

*NBC TV show on Test Ban Treaty
Aug. 11, 1963 - Wash.*

DRAFT STATEMENT FOR SENATOR HUMPHREY

Last Thursday, President Kennedy transmitted to the United States Senate the treaty banning nuclear weapons tests in the atmosphere, in outer space, and underwater. This significant document was signed at Moscow on August 5, on behalf of the United States, United Kingdom and the Soviet Union. I had the honor to be present in Moscow for this historic occasion.

In his message transmitting the treaty to the Senate for its advice and consent to ratification, the President said:

"This treaty advances, though it does not assure, world peace; and it will inhibit, though it does not prohibit, the nuclear arms race.

"While it does not prohibit the United States and the Soviet Union from engaging in all nuclear

tests, it will radically limit the testing in which both nations would otherwise engage.

"While it will not halt the production or reduce the existing stockpiles of nuclear weapons, it is a first step toward limiting the nuclear arms race.

"While it will not end the threat of nuclear war or outlaw the use of nuclear weapons, it can reduce world tensions, open a way to further agreements and thereby help to ease the threat of war.

"While it cannot wholly prevent the spread of nuclear arms to nations not now possessing them, it prohibits assistance to testing in these environments by others; it will be signed by many other potential testers; and it is thus an important opening wedge in our effort to 'get the genie back in the bottle.'

". . . While it does not assure the world that it will be forever free from the fears and dangers of radioactive fallout from atmospheric tests, it will greatly reduce the numbers and dangers of such tests."

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Of particular interest to this group are the legal aspects of the treaty. Foremost, perhaps, among the legal questions that have been raised is the matter of recognition of unrecognized regimes. The President has assured us that this treaty does not alter the status of unrecognized regimes. East Germany, for example, by depositing an instrument of ratification with the Soviet Union, would not gain implied recognition by the United States. Although I am not a lawyer, our Government's experts in the field

of international law tell me that the governing criterion in determining recognition is intent. Our Government does not intend to recognize East Germany as a state or the local authorities there as a government and we will not do so. I have been informed that, under international law, recognition cannot be implied from participation in a multilateral treaty with unrecognized regimes. There is ample precedent for this principle. One example is the 1949 Geneva Conventions for the Protection of War Victims. Both the United States and the East German authorities subscribed to this agreement and it was never contended that we accorded those authorities recognition as a state or as an entity possessing national sovereignty. West Germany does not recognize East Germany either, but both became parties to the above mentioned Convention for the

Protection of War Victims as well as the Convention on Safety of Life At Sea of 1948 and the Agreement for Suppression of Circulation of Obscene Publications, among others.

There are three depositaries--The United States, the United Kingdom and the Soviet Union. None of these has to accept an instrument of ratification or adherence from a regime that it does not recognize, and we do not intend to do so. By signing the treaty in Moscow, East Germany would become bound by the obligations of the treaty. The Soviet Government would handle all other contacts with authorities such as these.

Another question which has arisen involving the interpretation of the treaty is whether it "bans the bomb"--whether it prevents us from utilizing nuclear weapons in

time of war.

The treaty deals with nuclear weapons tests in time of peace, not with the use of nuclear weapons in time of war. This was clearly understood by all parties in Moscow. It is also shown by the title (Treaty Banning Nuclear Weapons Tests in the Atmosphere, Outer Space and Under Water) and by the preamble ("discontinuance of all test explosions of nuclear weapons").

In describing the purpose of the treaty in his speech on July 26, 1963, the President said: "No nation's right to self-defense will in any way be impaired" * * *

"The treaty will not restrict their nuclear weapons use in time of war."

The same points were made in the messages of the President submitting the treaty to the Senate for ratification.

Finally, it has been alleged that we cannot expect the Soviet Union to keep this treaty since they have violated 50 out of their last 53 treaties.

Even if the question of what amounted to a treaty violation were simple, the quoted figures would be both inaccurate and misleading. The source of the figures appears to have been a statement under the caption "Washington Whispers" which appeared in the July 29 issue of U.S. News and World Report. The latter publication has indicated that its source was a single phrase from the middle of a 34-page report written in 1959 by a Special Committee of the American Bar Association. The report cited no authority. It has not been endorsed by the ABA.

The many violations by the Soviet Union of treaties and other international agreements are, of course, a matter

of public record. A comprehensive analysis of such violations was prepared by the State Department at the request of the Chairman of the Committee on Foreign Affairs of the House of Representatives.

There are, however, a number of multilateral and bilateral agreements, mutually beneficial to the United States and the Soviet Union, which appear to have been observed by the Soviet Union. Twenty-five such agreements were listed, by way of illustration, in a recent statement by the Department of State.

The Communists have in no way given up their avowed objective of world domination but they do adhere to agreements they consider to be in their own interest. And it does not follow in this area that what is advantageous to them is a disadvantage to us.

Some of the advantages of the test ban that would accrue to us would accrue to the Soviet Union as well. Continuation of radioactive fallout is, in the long run, a hazard to the Soviet people as it is to Americans. The danger that other countries, some of which may act in an irresponsible fashion, might acquire nuclear weapons poses a threat to the security of both the USSR and the United States.

Then there's the matter of economics. An unrestricted testing program is very costly.

There is reason to believe the Soviet Union is aware of these points. There is also reason to believe that it sees the agreement as serving its interests in the ideological dispute which now plagues the Communist camp.

The President has defined this treaty as a first step, not as a millenium. In considering its value, however, it is necessary to compare the slight theoretical risk of future violation with the almost certain risks of a continued and unrestricted arms race. On balance, it is clear that the national security interests of the United States are protected far more by adhering to the treaty than by rejecting it.



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