some of the states which the United States was consulting.

<sup>14</sup> Statement of President Dwight D. Eisenhower, Press Release by James C. Hagerty, Press Secretary to the President, August 30, 1954, *Atoms for Peace Manual*, 84th Congress, 1st Session, Senate Document No. 55, p. 252.



viet Union to attack the "peaceful uses" program in the General Assembly or to try to delay it until achievement of agreement on nuclear disarmament.

3. The Soviet change in position may have been related to the decision of the Soviet Union in the field of disarmament to approve in principle certain suggestions advanced by the United Kingdom and France and supported by the United States during the Subcommittee meetings in London the previous spring—suggestions which originally the Soviet Union had peremptorily rejected.

Thus when the General Assembly convened in September 1954, progress toward the agency had already made a dramatic and favorable last minute change.

## V.

Early in May 1954, as foreshadowed in the paper which the Secretary of State gave to Mr. Molotov on April 22, 1954, the United States took steps to examine the creation of an agency with other nations which might be interested. The United States, itself, determined the composition of the group which included the United Kingdom, Canada, France, the Union of South Africa, Belgium, Australia, and Portugal. The composition of this group gave rise to so much criticism of the United States that it seems appropriate to indicate in some detail the main considerations which probably led to this decision.

The problems arising in any atomic energy negotiations are sufficiently complex so that it was apparent that the initial negotiation of the agency would have to take place within a group limited in number, all the members of which

had some background in the field of atomic energy. As stated previously, the President recognized this fact in his speech of December 8 when he spoke of negotiation among the states "principally involved". His exact language was that of the UN General Assembly resolution in connection with disarmament negotiations.<sup>15</sup> The UN Disarmament Commission determined that the states principally involved in disarmament discussions, which were designated members of a Subcommittee to negotiate in private, were the United States, the Soviet Union, the United Kingdom, Canada, and France. Thus when the United States commenced to form a group to carry on the negotiations (the Soviet Union having declined to cooperate), three of its members were obvious—the United Kingdom, France, and Canada.

It was also clear that the states principally involved in the development of the peaceful uses of the atom would not necessarily be identical with those involved in disarmament. Ever since the earliest experimentation on nuclear weapons, the chief sources of uranium had been Belgium, the Union of South Africa, and Canada. The scientists and diplomats of Belgium and the Union of South Africa were fully aware of the problems relating to atomic energy. Furthermore, since it was contemplated that the agency would receive contributions of natural uranium as well as of fissionable materials, the Union of South Africa and Belgium might well be among the chief contributors to the agency. Therefore, their inclusion within the group negotiating the agency seemed logical. Portugal and Australia were included in the group as the only other states with which the United States

<sup>15</sup> See above, footnote 10.

was conducting negotiations for the procurement of uranium.

Thus, there was a logical explanation for the inclusion within the group of all of these states. It was more difficult to explain why the group was limited to these states though there was general recognition of the advantages of a small initial negotiating group. A number of states, such as the Scandinavian states and the Netherlands, while they lacked supplies of source material, had developed considerable technical know-how in the nuclear field. The world was gradually becoming aware of the fact that uranium was not a scarce material and that many countries could produce uranium. Furthermore, in the future, thorium as well as uranium would doubtless play a large role in the peaceful uses of the atom. Brazil and India had in their monozite sands the most abundant known supplies of thorium.

A further objection to the composition of the group arose from the fact that all of its members belonged either to the North Atlantic Treaty Organization (NATO) or to the British Commonwealth, or both. Latin America, the Middle East, and the Far East were unrepresented. Even stronger objections arose from the fact that the Union of South Africa was perhaps the most unpopular Member of the UN, at least among the many states in the Middle and Far East, and that Portugal, always regarded as a colonial power, was not a Member of the UN.

These objections were all raised during UN discussions of the agency in the 1954 General Assembly and will be referred to later. In the interest of clarity, it seems desirable to deviate from a strictly chronological narrative to point

out the problems that arose in connection with enlargement of the group.

In the fall of 1954, it was virtually impossible to find any formula which would logically add a small number of members to the group and exclude others. It would have been desirable to have Latin America represented in the group but it would have been extremely difficult to choose from among Brazil, Argentina, and Mexico. It would have been desirable to have Middle Eastern and Far Eastern representation but the question was should India be preferred over Pakistan, or Egypt, or Japan?

The 1954 General Assembly appointed a committee to deal with the organization of the first international conference on the peaceful uses of the atom which took place in Geneva in August 1955; after much political negotiation, Brazil and India were designated as members of this advisory group and thus in a sense, became the representatives of their regions in atomic matters. On the basis of this precedent, it was possible in 1955 to enlarge the group by including Brazil and India (as well as the Soviet Union and Czechoslovakia) without creating political problems.

To return to the chronological narrative, while the eight states which conducted the next phase of the negotiations were designated in May 1954, the group did not commence any active negotiations until November, after the completion of the atoms-for-peace item in the General Assembly.

## VI.

The 1954 session of the General Assembly was faced with serious problems in connection with the negotiation of the agency Statute. The President's speech in December 1953 had created in-

ternational optimism to a degree which was entirely unjustified and which the President himself had sought to prevent.

It was disillusioning for nine months to elapse with apparently no progress towards realization of the President's goals.

The agency negotiations had been secret and had taken place independently of the UN even though the President had proposed that the new agency be under the aegis of the UN. Most of the delegates to the UN and also the Members of the Secretariat of the UN were unhappy when they learned that an international negotiation of this importance was proceeding outside the UN. Therefore, the states engaged in the negotiation had to overcome an initial attitude of disillusionment in order to give fresh impetus to the program. To accomplish this result, the United States placed upon the General Assembly agenda an item dealing with the entire problem of atoms-for-peace. In his opening statement,<sup>16</sup> Ambassador Henry Cabot Lodge, Jr., gave the first comprehensive report of the progress that had already been achieved by the United States in developing peaceful uses of the atom and also indicated the extent to which these benefits had been and were being made available to other states.

The progress had indeed been far more impressive than the world realized. The United States had already set up programs for distribution of isotopes on a world-wide basis. A considerable number of extensive libraries of unclassified information on the subject of atomic energy had been assembled by the United States Atomic Energy Commission and were being presented to edu-

cational institutions all over the world. The United States had already set up training courses in isotope techniques at Oak Ridge, Tennessee, and a reactor training school at the Argonne Laboratories near Chicago.

Until the General Assembly met, this progress had received little publicity, partly because of limitations on distribution of atomic information under the Atomic Energy Act of 1946—limitations which were not removed until August 30, 1954. The Atomic Energy Commission, working as it had during its early history under the strictest security precautions, had not learned the techniques of publicizing its activities. The able Atomic Energy Commission Staff, far too small for the duties suddenly thrust upon it, had achieved a great deal, but the public was unaware of the extent of the achievements.

The most crucial development during the General Assembly discussions attracted little attention. The Soviet Union had apparently assumed that the United States was proposing that IAEA have exclusive responsibility for the international transfer of all fissionable materials for peaceful purposes. In other words, the entire program for developing the peaceful uses of the atom would come under the agency and each country would give up its individual bilateral programs. On the basis of this misunderstanding, the Soviet representative had stated: "If plans or projects for the use of atomic materials to be cleared through the international agency from one state to another in accordance with agreements are made contingent upon approval by the international agency, then that means that the international agency will have the right to approve or

<sup>16</sup> *Atoms for Peace Manual*, 84th Congress, 1st Session, Senate Document No. 55, p. 292-303.

not approve the plans of states concerned in the use of fissionable materials for peaceful ends".<sup>17</sup> Since the Soviet Union could correctly assume that as a practical matter the United States would almost invariably have the support of the majority of the agency, under such an interpretation, the United States would be in a position to control the Soviet program for peaceful uses of the atom. Mr. Lodge in his speech on November 15 referred to this Soviet interpretation and stated, "This is not a correct interpretation of their proposal. The Agency would concern itself only with materials specifically earmarked for Agency projects by the contributing states. It would have no control over the use of any other fissionable material. Any contributing states would remain free to transfer fissionable materials to another state without securing the consent of the Agency."<sup>18</sup>

This statement by Ambassador Lodge immediately relaxed the atmosphere of the discussions. It should be emphasized that the Soviet interpretation would have been as unacceptable to the United States as it was to the Soviet Union. It was inconceivable that a newly-formed agency could in any short period of time take over a program as extensive and as complex as the United States bilateral program in the field of peaceful uses of the atom.

This record of progress largely eliminated the criticism heard at the opening of the General Assembly Session. A further factor in producing this result was the suggestion, enthusiastically received, for an international conference on the peaceful uses of the atom to take place in the summer of 1955. While some

delegates expressed the view that the UN, itself, should conduct the agency negotiations, the majority realized that such a suggestion was premature, until the states with fissionable materials should reach some agreement on the type of international organization to which they would be willing to entrust fissionable materials.

With respect to the agency, the 1954 General Assembly merely expressed the hope that it be established without delay; that once it was established, it should negotiate an appropriate agreement with the UN; that the Members of the UN should be informed of progress; and that consideration should be given to any views which might be expressed.

At the opening of the General Assembly discussions of the atoms-for-peace program, the President announced the appointment of Mr. Morehead Patterson to serve as the United States representative to conduct the diplomatic negotiations for United States participation in IAEA. At the same time the President again expressed his determination to go forward on this international project whether or not the Soviets participated.<sup>19</sup> This announcement assisted in restoring some of the optimism of December 1953 which had vanished during the intervening months.

## VII.

Mr. Morehead Patterson did not assume his official duties until December, upon the conclusion of the General Assembly discussion on this subject, a month after his appointment. He moved rapidly to expedite the agency negotiations. For the first time, designated per-

<sup>17</sup> General Assembly *Official Records* (9th session), First Committee, 715th Meeting, November 12, 1954, p. 333.

<sup>18</sup> *Ibid.*, 717th Meeting, November 15, 1954, p. 343.

<sup>19</sup> *Atoms for Peace Manual*, p. 291, 292.

sonnel within the United States government were assigned the sole function of negotiating an agency statute.

The informal discussions which commenced in December 1954 at the working level included representatives of all eight participating states. However, because of limitations of personnel available in Washington for this work, the great bulk of the actual drafting was done by a comparatively few officers.

According to Mr. Patterson's report to the President,<sup>20</sup> procedurally the negotiations developed as follows: the United States prepared a first draft of the Statute, taking into consideration suggestions received from the other states and also from the UN General Assembly debates. This draft was then submitted to all of the negotiating states, on March 29, 1955. During April and May, the United States discussed the draft with all the negotiating states and received further comments from interested agencies of the United States government which had not participated in the original draft. After this discussion it developed that there was sufficient unanimity among all the negotiating states so that substantially all the suggested changes could be reconciled and incorporated into a new draft. This new draft was submitted on a confidential basis to the Soviet Union on July 29, 1955, and comments were requested. It was distributed by the United States on behalf of the negotiating states, also on a confidential basis, to all 84 states, Members of the UN or of the specialized agencies, on August 22, 1955. Comments were requested from all states.

The outline for an agency which the United States had previously submitted

to the Soviet Union had done little more than list the most important problems to be solved. The task of the negotiating states was now to solve these problems.

The first problem was that of timing. The Secretary of State in his opening statement to the UN on September 23, 1954, had expressed the hope that the agency would "start its work as early as next year".<sup>21</sup> This could be accomplished only if the agency Statute went no farther than to furnish "a broad constitutional framework—a statement of general principles rather than a point-by-point revelation of details".<sup>22</sup> As a result of this decision, the agency Statute is much shorter and considerably more flexible than, for example, the treaty establishing the European Atomic Energy Community, and gave the agency itself wide discretion after its creation to determine the direction in which it would move.

The main problem was to create a workable organization. It was clear that the agency must have at least three organs, 1) a framework for meetings of the membership as a whole which is described in the agency Statute as the General Conference, 2) a board of governors to be responsible for day-to-day operations, and 3) a secretariat and staff. The negotiating group concluded that in order to assure businesslike and effective management, the Board of Governors should be given broader authority than in most international organizations. This would necessarily reduce the authority of the membership as a whole and also of the staff. Therefore, in the initial draft the Board of Governors received authority to make most agency decisions. The General Conference could in-

<sup>20</sup> Report of Ambassador Patterson to the President, Department of State *Bulletin*, January 2, 1956 (Vol. 34, No. 862), p. 6.

<sup>21</sup> *Ibid.*, p. 5.

<sup>22</sup> *Ibid.*



fluence the Board of Governors through electing some but not all of its membership and through its control of the purse strings. The Secretary General, and through him the staff, were likewise subject to the instructions of the board. This fundamental and basic decision was never changed although in certain minor respects the powers of the General Conference were augmented during later stages of the negotiations.

A second fundamental problem which required solution was the composition of the Board of Governors and the manner of voting within the board. It was clear that the simple and obvious procedure of the General Conference's electing a board from the membership was not responsive to the realities of the nuclear situation. A very few states would provide the agency with the bulk of the materials and know-how which it would require. It would be unrealistic to disregard this situation in developing a formula for composition and selection of the board.

Extended studies produced a large number of possible formulae. The formula developed at this time provided that part of the first board would be designated in the Statute and would thereafter be selected by the outgoing board. The remainder of the board would be elected by the membership at large. The former group would be composed of those states which had made considerable advances in atomic energy or were large suppliers of source materials. These basic principles remained unchanged during all the negotiations, though the formula itself was considerably modified and the board enlarged as a result of difficult negotiations at a later stage.

Another fundamental decision was the establishment of the concept of agency "projects". States wishing to secure assistance from the agency would apply for "projects". After approval of the "projects", the applicant state would enter into an agreement with the agency under which the state would submit to the safeguards necessary to assure that the fissionable materials utilized in the projects would be used only for peaceful purposes; it would submit also to safeguards related to the health of the personnel concerned and to the safety of the project. This meant that the obligation of a state to submit to safeguards did not arise from its membership in the agency but would take effect only should it apply for and receive agency assistance.<sup>23</sup> Thus states with vast nuclear resources, in particular the United States, the Soviet Union, and the United Kingdom, which would not ask agency assistance, would not be subject to the agency safeguards system. This decision was essential to the establishment of any agency since the states with weapons programs would never have adhered to the agency if their association subjected their weapons programs to agency scrutiny. At the same time the agency would develop safeguards machinery which might readily be expanded if a disarmament agreement should be reached in the future. The decision was thus related to one of the President's objectives: *i.e.*, opening a new channel for peaceful discussion and initiating a new approach to the armaments problem.

A further problem which received extended treatment at this time was the extent to which a system of safeguards should be elaborated in the Statute. The

<sup>23</sup> See Bechhoefer & Stein, "Atoms for Peace, the New IAEA," *Michigan Law Review* (Vol. 55), p. 747 at 761.

contention was made that the agency should merely indicate (as in Article II) that its objective was to insure that the assistance which it provided would not be used in such a way as to further any military purpose. This necessarily implied the installation of a safeguards system as a part of any contract for an agency project. On the other hand, if the Statute went no further and avoided a detailed elaboration of the safeguards system until contracts were drafted covering individual projects, states unfamiliar with atomic energy matters could complain that they had been induced to enter the agency under false pretenses. They would have had no warning that, in order to secure agency benefits, they would be required to submit to extensive agency inspection. At this stage of the negotiations a compromise was reached between these two viewpoints. The elaboration of specific safeguards was sufficient to put states on notice that they would have to submit to safeguards. However, the safeguards specifically described in this draft would have to be greatly enlarged in order to provide an adequate system.

Another basic decision related to the arrangements for supplying materials to the agency. The general principle was established that such arrangements should be based in each case upon agreements between the state supplying the materials and the agency. The exact terms on which the materials would be supplied would be postponed until after the establishment of the agency. No state was obligated to contribute materials. A differentiation was made between fissionable materials and source materials. The agency would within its financial resources purchase all fissionable materials which might be made

available to it in order to accomplish one of the fundamental objectives of the agency—the reduction of stockpiles of potential atomic weapons. On the other hand, the agency would purchase no more source materials than would be necessary to carry on its operations.

After some discussion, agreement was reached that the staff of the agency should have the status of an international civil service representing and responsible solely to the agency itself and not to any state. Suggestions had been made that agency personnel should be loaned by the states most advanced in atomic energy development and remain employees of the states which made their services available.

Another important issue decided at this stage of negotiations was that the agency should establish a pool of fissionable materials and should not act merely as a clearinghouse to expedite the international transfer of fissionable materials for peaceful purposes. The concept of an atomic pool was originally advanced by President Eisenhower in his December 8 speech. The memorandum to the Soviet Union a year earlier outlining a plan for an agency moved in the direction of the agency acting as a clearinghouse. These negotiations returned to the original concept.

Perhaps the most important feature of this phase of the negotiations was putting into writing the comparatively non-controversial organizational details which are necessary to the establishment of any international organization. This greatly facilitated the subsequent discussions among a wider group of states making it possible thereafter to concentrate on fewer points.

While agreement was reached among the negotiating states on the entire draft,

it was clear that in at least three respects substantial changes would be made at later stages. The exact formula of the composition of the Board of Governors would clearly have to be modified even though the general approach might remain the same. The first formula was too heavily weighted in favor of the states which negotiated it. On the subject of financing the agency, it was clear that further study was essential. Finally, in these negotiations it was not possible to reach agreement on an adequate safeguards system.

The draft was distributed to all states eligible for initial membership on August 22, 1955, the date when the first Geneva Conference on the peaceful uses of the atom ended. The United States believed that the discussions in that conference should be on a purely scientific and technical basis and that political issues should be avoided. If the draft had been made available immediately before the Geneva Conference, even though on a confidential basis, this would probably have raised political issues adversely affecting the conference. Therefore, the distribution was postponed until the conference was over.

One major activity of the United States paralleling this portion of the negotiations deserves some discussion. In March, April, and May of 1955, the United States embarked upon a program of encouraging as many states as possible to enter into Agreements for Cooperation provided by the United States Atomic Energy Act of 1954, in order to permit the states to receive from the United States the fuel necessary for the operation of research reactors. Mr. Patterson led in this effort. Haste was necessary since under the Atomic Energy

Act, these agreements could not take effect until after a 30-day waiting period while Congress was in session. As a practical matter, therefore, any agreements which were to take effect in 1955 had to be negotiated and initialed by approximately June 15 in anticipation of an adjournment of Congress in early August.

This effort to secure bilateral agreements for research reactors was extremely successful. Agreements with 24 countries were initialed between May 3 and July 11, and 19 of them took effect prior to the adjournment of Congress. The enthusiasm and speed which accompanied this effort were aptly described by the Ambassador of Israel, who complimented Mr. Patterson, "great industrialist that he is, for introducing the techniques of mass production into treaty-making".<sup>24</sup>

Many interpreted this effort as an indication that the United States was abandoning its interest in the agency in favor of a bilateral approach to promote the peaceful uses of the atom. Nothing could be further from the truth. The greatest threat to the agency was that the entire program for the peaceful use of the atom might lag. Considerable progress, as pointed out above, was being made along a number of fronts—the training of technical personnel, distribution of libraries, and so forth. It was clear, however, that the most important single immediate step to ensure continued progress was the establishment of research reactors in a number of areas of the world so that the technicians who had received training in the United States could be useful in their own countries. Because of the time that must necessarily elapse in planning and con-

<sup>24</sup> Oral statement of Ambassador Eban at State Department on June 3, 1955.

structing a research reactor, the program would have received a serious set-back unless a considerable number of states were in a position to commence negotiations for research reactors during 1955.

It turned out that the successful bilateral program greatly benefited agency negotiations. Not only did it increase interest in the agency, but it also convinced a number of states who were cool to the entire program for international sharing of the benefits of the atom that the program would go forward regardless of whether an agency was created. This counteracted a tendency of these states to "drag their feet" in the agency negotiations.

### VIII.

The General Assembly of 1955 discussed the international agency under conditions differing entirely from those which prevailed a year earlier. All states now had available the draft of the agency statute. The enthusiasm for a program to develop the peaceful uses of the atom had risen as a result of the Geneva Conference and also as a result of the progress of the national programs of the United States, the United Kingdom and, to a lesser degree, the Soviet Union.

The draft Statute in most but not all of its provisions was surprisingly satisfactory to the majority of the Members of the UN. Comparatively few comments on the Statute were made in response to the United States request. The United States on behalf of the eight negotiating states had already enlarged the negotiating group to include the Soviet Union, Czechoslovakia, Brazil, and India, and had also promised that *all* suggestions for changes in the Statute

would be discussed with the countries making the suggestions prior to the production of a final document. However, the negotiating states had not contemplated the submission of the Statute to an international conference prior to its adoption. The July 22 draft had provided that the Statute should come into force when eight states had deposited instruments of ratification including at least three of the five major nuclear powers (Canada, France, the United Kingdom, the Soviet Union, and the United States). Only in this way would it have been possible for an agency to come into being in 1955, as the President and the Secretary of State had suggested.

Despite general satisfaction with the progress of negotiations, overwhelming sentiment for an international conference to consider the Statute before its finalization developed in the General Assembly. The United States and other western powers yielding to this sentiment agreed that the draft, which would be produced during the next stage of twelve-state negotiations, would be submitted to a conference. The long, heated, technical, and confusing discussions in the General Assembly were related mainly to arranging a framework for a successful conference. It was clear that on a subject as difficult as this, an international conference would turn into a Donnybrook unless arrangements made in advance would assure that attention be concentrated on a few main points. The General Assembly resolution made possible the accomplishment of that objective.<sup>25</sup>

The net result of the General Assembly discussion was to set up machinery which probably delayed establishment of the agency for nine or ten months. How-

<sup>25</sup> General Assembly Resolution 912 (X), December 3, 1955.

ever, the procedures assured that every state would have a genuine opportunity to present its viewpoint prior to the adoption of the Statute. Unquestionably this more than compensated for the delay.

## IX.

The next stage of the negotiation of the agency was the so-called "Working Level Meeting" of twelve states.

The first draft of the Statute had been transmitted to 84 states on August 22, 1955. As a part of the letter of transmission, a request had been made for comments and suggestions from all states. These comments were submitted to the United States acting on behalf of all eight negotiating states during the period from September to December and were collated and studied by the United States.

The commitment of the negotiating states themselves to submit a final text of the Statute to an international conference must have had a profound effect on this stage of the negotiations. If violent disagreements should take place among the twelve negotiating states, it was practically a certainty that the later Conference of all states would not agree upon a Statute. If the Soviet Union and Czechoslovakia were the sole dissenters among the twelve it was possible that after much travail an international conference would have adopted a Statute by a two-thirds majority over the Soviet objection. If both the Soviet Union and India were in dissent, a two-thirds majority in the larger Conference would have been out of the question. Therefore, the key task in the Working Level Meeting was to secure agreement.

The United States at the start of the twelve-power meetings introduced comprehensive revisions of the draft Statute of August 22, 1955, which were prepared after a careful review of comments on that earlier draft, received from thirty-nine states. It was indeed fortunate that the vast majority of the comments were constructive and could be incorporated in substance in the new text.

One of the most important tasks of the twelve-power group was to consider the changes suggested by the Soviet Union.<sup>28</sup> The suggestions were six in number. The third, fifth and sixth suggestions were substantive and sufficiently precise to permit further negotiations. The remaining three suggestions revealed a strange mixture of technical, political, and propaganda considerations.

The third suggestion was for a change in the composition of and voting in the Board of Governors. Practically every state commenting on the draft likewise suggested changes in the voting formula, and the main task of the Working Level Meeting was to work out a suitable and realistic formula. After much difficulty, the Working Level Meeting succeeded in this task. The complicated formula enlarged the Board from 16 to 23 and in effect insured a larger representation on the Board from the Middle East, the Far East, and states behind the iron curtain. The formula may have provided too large a board from the standpoint of efficiency, but at least everyone agreed to it.

The fifth Soviet suggestion dealt with the question of agency finances and suggested that the agency budget should require approval by a three-fourths majority of both the General Conference

<sup>28</sup> Note from Soviet Ministry of Foreign Affairs to American Embassy, October 1, 1955. State Department Press Release No. 527, October 6, 1956, p. 22-24.



and the Board of Governors. Here again it was possible to negotiate a compromise between this unduly restrictive provision and the original suggestion.

The sixth suggestion related to the jurisdiction of the International Court in disputes concerning the interpretation or application of the agency Statute. Here again, a compromise was worked out which in effect gave to the Soviet Union all it wished—the assurance that the Soviet Union could not be brought before the Court without its consent.

The first Soviet suggestion dealt with the relationship of the agency to the UN. On first reading, this suggestion created the impression that the Soviet Union wished a closer relationship than that envisaged in the August 22 draft. However, further analysis could lead to the conclusion that the Soviet Union in fact wished a more remote relationship. When the Working Level Meeting proceeded from generalities to specifics, it turned out that the positions of the original eight negotiating states and the Soviet Union were not too far apart.<sup>27</sup>

The second Soviet suggestion was almost purely political. It consisted of two paragraphs. The first contained certain general principles that no country nor group of countries should find itself in a privileged position; that furnishing aid to states should not be made dependent on “conditions of a political,

economic or military character or requirements or any other claims inconsistent with the sovereign rights of states”. The second paragraph in effect sought to make the Chinese communists and east Germany eligible for initial membership in the agency. During the twelve-power session, the Soviet Union placed great stress on the sovereignty question and, both on this question and on the problems involving the Chinese communists, reserved the right to suggest textual changes at the International Conference.

The fourth suggestion dealt with the problem of safeguards and like the second suggestion stressed the problem of national sovereignty, “It is necessary to provide that such observations and control will be accomplished with due observation of sovereign rights of the above-mentioned states”.

The twelve-power Working Level Conference was in the main extremely successful. The Soviet Union made only five reservations, three of them related to sovereignty. The fourth was on a proposal of the Soviet Union to make a decision of the General Conference binding on the Board of Governors. The fifth was on the question of the membership of communist China. India supported the Soviet Union on all of these points and in addition attempted to reduce the safeguards provisions.

Noting these differences, the UN Secretariat at one point suggested that the agency become an integral part of the UN itself, operated directly by the UN Secretariat.

Article III of the Statute provides for annual reports by IAEA to the General Assembly and reports as appropriate to other UN organs, mentioning the Security Council and ECOSOC. The relationship agreement between the UN and IAEA results in IAEA being somewhat less an autonomous body than at least two specialized agencies, the International Bank and the International Monetary Fund. On matters of concern to ECOSOC, the IAEA-UN relationship follows exactly the specialized agency pattern.

It is suggested that the existing pattern of relationships is logical and indeed was inevitable.

<sup>27</sup> At all stages of the negotiations suggestions were advanced that IAEA should be a specialized agency of the UN. As the negotiations proceeded from generalities to specifics, it became apparent that in important respects, the relationships between the UN and IAEA must differ materially from the usual patterns established for the specialized agencies.

1. IAEA obviously must have a direct relationship with the Security Council because of the close relationship of its work to the entire problem of disarmament and international security.

2. India and other countries stressed the necessity of direct reporting from IAEA to the General Assembly without the intermediate step of reporting to the Economic and Social Council (ECOSOC).

Despite these reservations, it is clear that the Soviet Union during the entire negotiations attempted to be cooperative. Ambassador Zarubin, the Soviet representative, actively sought consultations with the United States delegation and emphasized the importance of achieving unanimity. It was Ambassador Zarubin in fact who, after making the five reservations noted above, suggested that a final vote be taken on the Statute as a whole so that the meeting could announce that despite reservations on details, the Statute had been unanimously approved.

Sufficient unanimity had been reached so that it was possible to anticipate that the larger Conference would be successful. The issues, where disagreements among the twelve negotiating states would have to be resolved by the larger Conference, had been reduced to a very few: "sovereignty", Chinese communists, safeguards. The most controversial issue, that of the composition of the Board of Governors, had been resolved through compromise.

## X.

The final stage of the negotiation of the agency was the International Conference of 81 states which met at UN Headquarters in New York from September 20 to October 26, 1956.

The Conference was the climax and probably the most remarkable stage of the entire negotiation. In any detailed history of the negotiations, greater space would be devoted to the Conference than to the earlier stages. However, with the more limited objective of facilitating an understanding of the negotiations, the Conference needs less explanation than any other stage. The reasons for this are two-fold: first, the

Conference received vast publicity and adequate news coverage while it was going on; second, the previous negotiations had narrowed the issues to such an extent that it is far easier to summarize its main events.

The most remarkable feature of the Conference is that on a matter as complex as the agency Statute and on a subject with such far-reaching international security implications, virtually unanimous agreement could be obtained within a period of little more than one month. Much of the credit for this should unquestionably be given to the United States representative, to the President of the Conference, Ambassador Munoz of Brazil, and to other individuals. However, despite brilliant individual performances, this achievement would not have been possible without the previous negotiations which had reduced to a minimum the number of controversial points.

This does not mean that the Conference was of a rubber-stamp nature. Ambassador Wadsworth pointed out in his unpublished report that some 80 amendments were submitted, covering all but six of the articles; that approximately 60 of the 80 amendments were voted upon and one-half were adopted by the Conference in some form. Most of these amendments were comparatively uncontroversial and were merely improvements in expression.

Most of the discussion during the Conference was confined to five issues which are discussed at some length in Ambassador Wadsworth's report. The numerous proposed amendments to Article III, dealing with agency functions, in general, did not raise issues of substance but merely questions of the extent to which the agency's future activities should be

spelled out in its Charter. Agreement on the final text was reached with little difficulty.

On the subject of the composition of the Board of Governors, as we have seen, agreement on a compromise formula had been reached at the Working Level Meeting. Despite criticism of this formula, it remained unchanged as a result of the assurances of the 12 sponsoring powers, including both the United States and the Soviet Union, that any attempt to change the formula might prevent the establishment of the agency.

The issue of the relationship of the Board of Governors to the General Conference was more difficult to resolve. Wide support developed for increasing the powers of the Conference at the expense of the Board of Governors and some changes were made in this direction. However, the Conference finally accepted the original United States concept that a board with strong powers was necessary for the efficient operation of a technical agency.

By far the most controversial issue of the Conference was the safeguards system, discussion of which occupied more than half the time of the Conference. India took the lead in criticizing the safeguards proposals on the ground that they constituted a dangerous interference by the agency in the economic growth of member states. The Soviet Union, in general, supported the Indian position. The United States, the United Kingdom, and Canada, on the other hand, contended that the safeguards provisions were the minimum required to insure that fissionable materials and assistance furnished by the agency would be used solely for peaceful purposes. This was

essential to the original concept of the President that the agency should ultimately play a significant role in reducing the menace of nuclear warfare. Fortunately, it was possible to reconcile the two viewpoints through carefully drafted technical language which, without weakening the safeguards provisions, gave reasonable assurance that they would not be utilized to stifle economic development of states submitting to them.<sup>28</sup>

Finally, methods of financing the agency caused much discussion. There was little disagreement with the existing provisions but constructive suggestions were advanced for additional methods of financing, providing greater flexibility. The clarifying amendments vastly improved the Statute.

The Soviet Union again raised the question of membership of communist China in the agency and, to paraphrase Ambassador Wadsworth, "attempted to make ideological capital from the issue of sovereign rights". However, the Soviet delegate was merely speaking for the record and his government voted for and later ratified the Statute though the Conference failed to follow its suggestions.

On October 23, the Conference unanimously adopted the Statute. Three days later, at its final session, Admiral Strauss, the Chairman of the United States Atomic Energy Commission, delivered a message from President Eisenhower announcing that the United States would make available to the agency on terms to be agreed upon 5,000 kilograms of uranium 235 and would make available additional amounts to match the sum of all quantities of such materials made available by other agency mem-

<sup>28</sup> For full discussion both of the issues placed before the Conference and the solution, see Bechhoefer and Stein, *op. cit.*, p. 747, at p. 765, and p. 795 and 796.

bers, for the period between the establishment of the agency and July 1, 1960. This message to a large extent recreated the spirit of hope and optimism which had prevailed almost three years earlier when President Eisenhower had first advanced his proposals. Thus the agency was launched in an atmosphere characterized by cooperation and harmony. The negotiating stage had come to an end.

## XI.

The outstanding feature of the negotiations is that they succeeded. It was indeed a remarkable achievement to reach virtually world-wide agreement in a negotiation dealing with as controversial and sensitive an area as atomic energy. Today when prospective summit conferences have difficulty agreeing even on the location of a conference or the level of representation, it is timely to analyze the reasons for the success of this negotiation.

One important factor unquestionably was the quality of the negotiators. The United States representatives consistently succeeded in creating an informal and harmonious atmosphere conducive to the development of understanding. This factor, however, would not be sufficient to explain the successful outcome. Other east-west negotiations have failed despite strenuous and skilled efforts to establish a similar atmosphere.

A second possible explanation may be found in the procedures which were used. In its essentials, a small but representative and interested group of states prepared the initial drafts. As the number of controversial substantive issues became narrower, the negotiating group became broader. By the time the final stage of an international conference had

been reached, almost all of the issues had already been resolved along lines likely to assure conference acceptance of the main conclusions of the earlier drafts. There is nothing novel about this procedure. In substance, it had been utilized in the negotiations leading to the establishment of the International Bank, the International Monetary Fund, the United Nations Educational, Scientific and Cultural Organization, and even the UN Charter. In this instance, the pattern emerged on the basis of the necessities of the negotiations rather than through pre-conceived planning. It is suggested that this pattern of negotiation is a useful one adaptable to future negotiations. However, no procedures, however happily conceived, can, in and of themselves, break down fundamental differences in viewpoint.

A third and much more important explanation for the success of these negotiations may rest in the fact that in this field, to a certain extent, the interests of the United States appear to coincide with those of the Soviet Union.

Prior to 1955, the Soviet leaders in their public utterances had generally implied that an all-out atomic war would destroy decadent capitalism without affecting communism. By 1956, the Soviet Union had reversed this earlier position and was impressing on its own citizens that nuclear warfare would also destroy the Soviet Union. The Soviet Union, accordingly, began to show enthusiasm for practical steps to lessen the danger of nuclear warfare.

In the disarmament negotiations, this Soviet concern reflected itself in the shift in emphasis from proposals for a comprehensive disarmament program to more limited suggestions for initial steps short of a comprehensive agreement

which would lessen the dangers of the armaments race *and* at the same time would be sufficiently uncontroversial to permit an early agreement. IAEA could readily be considered as one such initial step toward a disarmament agreement.

It is true that the International Agency was not intended to and would not accomplish disarmament. However, as the President pointed out, it would provide a forum for cooperation between the east and the west in the field of nuclear energy. The experience to be gained from such cooperation might assist in dealing with the broader problem of nuclear disarmament. Furthermore, the International Agency would play a major role in preventing an increase in the number of states with nuclear weapons. Both the Soviet Union and the United States have recognized that the danger of nuclear warfare was less when only three states have nuclear weapons than when ten or twenty states possess them. Through cooperating with the United States, the Soviet Union would thus be advancing its own interests in addition to taking a popular position.

It seems certain that this coincidence of interests played a great role in eliminating from the negotiations, contrary to all precedents, the language and tactics of the "cold war" in this field. It may explain why the Soviet Union did not seek to harvest political hay from basically unpopular positions which the United States supported, *i.e.*, the composition of the original negotiating group, the insistence on stringent safeguards provisions. However, in the parallel disarmament negotiation, where the same

coincidence of interests existed between the United States and the Soviet Union, no agreement was reached on any portion of a disarmament program.

It should be emphasized that many of the partial initial steps towards disarmament which were considered in the disarmament negotiations of 1956 and 1957—in contrast to earlier comprehensive disarmament proposals—were less controversial than IAEA, and were no more directly related to basic national security. Yet, while the differences on some aspects of disarmament seemed to be narrowing, they never quite vanished.

It is suggested that the factor which differentiates this negotiation from the disarmament negotiations and which, more than any other, made success possible was the role in the negotiations of the original speech by President Eisenhower. This speech set a broad policy which never changed during the entire course of the negotiations. All of the individual tactical steps could be explained in relation to the ultimate objectives as stated by the President. In these terms it was possible to counteract adverse criticism arising from unpopular and sometimes ill-advised tactical moves.

From the outset the United States had a broad, well-conceived basic policy to which it constantly adhered despite the temptation of tactical maneuvers which might temporarily have eased the path of the negotiators but which ultimately would have impaired the usefulness of the project. Existence of this broad basic policy insured the integrity of the negotiations. Their integrity was the earnest of their success.