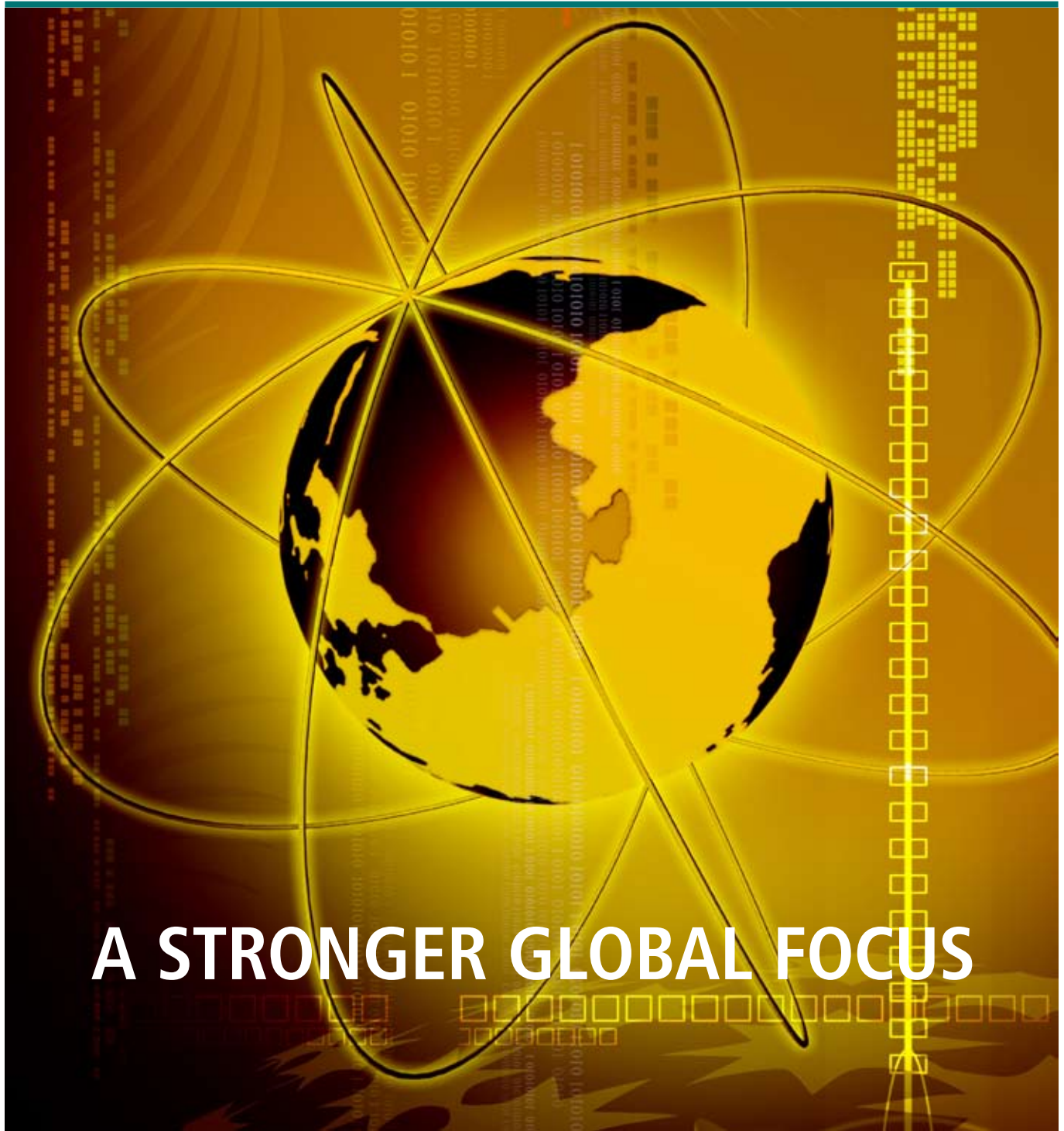


PIN·Points

The Processes of International Negotiation Program

Network Newsletter 32/2009



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Presidency • Warsaw Negotiation Day • New Book on Negotiated Risk



International Institute for
Applied Systems Analysis
www.iiasa.ac.at

From the PIN Steering Committee

More Focus on World Problems— Goal Of New IIASA Director

On 1 January 2009 IIASA welcomed a new Director, Professor Detlof von Winterfeldt, who is on leave from the University of Southern California, where he is Professor of Industrial Systems, Engineering, and Public Policy and Management. During his term at IIASA Professor von Winterfeldt will also be Visiting Centennial Professor in the Operational Research Group of the London School of Economics and Political Science (LSE) School of Management. His special research interest is terrorism; it was von Winterfeldt, in fact, who co-founded the US National Center for Risk and Economic Analysis of Terrorism Events (CREATE), serving as its Director until 2008.

Professor von Winterfeldt has told the PIN Steering Committee that he considers PIN's work on negotiating with terrorists to have a special value in international efforts to get to grips with the phenomenon of terrorism. Terrorism has been with us a long time, having had a notable impact on European politics at the end of the 19th and beginning of the 20th centuries. It became endemic in the second part of the last century in the form of, among other things, the Red Brigades in Italy, the Red Army Faction in West Germany, and Palestinian extremism. However, at the turn of the new millennium, terrorism went global. Negotiation options cannot be overlooked, von Winterfeldt told the Steering Committee. PIN has a special task, in close cooperation with other IIASA programs, to develop further insights into ways of combating and constraining terrorist activities.

World problems

The new Director underscored the great value of the PIN Program to IIASA as a whole. Having talked with PIN's founding father, Howard Raiffa, he is in full agreement with Raiffa's dictum that an international science institute like IIASA must continue to concentrate on producing academic insights that are of practical use to society in general and the policy world in particular. Von Winterfeldt will be striving for more IIASA—and thus PIN—focus on major world problems like the credit crisis,

systemic risks and their ripple effects, interdependencies, and the consequences of globalization, as well as the paradoxes of long- and short-term dynamics

More IIASA/PIN synergy

While appreciating the value of PIN's balanced quantitative/qualitative approach, von Winterfeldt also hopes for more IIASA/PIN synergy, especially in modeling terms, as negotiation can, he feels, be fully understood only if both dimensions are studied. There is still much research to do, but at the same time, PIN findings should become more readily available to IIASA researchers. Moreover, PIN itself should learn as much as possible from researchers' perceptions of international negotiation processes.

Continuing to rejuvenate

To increase the policy relevance of IIASA and enhance the value of its research to its national member organizations, the new Director plans to create, as part of the new strategic plan, a Policy and Outreach Group, of which PIN can be an integral part. This group will build bridges to the policy community and add value to the function of IIASA in a globalized world. After all, IIASA's experience in this goes back to the Cold War era, long before the modern concept of the international research institute was born. Having long shed its original Cold War context, IIASA and PIN are already major contributors to the international policy arena and thus ready and able to take on this increased role.

PIN thoroughly endorses such an approach and, with several longstanding members of the PIN Steering Committee announcing plans to retire, decided at its February 2009 meeting to further rejuvenate and expand the membership of its Steering Committee. At the same time the PIN Steering Committee is launching new initiatives such as the policy-oriented book workshop on the Comprehensive Test-Ban Treaty (CTBT) negotiation processes in summer 2009. New Roadshows are on the agenda, beginning with one in Toronto in



November 2009. In September 2009 PIN plans to hold the fourth meeting in the Caspian Dialog series in Astrakhan, Russian Federation, whose national Academy of Sciences is an IIASA member.

PIN network is expanding

At the same time PIN is in the process of completing ongoing projects such as a book on risks, on climate change negotiations, on negotiations that end without agreement, and on external intervention in internal identity conflicts. PIN is expanding its network year by year, disseminating its research in many ways: on the IIASA Web site, through meetings and seminars, and through our increasingly popular *PINPoints* journal.

The PIN Steering Committee looks forward to continuing to working with our new IIASA Director to promote better understanding of international negotiation processes as a viable alternative to the use of military force in a globalizing world.

The PIN Steering Committee:

*Mark Anstey,
Rudolf Avenhaus,
Franz Cede,
Guy Olivier Faure,
Ariel Macaspac Penetrante,
Paul Meerts,
Gunnar Sjöstedt, and
I. William Zartman.*

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In December, while the climate community was in Poznan discussing climate change, PIN members were 280 km away in Warsaw discussing climate negotiations

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A new PIN book on Negotiated Risks, edited by Rudolf Avenhaus and Gunnar Sjöstedt, has been published by Springer

17 Inaugural Meeting of Netherlands Negotiation Network

Information about the new Dutch PIN branch

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The “omnipresent omniPresident” of the EU, July–December 2008, Nicholas Sarkozy

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Unfinished Business: Saving International Negotiations from Failure, Franz Cede and Guy Olivier Faure, editors

Talking with Terrorists, Guy Olivier Faure and I William Zartman, editors



Negotiations on and around the CTBTO

Together with the Non-Proliferation Treaty (NPT) of 1968, the Comprehensive Nuclear-Test-Ban Treaty (CTBT), which was opened for signature in 1996, constitutes the most visible instrument of the international community in the fight against the proliferation of nuclear weapons as the most deadly form of weapons of mass destruction. Both instruments are children of their time in the sense that they are the product of complex negotiations at a particular juncture of world politics. While the NPT was elaborated in the period of the Cold War, when the nuclear weapons states succeeded in convincing the majority of nuclear have-nots to renounce once and for all the production of nuclear weapons, the CTBT reflects a post-Cold War situation in which the major nuclear weapon states themselves have agreed to give up nuclear weapon tests. Of course, it was in the best interests of these states that the nuclear test ban to which they were willing to adhere would be honored by the greatest possible number of other states within a truly comprehensive system. Whereas the prohibition to produce nuclear weapons as contained in the NPT addresses the category of non-weapon states, the ban on nuclear weapon tests concerns all parties to the CTBT, nuclear haves and have-nots alike.

The wheel of history continues to turn. A decade after the adoption of the CTBT, which was hailed as a major landmark on the road to a nuclear-weapon-free world, the fear of nuclear energy being used for non-peaceful purposes has unfortunately not abated. In the relevant sections of the security doctrines of the European Union, the United States (USA), and the Russian Federation, the spread of nuclear weapons and other weapons of mass destruction is listed among the main security challenges of the 21st century. Today, in contrast with the world in which the NPT and the CTBT were formulated, the security risks are no longer identified with states alone. The possibility of terrorist organizations getting hold of nuclear weapons or other means of mass destruction no longer belongs to the realm of political fiction. At the same time, the possible development of nuclear weapons by states like Iran or North Korea continues to cause serious concerns. This is the international

environment in which we have to examine the state of affairs with regard to the CTBT.

The CTBT system: Its achievements and shortcomings

The Comprehensive Nuclear-Test-Ban Treaty (CTBT) was adopted within the framework of the Geneva Conference on Disarmament on 10 September 1996 by an overwhelming majority of participating states (158 votes in favor, with 3 against, and 5 abstentions). By mid-September 2008 it had been signed by 178 states, 144 of which had also ratified the Treaty. However, the CTBT cannot enter into force until each of the states listed in Annex 2 of the Treaty, which were designated as having a nuclear reactor or some advanced level of nuclear technology, have ratified. So far, 42 of these states have signed the treaty and 35 have ratified. India, North Korea, and Pakistan are yet to sign and ratify the Treaty; China, Egypt, Indonesia, Iran, Israel, and the USA have signed but have not yet ratified. In keeping with its purpose of achieving nuclear disarmament and non-proliferation, the basic provision of the CTBT (Article I) prohibits and prevents any state party from carrying out any nuclear weapon test explosion or any other nuclear explosion at any place under its jurisdiction or control. In order to carry out its tasks, the Treaty provides for the establishment of a Comprehensive Nuclear-Test-Ban Organization (CTBTO). It also creates a verification regime through the establishment of a Technical Secretariat.

The core of the whole CTBT regime is the instrument of on-site inspections, which can be activated to clarify whether a nuclear weapon test explosion or any other nuclear explosion has been carried out in violation of the prohibition enshrined in Article 1, mentioned above. However, the verification mechanism of on-site inspections can proceed only after the entry into force of the CTBT.

In the meantime, preparations for the entry into force are well under way. A total of 321 monitoring stations and 16 laboratories have been established, forming an elaborate International Monitoring System (IMS), the data from which are sent to the International Data Centre (IDC) located at the seat of the CTBTO in Vienna. Pending the entry into force, the so-called Preparatory Commission (PrepCom) assumes the administrative functions of the CTBTO. The PrepCom is the organizational structure of this organization in the making and consists of all signatory states. The Technical Secretariat in its provisional shape also belongs to the PrepCom. It is worth noting that the setting up of the worldwide IMS and the IDC is well advanced and nearly complete, although the definitive functioning of on-site inspections under the supervision of the CTBTO, as mentioned, can proceed only after the Treaty's entry into force.

The Technical Secretariat has acquired state-of-the-art expertise and knowledge by developing a unique IMS which operates on a global scale. The IMS consists of 170 seismic monitoring stations, 11 hydro-acoustic stations, 60 infrasound stations, and 80 radionuclide stations. The USA, Japan and Germany are the most important contributors to the budget of the PrepCom. Following the entry into force of the CTBT, the PrepCom will be taken over by the CTBTO.

The major institutional deficit of the CTBT is that the core function of the entire system cannot become operational unless the Treaty has entered into force. As indicated above, ratification by



Source: commons.wikimedia.org

Vienna International Center: Seat of the CTBTO, including IMS and IDC.



Source: www.ctbto.org

One of the network of seismic monitoring stations used by CTBT to detect and locate underground nuclear explosion.

some important nuclear states such as the China, India, and the USA, as well as of a number of other states listed in Annex 2 to the Treaty, is still necessary before this can happen. Given the political and military interests of the states concerned, there is little likelihood that it will happen any time soon. Thus, the most important part of the entire system, that is, the instrument of on-site inspections by the CTBTO that may be triggered by data collected via the IMS and the IDC remains "in the garage." The argument was advanced that the CTBT and its provisional character are not the first multilateral agreement that has successfully muddled through in a makeshift fashion over many years. In this context the General Agreement on Tariffs and Trade (GATT), which was transformed into the World Trade Organization only a few years ago after a long transitional period, is frequently mentioned. However, the comparison with GATT does not fit the agreements concluded in the framework of the Conference on Disarmament. There is no denying that there is little comparison between that the world of nuclear security and disarmament and international trade diplomacy. Thus, using GATT as an excuse for the provisional character of the CTBT is a poor argument. Furthermore, it must be noted that even in the event of a future entry into force of the CTBT, the intricate mechanism envisaged for triggering on-site inspections will not be easily triggered. The decision to carry out inspections on the territory of a state party requires agreement by at least

30 of the 51 members of the CTBTO's Executive Council. Given the highly political character of a decision to that effect, it is unlikely that a resolution enabling on-site inspections can be adopted speedily. This critique is not meant to "deconstruct" the undisputable achievements of the CTBT regime altogether. Without doubt, the system as it stands has contributed to the building of trust and confidence in one of the most sensitive areas of international disarmament. The mere establishment of the IMS, the Global Communications Infrastructure (GCI), and the IDC has created a measure of transparency in the closed shop of the nuclear industry and its possible military ap-

plications. The preparation of the IMS has also greatly contributed on a global scale to the advancement of science and the interaction of the international defence community in the field of nuclear disarmament. Building worldwide confidence to avoid nuclear proliferation and to stop nuclear tests is, in itself, no small achievement in a divided world characterized by conflicting security interests. However, these positive factors cannot hide the fact that the primary objective of the CTBT, namely, setting into motion the on-site inspection mechanism has not, to date, been achievable. It appears that the institutional deficit built into the provisions of CTBT and providing for the entry into force of the Treaty on condition that all states listed in Annex 2 have ratified this instrument, has raised a legal burden that is too big to overcome in the immediate future. In hindsight, one could criticize the CTBT treaty concept by saying that it was unrealistic to assume that in the world in which we live, powerful nuclear weapon states would accept international inspections of purported treaty violations on their own territory. The acceptance of such inspections by other states falling under the rubric of emerging nuclear powers appears even less likely.

In the final analysis, such a negative assessment must not be made. The very fact that, in the interest of world peace, a great majority of states have signed the Treaty, including the five permanent members of the Security Council, testifies to the readiness of the international community to ac-



Source: www.ctbto.org

An infrasound station used by the CTBTO to detect very low frequency sound waves produced by natural and man-made events.



Source: www.ctbto.org

Part of the vast International Monitoring System of the CTBTO, this communication system is on the island of Tristan da Cunha in the South Atlantic Ocean.

cept a robust mechanism to verify nuclear tests.

At this point the hope may be expressed that the change of U.S. administration will open a new window of opportunity with regard to the U.S. position on the ratification of the CTBT. It may well be that the incoming President casts a new eye over the CTBT and decides that its ratification is in the interest of the USA. If the pronouncements of the elected President in the field of foreign policy carry any weight at all, then ratification of the CTBT by the USA under the Obama administration is not totally excluded. A U.S. ratification of the Treaty would certainly have a tremendous impact on the position of a number of crucial states that have not yet gone the extra mile toward ratification. In this regard, as a former Austrian diplomat, I wish to mention that my country, which hosts the CTBTO-PrepCom, does not spare any effort in its concerted campaign to promote additional ratifications.

The CTBT as a system of global communication and negotiation

Whatever the immediate future brings about from the viewpoint of international theory and practice, the work performed hitherto by the CTBTO PrepCom deserves praise. With a small budget the lean and efficient staff of the PrepCom have succeeded in putting into place a structure of

global reach and significance. The establishment of the IMS, GCI, and IDC is no small achievement. The continuous interaction of scientists, state representatives, and practitioners, coordinated and managed by the PrepCom, is a first-class demonstration of how an international organization could and should be run. The hard-working and highly qualified staff of the PrepCom most of all deserve that "their Organization"—which they have helped build—will some day become effective.

The CTBTO as an ongoing process of multilateral negotiations is characterized by the following salient features:

- The system lies at the crossroads of international security policy and nuclear technology

In this area the qualifications of the various actors are particularly demanding. The typical participant in the CTBTO circuit needs both to be familiar with the state of the art in nuclear science and to have an excellent grasp of the political and military stakes involved in the area of nuclear disarmament.

- The CTBTO system constitutes a unique global network based on the most sophisticated computer-based technology

If there is one area in which technological progress has translated into diplomacy this is it. The CTBTO and its very sophisticated structure can be cited as a textbook example of the new diplomacy. Those who deal with the complex world of nuclear reactors, verification techniques, and the most advanced communication and data

systems are the complete opposite of the cliché-type diplomats of the old tradition. The change of paradigm in international relations can be literally grasped when one enters the CTBTO world.

If I had to give advice to anyone interested in international affairs, I would highly recommend him/her to do a stint in this organization. There seems to be no better workstation at which to study the transformation of the modern world in a highly sensitive and politically charged domain. The learning experience to be acquired within the framework of this organization is hard to match.

- The CTBTO as a meeting place with the emerging powers of the 21st century

As the established nuclear weapon states obviously have an interest in maintaining the status quo in the field of nuclear power relations, the negotiation process conducted within the CTBTO framework offers a unique opportunity to study the interplay of the traditional nuclear power states with the newcomers to the nuclear game. Students of diplomacy will find here a fascinating theater in which to learn more about the positions of the upcoming powers in Asia and other parts of the world in the field of nuclear politics. In many ways the CTBTO appears as a laboratory of new trends and developments in a fast-changing world in which the old nuclear powers do business with the new ones.

- The CTBTO in search of creative solutions

The very fact that the PrepCom operates on a provisional basis must not be considered entirely negative. Of course, the problem cannot be done away with by claiming that, pending its entry into force, the system lacks robust means (i.e., on-site inspections). On the contrary, this handicap may turn out to be a blessing, at least to some extent. It forces all those who feel responsible for the project of banning nuclear tests once and for all to explore all available avenues to reach that goal below the threshold of the entry into force of the CTBT. In that perspective the creative minds of lawyers and politicians alike are very much in demand. Even now, one has the impression that the PrepCom and its excellent staff have gone out of their way to develop every single element of a global verification system that can be devised, short of the formal entry into force of the Treaty.

Franz Cede

PIN Summer 2009 Workshop: Negotiation on the Comprehensive Nuclear-Test-Ban Treaty (CTBT)

The Processes of International Negotiation (PIN) Program is organizing a workshop that will take place at IIASA on 13–14 June 2009.

In the mid-1990s, the scientific community played a major role in the negotiation of the Comprehensive Nuclear-Test-Ban Treaty (CTBT). The community of negotiation analysts will now collaborate in a new analytical endeavor, a workshop that is the 2009 project of PIN at the International Institute of Applied Systems Analysis (IIASA). Its objective is to evaluate the negotiations to establish and implement the CTBT as well as its verification regime. The workshop is conducted on 13-14 June.

The workshop follows directly upon the International Scientific Studies Conference (ISS) which takes place 10–12 June at the former imperial palace Hofburg, Vienna, Austria. For more information, please visit the dedicated ISS area on www.ctbto.org.

The PIN study, for its part, represents the kind of project that best exemplifies PIN's role in IIASA-related projects—i. e., a study analyzing and evaluating the negotiation mechanisms that an international system and the technical studies associated with it need in order to make their impact on the real/political world and bringing theorists nearer to practitioners. The PIN editing committee is Franz Cede, Mark Anstey, Paul Meerts, and I William Zartman, with Mordechai (Moti) Melamud.

Three levels of regime negotiations are open to study and will form the framework for the project:

1. The 1994–1996 regime-building negotiations to create the CTBT its governing body, the Preparatory Commission for the Comprehensive Nuclear-Test-Ban Treaty Organization (CTBTO), and its verification regime;
2. The subsequent discussions, principally within the CTBTO, for the effective implementation of the Treaty, in particular through the establishing of its verification regime, but possibly also any continuing discussions outside the CTBTO including provisions and trade-offs required to accommodate universal membership; and
3. The process enabling specific on-site inspections, namely, how inspectors conduct verification.

A fourth level of purely political negotiations continues for the purpose of convincing the Reluctant Nine states that have yet to ratify the CTBT so that it can enter into force; these will not be addressed specifically, although the preceding three levels are relevant to this aspect.

During the PIN June 2009 workshop, contributions will be presented for each of the three levels of negotiation. The negotiation process of CTBT regime can be analyzed in terms of the following elements, among others:

1. Political versus technical demands, understanding that the political is a technical area of its own sort?
2. Increasing technical knowledge versus uncertainty?
3. Leadership—individual and participating states.
4. Coalition formation and development.
5. Institutional versus ad hoc (i.e., inspection-related) negotiations?
6. Formulas for an agreement: what general formulas governed negotiations and agreement and were alternative formulas available and neglected?
7. ZOPAs (Zones of Possible Agreement) on specific issues between the Nine and the rest. Are they impossible or were they neglected in initial negotiations and subsequent discussions?
8. Regime negotiations in general: is CTBT *sui generis* among arms control negotiations and are arms control negotiations *sui generis* among CTBT states?
9. National security secrets versus comprehensive monitoring?
10. Issue-inclusion matters (e.g., testing levels) versus party-inclusion matters (e.g., threshold states)?
11. Monitoring access guidelines: how standard can such guidelines be and how much can legitimately be left to on-site negotiations?
12. Trade-offs: were trade-offs made to the point where traded issues were reduced to the lowest common denominator and lost their effectiveness, neglecting other more viable trade-offs?
13. Training and operational manuals for negotiating levels 2 and 3?

The analysts presenting are shown on page 8.

Presenter	Institution/Position	Topic
Pierce Corden (USA)	Center for Science, Technology and Security Policy	Banning nuclear explosive testing: situating the CTBT in the historical negotiating process
Dr Simon Hebel (Germany)	University of Hamburg	Preparations for negotiations on the noble gas categorization scheme
Dr Alexey Fenenko (Russia)	Institute of International Security Studies of the Russian Academy of Sciences	The evolution of the Russian negotiating approach
Dr P Terrence Hopmann (USA)	SAIS, Johns Hopkins University	
Ambassador Jaap Ramaker (Netherlands)	Special Representative of Ratifying States to promote ratification of the CTBT	
Dr Nicholas Kyriakopoulos (USA)	George Washington University	Can a monitoring and verification system be designed by negotiation?
Dr. Fen Osler Hampson (Canada)	IIASA/Carleton University, Canada	Negotiation lessons from the Limited-Test-Ban Treaty
Dr. I William Zartman (USA)	IIASA/John Hopkins University, USA	Formulas and trade-offs
Ambassador Franz Cede (Austria)	IIASA/Andrassy University, Hungary	Legal aspects of making the CTBTO operational
Dr. Rudolf Avenhaus (Germany)	IIASA/German Federal Forces University, Germany	On-site inspections—first and second type errors
Ariel Macaspac Penetrante (Germany)	IIASA	Point of Entry (POE) Negotiation: CTBTO International Integrated Exercise 2008 in Kazakhstan: the Case of Arcania
Dr. Paul Meerts (the Netherlands)	IIASA/the Netherlands Institute for International Relations, Clingendael	Tabletop bargaining (simulated inspection negotiations)
Dr. Mordechai Melamud (Israel)	CTBTO	Tabletop bargaining (simulated inspection negotiations)
Dr. Mordechai Melamud (Israel)	CTBTO	On-site inspection as a progression of negotiation cases
Dr Ulrika Möller (Sweden)	Swedish Institute of International Affairs	India's negotiating position and its role in international affairs
Dr Gunnar Sjöstedt (Sweden)	Swedish Institute of International Affairs	Regime deterioration and threshold power
Dr. Rebecca Johnson (United Kingdom)	Acronym Institute for Disarmament Diplomacy	1994–1996 regime building negotiations

I. William Zartman

Negotiation as an Important Inspection Technique

CTBTO's first integrated on-site inspection

In September 2008 the Comprehensive Test-Ban Treaty Organization (CTBTO) for the first time simulated an entire On-Site Inspection to allow experts to confirm the functionality of the on-site inspection regime and identify any shortcomings needing to be addressed.

The Integrated Field Exercise 2008 or IFE08 lasted over five weeks, including an initial one-week phase in Vienna and a full month of field activities in Kazakhstan.

The IFE08 followed the regime as specified in the Comprehensive Test-Ban Treaty and tested it under realistic conditions. The procedure included an imaginary member state lodging a request; preparations in Vienna to assemble an Inspection Team; the inspectors' journey to Kazakhstan along with the shipment of 40 tonnes of equipment; on-site preparations and the conducting of the exercise; and finally, the submission of an inspection report.

On-Site Inspections involve two main negotiation periods: one occurs at the Point of Entry, an intensive 2–3 days negotiation led by the Inspection Team Leader on the modalities of the inspection; the second is an ongoing day-by-day (and case-by-case) negotiation process during inspection activities that may be led by the Inspection Team Leader or by other inspectors. The main issues to be negotiated are access issues, utilization of certain measurement technologies, and confidentiality of information.

An article in the last *PINPoints* ("The Case of Arcania") described the CTBTO simulation exercise of on-site inspection and especially the negotiation process that took place at the Point of Entry as the starting event of IFE08. It is this article's aim to clarify some issues that were raised in the previous one about the sources of power and the tools of negotiation available to the inspection team.

During an On-Site Inspection there exists interplay between the national security interests of the Inspected State Party and the task of the Inspection Team in fulfilling its mandate with the tools provided to it by the Treaty. As a sovereign state, the Inspected State Party's highest priority is its national interests, which is recognized by the Treaty; therefore, the Inspected State Party may restrict Inspection Team activities while assuming the responsibility for the way its actions will be viewed later by the CTBTO Executive Council, which will make the decision on a possible violation.

When considering the negotiation strategy of the Inspection Team during an On-Site Inspection we need to take into account the parameters affecting the possible courses and methods the Inspection Team may utilize. General rules of engagement in negotiation always apply, but for this specific situation it is important to understand the environment in which the team is functioning, the proce-

dures (or lack of them) set by the Treaty, the tasks and aims of the Inspection Team, and the tools available to it.

Unlike other organizations, the CTBTO does not have an ongoing routine inspections regime with an in-house inspectorate. There is thus a need to study the negotiation environment (like other inspection parameters) and the strategy of the Inspection Team through exercises. These may be tabletop exercises conducted in the office or a field simulation of the inspection process. IFE08 was the first major On-Site Inspection exercise during which negotiations between the Inspection Team and the Inspected State Party were conducted under an almost realistic scenario. The issue of On-Site Inspection negotiations was studied previously through a scenario-based tabletop exercise specifically planned to reveal specific negotiation roadblocks that may occur during an On-Site Inspection.

One of the priority criteria for selection of an Inspection Team Leader will most probably be his/her negotiation skills, especially in relation to the uniqueness of the culture and special situation in the state to be inspected. Moreover, the specific environment of CTBTO inspections versus those of other regimes, such as the International Atomic Energy Agency (IAEA) and the Organisation for the Prohibition of Chemical Weapons (OPCW) need to be considered. For CTBTO, the Inspection Area may be a 1,000 sq km zone which may include different unpredictable installations with varied characteristics. This complicates the negotiation process because technical background on the types of installations is required in order to conduct an intelligent negotiation. The CTBT also allows a wider range of techniques to be used during inspection, compared to a single technology under the other regimes.

There are therefore three demanding aspects that have strong effects on the negotiations capacity of the Inspection Team:

- The cultural aspect of negotiations;
- The technical background; and
- Varied but unknown types of installations inside the Inspection Area that need to be accessed.



Visual observation is performed during the exercise.



Source: www.ctbto.org

The ground penetrating radar is prepared for use during the inspection period.

the technical expertise of the team members. As the highest priority task of the Inspection Team is to collect as much data as possible in order to clarify the situation (whether or not the suspected clandestine nuclear explosion has taken place), the basic Inspection Team strategy should be to negotiate alternative access methods that will provide it with as much information as possible to help the Executive Council in its deliberations on the suspected violation. The negotiation process therefore needs a sound scientific and technical background to support any request for implementing alternative measurement techniques as alternative ways of collecting the required data under Inspected State Party restrictions.

It is clear that an Inspection Team Leader needs to be a capable negotiator, but he/she will necessarily rely on the scientific expertise of the team members and will have to delegate to them some of the negotiation process by having them engage in technical discussions with experts of the Inspected State Party. Otherwise, after exhausting any technical solution that may compromise the Inspected State Party restrictions, the only option left for the Inspection Team is to record the facts in its report of the inspection for the Executive Council, describing the restrictions set by the Inspected State Party. This report is therefore the final and only "weapon" of the Inspection Team in its negotiation for maximum access.

Mordechai (Moti) Melamud (CTBTO)

At the Point of Entry, the Inspection Team is at a disadvantage in that it is called from home only a few days before the start of the negotiation and must travel, sometimes for a long time, to get there. The negotiating team of the Inspected State Party, on the other hand, is on its home turf and much more relaxed. Timelines are defined in the Treaty for the conduct of the inspection but there is no definition about the responsibility as to how (and by whom) timekeeping should be accomplished. The Inspection Team may strive to adhere to the timelines, but delays may occur because of the complexity of the operation (transportation of 40 inspectors and approximately 40 tons of equipment) or because of an Inspected State Party being uncooperative. In any case, even when deadlines are not adhered to, it is clear that the inspection has to continue. Termination of the inspection, under the Treaty, is allowed only by decision of the Executive Council based on a specific request by the Inspection Team; such a request may be submitted only after the first obligatory inspection period and after a report has been submitted by the Inspection Team to the Executive Council.

Therefore, it is clear that the Inspection Team cannot use "termination of inspection" (as mentioned in the article in the last PINPoints) as a weapon in the negotiation process with the Inspected State Party, especially not at such an early stage as the Point of Entry negotiations. Such a "threat" is also practically a default that will be accepted happily by the Inspected State Party, especially in the case of noncompliance.

"Weapons" or tools that the Inspection Team can use while negotiating with the Inspected State Party are limited; the Inspection Team is a guest (although an official guest under the Treaty) on the territory of a sovereign state. Although it is the right of the Inspection Team to determine how the inspection will proceed, the Inspected State Party has the final say about access to any area. Naturally, the Inspected State Party assumes the responsibility for the results of its acts (the way these will be judged by the Executive Council).

Under these conditions the best way the Inspection Team can demonstrate dominance during the negotiations is by utilizing



Source: www.ctbto.org

Magnetic field measurements for most of the inspection area are obtained with a so-called mag bird tied to a helicopter.

Transnational Corporations and International Framework Agreements

Internationally labor relations systems are in transition—the shape of the actors, the issues which they negotiate, and their relative power are all under revision (Anstey 2008).

Business drives to modernize production and work processes and to migrate in search of new markets and less regulated environments have been powerful forces for change. Transnational Corporations (TNCs) have acquired significant international influence on the economies of developed and developing nations. They have escaped some of the traditional checks and balances of national laws and organized labor of home countries by moving operations into developing markets in "union-free" societies or into nations where governments have been willing to suppress labor rights in their strategies for national development. Organized labor was slow in responding to this—not surprisingly in light of the complexity of a situation in which capital was globally mobile but workforces were largely nationally based. However, labor is finding ways to reorganize itself to take on major international corporations. The creation of Global Union Federations (GUFs), for instance, has enabled the negotiation of an increasing number of International Framework Agreements (IFAs) with transnational companies.

Transnational Corporations

The number of multinational enterprises in operation across the world rose from 7,000 in 1970, to 37,000 in 1990, and 65,000 in 2004. It is estimated that these have about 850,000 foreign affiliates, through which foreign direct investment is channeled into developing economies, and that they account for about 95 million employees globally (Papadakis 2008:2).

Production and markets have become globally dispersed. The foreign content of Boeing products, for instance, rose from less than 10 percent in the 1950s to over 30 percent by the 1990; its non-U.S. sales rose from 25 percent to 60 percent in the same time frame. The Boeing 777 comprised key components from Australia, Brazil, Canada, France, Great Britain, Ireland, Italy, Japan, and South Korea, making it a truly global product (Grieder 1997). By 2000 over 70 percent of clothing manufacturing jobs were in Asia, 20 percent in China alone. Between 1960 and 2000 the U.S. contribution to world production of automobiles fell from over 50 percent to 14 percent, while Japan's grew from 1.3 percent to over 20 percent. By 2000 General Motors and Ford were building 60 percent of their vehicles outside the USA; Toyota and Renault about 25 percent. In 2004 China produced 5 million vehicles, passing Germany as the world's third-largest, auto-producing nation, behind the USA and Japan. U.S. firms migrated substantial production capacity to the East where new markets and cheap labor beckoned. Automakers' biggest returns were achieved in the East, even as they battled in their domestic markets.

While organized labor in developed nations fell into retreat mode against a background of several decades of falling membership, it did recognize that the global economy was a reality that could not be ignored: and it has sought new ways to mobilize membership, engaging with employers on an international basis. Labor-relations systems used to be primarily understood as having a national char-



Source: © International Labour Organization

Many transnational corporations recognize that corporate social responsibility has to extend to the environmental impact of their international operations, decisions relating to the politics of where they invest, and the manner in which they treat their global workforces.

acter with variations of design across three levels: at a *social policy level* among peak organizations of labor and business in interaction with the state; at *sector or industry levels* between employer organizations and unions organized within such sectors; and at *enterprise levels*. Multi-employer bargaining systems were predominant in Europe, single-employer bargaining in the USA and Japan. As enterprises have become increasing multinational in character, however, a new level of bargaining has emerged—one which takes place within firms operating across states.

Trade unions have been obliged to think differently about their structures and their operating realities in a radically changed political and economic environment. At the end of 2006 the old Communist World Confederation of Labor (WCL) merged with the International Confederation of Free Trade Unions (ICFTU) to form the International Trade Union Confederation (ITUC). Mergers amongst trade unions have led to the formation of Global Union Federations (GUFs). The European Union gave impetus to regional trade union coordination and the establishment of European Works Councils (EWCs) through which workforces across the region could engage

with transnational corporations. These shifts ran parallel to the shift from multi-employer to single-employer bargaining taking place across many developing nations. At first this took place within national systems, but it has added impetus to the emerging shape of employer–union relations at the level of enterprises that operate across borders. Transnational corporations have had to adapt their modes of operation to accommodate national realities and cultures, and this is particularly evident in human-resource management and labor relations. So the national identity of unions and collective bargaining has not been lost in a vast convergence process, but the process of engaging with transnational employers is becoming better coordinated from a labor perspective.

Codes of conduct

The migration of Western firms has been accompanied by some high profile scandals of labor exploitation and poor practice: labor abuses uncovered in Nike's Asian plants; the massive destruction of the Union Carbide plant explosion in Bhopal, India; the deaths of hundreds of workers locked into the Kader Toy Factory which burned down in Thailand; the mercury poisoning of Thor Chemicals workers in South Africa stand as examples.

In the face of rising international pressures many transnational corporations recognized that reputation mattered—corporate social responsibility would have to

extend beyond token handouts to local welfare organizations to assuming responsibility for, inter alia, the environmental impact of their international operations, decisions relating to the politics of where they invested, and the manner in which they treat their global workforces. Reluctantly at first, many imposed codes of conduct on themselves to which they could be held accountable. Some did so to defuse international pressures to withdraw from profitable business environments, such as those European and U.S. companies choosing to do business in South Africa during the apartheid years. There was considerable excitement about the Sullivan and European codes imposed on U.S. and European companies operating in South Africa during this period—and certainly they had value in getting such companies to review their practices. However, organized labor has always had reservations about codes of conduct as a vehicle for companies to avoid dialog with representatives of their workforces and to subvert independent unions. Emerging trade unions representing black workers in South Africa saw the Sullivan and European codes as limited in scope, short on monitoring capacity and even status quo-oriented. It was suggested that companies through compliance with a limited range of "good practice" requirements could escape their responsibilities for larger societal change and, indeed, that they served to perpetuate rather than change the system. In short, they allowed companies to acquire an inappropriate legitimacy in the context of a

larger illegitimate system of governance. In a period of "revolution rather than reform" such sentiments held strong sway among members of the struggle movements taking shape in South African society. By the end of the 1980s firms were facing stay or go decisions. Some such as Ford went. Others decided to stay, and indeed once the new trade unions representing black workers realized the risks of losing foreign firms (in immediate job terms and also that they would not return to a free South Africa in the longer term), the game shifted from ejecting foreign firms to one of setting conditions for them to stay. In 1988 the government tried to impose unacceptable labor reforms. In a series of watershed deals, organized business and labor at a national level basically agreed that they would adhere to a code of good practice regardless of the law (the Saccola/COSATU/NACTU Accord). Less heralded but equally significant, three German auto companies signed an agreement on 14 principles with their trade unions in which they agreed, inter alia, to adhere to international labor standards, reject apartheid and security laws, and commit themselves to training, collective bargaining, and recognizing the right to strike and picket.

International Framework Agreements

International Framework Agreements (IFAs) represent a further step in accountability—being in effect codes of conduct negotiated by transnational companies with global union federations. In a move away from self-imposed codes, IFAs offered organized labor the opportunity to negotiate regulatory codes on behalf of those working within such organizations, as well as a degree of external monitoring and support. The first was signed in 1988 between Danone and the IUF (the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco and Allied Workers Union), and there are now 62 in place covering over 5 million workers worldwide. The development of this form of agreement has, of course, required labor to reorganize itself beyond traditional national systems—the development of GUFs has been pivotal to IFAs. The International Metalworkers Federation has led the way, having signed 17 by the end of 2007.

IFAs are still seen as "soft law" having more value as guidelines than as contracts



Source: © International Labour Organization

International Framework Agreements are becoming an increasingly important means of establishing international norms for "decent work" in transnational corporations

per se. They do however carry enforceability through their weight of ownership by the parties, and once they are signed, courts and arbitrators may well refer to them as mutual commitments. Beyond that they can be turned into "harder" law by incorporating their content into enterprise collective agreements that have legal status within national systems. International endorsement of IFAs also strengthens them, and if translated into a system of transnational collective bargaining and supplemented with international systems of monitoring and dispute resolution, they could be further institutionalized. Advocates of this approach recognize the limitations of rigid uniformity in such a step, proposing it as optional in the first instance. Such agreements would have to be translated into the shape of national bargaining arrangements for enforcement purposes, but potentials do exist for international implementation and support mechanisms (Sobczak 2008).

The International Labour Organisation (ILO) has a special interest in IFAs as they offer a vehicle through which the organization can pursue its objectives of promoting fundamental labor rights and social dialog internationally—but special interest does not necessarily translate into hard policy or support mechanisms. GUFs have obtained leverage in their dealings with TNCs by pushing for compliance with ILO conventions and its "decent work" campaign. As Drouin (2008) notes, however, cross-border social dialog within enterprises has been constrained by the absence of a supportive international framework for collective bargaining in this form and by the weakness of trade unions in negotiating and then monitoring such agreements. In the face of variations among national political and legal systems and social and economic realities, mobilization of worker organizations across borders is far more difficult than the migration of capital. Trade unions have experienced real problems in negotiating with TNCs—the halls of real power are often far-removed, they have capacity to relocate production permanently or temporarily, their financial systems are complex, and there is no legal framework for collective bargaining in the manner of national frameworks. Labor activism must occur within environments ranging from tolerant to repressive, and there are often tight restrictions on international action. There is debate as to the feasibility of ex-

panding relevant ILO conventions to incorporate exchanges at a multinational level.

It is obviously helpful to the introduction and implementation of IFAs if they are rooted in legal-political systems that enshrine labor rights. International labor has achieved progress in bargaining IFAs through leveraging relations in home rather than host countries, and largely in Europe, where values and practices around labor relations are tolerant. So doors have been opened for international level agreements by national or local unions in European TNCs and using European Works Councils (EWCs) as platforms for these. Global Works Councils, however, meet only a few times per year and the influence of worker representatives in these forums remains in question.

There is real concern that IFAs, as with codes of conduct, can be used as "window dressing" by firms adhering to poor labor practices in some nations. For all the reasons already discussed GUFs struggle to monitor such agreements and exert leverage over them. They have weak legal status and there are significant power imbalances in relations between unions and employers. Breaches of agreements may occur owing to lack of commitment by the parties, poor skills, or a lack of resources. Without enforceability, IFAs may lose credibility. It is important therefore that effective dispute resolution systems be introduced to deal with breakdowns in the application of IFAs. The ILO could play a capacity-building role in this regard in training for employers and trade unions in such areas as health and safety, business development, decent work practices, ILO standards, negotiation skills, and productivity. Over and above this, the time may be ripe to establish an international body to offer mediation and/or arbitration services to parties entering IFAs. This could be done by or through the ILO or through new or existing international or national dispute resolution agencies, following appropriate training.

Conclusions

IFAs are a product of globalization. As firms have migrated, so workers have had to revise their traditional modes of engaging with companies and the forms of protection and leverage they enjoy within these. Despite their legal and practical limitations, IFAs are becoming an increasingly important means of establishing international norms for decent work in TNCs.

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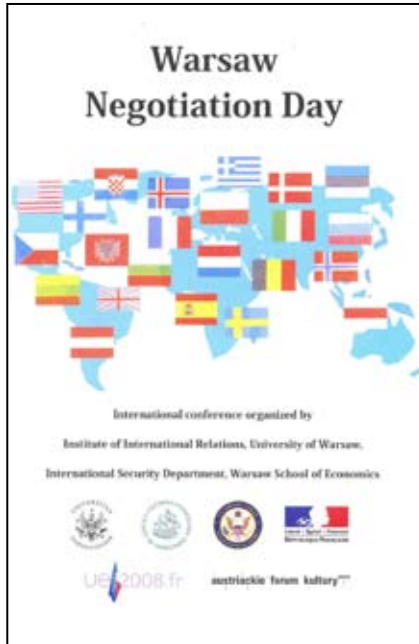
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Rocking the Boat from Warsaw—The Warsaw Negotiation Day



The PIN Program, in collaboration with the Institute of International Relations of the University of Warsaw and the International Security Department of the Warsaw School of Economics, and with support from the Austrian Foreign Ministry, the French and U.S. embassies in Poland, hosted a conference on negotiation on 11 December 2008 at the University of Warsaw. Representatives of the diplomatic corps, nongovernmental organizations (NGOs), government agencies, and universities attended the PIN conference and had the chance to interact with the negotiation experts brought by the PIN Program through the afternoon breakout sessions.

The date of the conference in Warsaw was chosen deliberately by PIN to coincide with the 14th Conference of Parties (COP 14) to the United Nations Framework Convention on Climate Change (UNFCCC) in Poznan, Poland. The processes of negotiation can be regarded as a significant element of capacity building in regions that will need to learn how best to negotiate on climate change, either as an individual state or group of states, to achieve their goals.

Small states such as Poland have different sets of tools in the negotiation process which should be identified and understood. Understanding the processes of negotiation can be regarded as a significant element

of capacity building, recognizing ripeness, and prioritizing issues.

The conference explored the processes used by European Union nations in negotiating a range of issues including risks, the nuclear-test-ban treaty and climate change. The workshop provided the opportunity for local scholars and practitioners to make presentations on negotiation, using case studies on Polish accession to the EU, the North Atlantic Treaty Organization, the Comprehensive Nuclear-Test-Ban Treaty (CTBT), labor movements, and negotiation with terrorists.

The presentations emphasized the opportunities offered by cooperation and ways of bridging the gaps between practitioners and theorists through regular interactions. Cooperation means working together to produce new gains that would be unavailable through unilateral actions. In addition, practical solutions learned can be the basis for new theoretical approaches. The importance of the cultural factors and of the human dimension in the negotiation process was also highlighted through the presentations on the EU negotiation processes under the French Presidency of the European Council.

Ariel Macaspac Penetrante



Warsaw has been the scene of several complicated but important negotiations in the post-World War II era, such as the talks over the status of Taiwan in the 1950s, the negotiations over the Polish accession to the European Union in 2002 and 2003, which was seen by the Czech Republic, Slovakia, and Hungary as a "tester" for their own negotiations, the talks over the Missile Defense Negotiations in 2007, and the negotiations over the Status of Forces Agreement (SOFA) in 2008.



Impressions from the Warsaw Negotiation Day

Negotiated Risks—Some Lessons Learned

On the occasion of the publication of the new PIN book *Negotiated Risks – International Talks on Hazardous Issues*, the cover and list of contents of which is reproduced in this *PINPoint* issue, some aspects of its genesis, the motivation for the project which led to this book, and some lessons learned are presented here.

Genesis: Negotiations and Risk

International negotiation between states involves risks to be taken, used, avoided, or managed. Risks may become an impediment to a negotiation, often representing an extra burden to those who conduct it or who are responsible for its outcome. Risks increase the degree of complexity in multilateral talks: risks are burdensome in all situations because of the technical difficulty of the questions addressed and the great number of issues and actors engaged in the process. The need to consider risks makes communication between the parties more awkward and time-consuming. Divergent risk perceptions obstruct the search for a common understanding of the negotiated issue and cause pseudo-conflicts. Parties may find it harder to reach an accord that is technically feasible and, at the same time, acceptable to a sufficiently large number of delegations. The uncertainty that is an inherent property of a risk or of measures undertaken to cope with a risk will make it more difficult for policymakers to justify a costly commitment made in an international negotiation. Some special measures may thus be required to address risks in an international negotiation. Effective approaches to risk management, or risk avoidance, may become critical instruments for successful negotiation.

There is a large literature on risk in general to which IIASA's scientific research programs have also contributed significantly over the years. There is also an abundance of published work on international negotiations, some of which results from the IIASA PIN Program. To date and according to our best knowledge, there have been no studies that have tried to bring these two strands of work together. Thus, it was quite natural for a project to be initiated by the PIN Program with the objective of closing this gap.

The result is a book which presents both abstract scientific analyses of the nature of internationally negotiated risks and analyses of risks of immense practical relevance in the larger context of international negotiations. The conclusions of the book summarize the findings and present lessons for theory and practice, some of which will be given later.

Categories of Risks Confronting Negotiators

In the course of the work of the project, different categories of risks were identified, each pertaining to a different aspect of negotiations and therefore affecting negotiations in sometimes dissimilar ways.

There are risks that governments, organizations, and others want to address in international cooperation and dispute settlement. Some of them like climate change, large-scale use of fertilizers, weapons of mass destruction, and others may determine the future of mankind. They are generally called *issue-driven risks*, and this book deals primarily with them. As this is an important topic in its own right in negotiation analysis, in this context these risks are called *negotiated risks*. More than that, an analysis of cases included in the book clarifies the fact that negotiated risks are a composite of two types of risks that negotiating parties need to consider and deal with, namely, immediate hazards—*hazard risks*—and conditions which may cause hazards to emerge—*conditioning risks*.

There are also risks posed in international negotiations which need not necessarily have a negative impact on negotiations. Risk taking by a leading actor may help the parties to get out of an impasse. Generally, these risks are called *actor-driven risks*, and they are also treated in the book. In particular, making a further distinction—*performance risks*—proved to be useful: performance risks are, in principle, associated with the negotiators' attitudes, preferences, and tactical and strategic choices. *Social risks* are closely related to lack of trust between negotiating parties. *Implementation risks* mean that actors have to consider the possibility that other signatory states will not honor their obligations under an international treaty.

These categories of risks are essential for structuring both the theoretical and the case-oriented contributions to the book. Several authors emphasize the significance for process and outcome of the basic bi-dimensional character of negotiated risks: hazard and conditioning risks need to be considered jointly. One author points to the high complexity of the task of handling multiple risks, which contributes to impeding or slowing down the process of negotiation. Another author, in his analysis of conflict prevention, underlines that it is this bi-dimensional character of negotiated risks that is the main problem for negotiating parties, a kind of insurance problem.

Similar categories of actor-driven risks helped in understanding parties' behavior in negotiations. Performance risks—not a common term in risk literature—refer to phenomena like risk avoidance or, quite the opposite, deliberate risk taking, depending on the parties' objectives. Social risks may have an impact on both the process and outcome of a negotiation, as outlined convincingly in the chapter on negotiations on joint ventures in China. Implementation risks may be produced by lack of integrity and ability: one party finds cooperation with another risky because the latter is considered to be unreliable and thus unable to be trusted to fully comply with an agreement. Pertaining to the issue of trustworthiness, the implementation risk is due to one party's assessment that the other does not have the necessary capacity or resources to honor an agreement.

Some Lessons for Practice

Important as the categorization of risks is for understanding negotiations with inbuilt issue- or actor-driven risks and for drawing lessons for negotiation theory, practitioners may rightly ask what they can learn from the book.

Practitioners—diplomats, policymakers and experts—should be aware that some issues brought to the negotiation table have the character of a risk and that when they are being dealt with, such negotiated risks may require special attention as well as certain special measures to be taken. Furthermore, practitioners should also be aware that negotiated risks represent only one of several kinds of risks that may re-

quire different methods of assessment and management.

The categories of risks presented above have been constructed for analytical purposes. Experienced negotiators are probably aware of the problems—and opportunities—pertaining to these types of risks, but do not conceptualize them in the same way. If practitioners think in terms of a risk at all, they are likely to use categories that are less abstract and much more integrated into the actual questions addressed at the negotiation table. One example in the book shows how seven categories of risk are distinguished by Western partners of a joint venture in their dealings with Chinese counterparts.

A lesson for the practitioner is that he/she will find it useful to characterize such substantive risks in terms of analytical risk categories, as this procedure will be helpful in the search for instrumental approaches of risk management. Particular risk categories tend to be associated with different methods of coping effectively with risk: for example, performance risks in negotiations represent quite a different mix of opportunities and problems than social risks. Accordingly, a negotiating party needs to make different considerations and act differently when confronted with a performance risk than when confronted with a social risk.

However, quite a different lesson is that although the categorization of risks is useful for both analytical and practical purposes, the distinction between types of risks must be treated with care. There are important interaction effects between performance, social, and issue-driven risks. This observation is important to note and does not disqualify the analytical risk categories. When assessing a risk situation, parties need to take into account the association between categories. For example, a frequent association is likely between certain social risks and the risk for implementation failure. If you cannot trust the opposition party because you consider it to be either unreliable or incompetent regarding the negotiation issue, then you retain a holistic outlook on this problem area. Still, the distinction between social and implementation risk is useful.

There are other association effects that practitioners have to consider. One author warns that there is important interaction between, on the one hand, perceptions, assessment, and management of risks and, on the other, negotiation strategy and perfor-

mance generally. Even in a situation where a risk problem, for example, the insurance dilemma of a negotiated risk, is estimated to be fairly insignificant, special measures to cope with it may be warranted. Unless the risk is dealt with effectively, other and worse problems will become amplified.

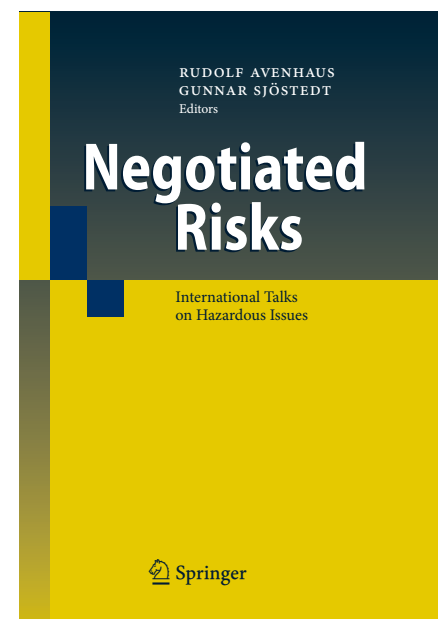
Practitioners also need to consider some paradoxical consequences of a high-risk situation. If a risk represents a problem for negotiating parties, then the situation can be expected to deteriorate with an increasing risk, but seemingly only up to a point. Precisely because high risks are often associated with danger, they may also help the negotiation along. The prospect of danger, important potential costs, or a destabilized situation will create a strong common interest in a negotiation agreement and constrain parties from taking deliberate high performance risks.

Different parties may favor different risk perceptions. Governments that do not possess nuclear or biological weapons have a political interest in emphasizing the risk of such arms. Therefore, the practitioner must be aware that a discussion of an academic character about, say, a transboundary problem in the early stages of agenda setting and issue clarification, may be as much a power struggle as the tug of war of delegations in the exchange of concessions at the end of the talks. Delegations have two kinds of interests to defend and to promote regarding risk perceptions, including the understanding of issues representing a negotiated risk. For those delegations that are genuinely concerned with the risk, a major interest is to assist in developing and clarifying joint interests and objectives that can drive the process. A second interest is to secure and advance achievements of distributive aims, which may mean either maximizing positive gains or and more often, minimizing costs.

Finally, the practitioner must be aware of the alternative approaches for narrowing down divergent risk perceptions, in addition to the carrots and sticks of traditional diplomacy. A critical element in this regard is management of uncertainty. In theory at least, one method is to rely on scientific study and calculation. However, this approach is probably only viable under special circumstances similar to those prevailing in the pre-Kyoto climate negotiations: a shared image of a threat, a shared lack of knowledge, and high issue complexity.

A more useful approach is probably the coordinated joint build-up of consensual knowledge pertaining to a negotiated risk and management approach. A related strategy would be trust building. The key to both these approaches is effective and constructive communication. The practitioner should note that the process itself is of critical importance. The purpose of communication is not only to reach a formal accord on, say, consensual knowledge or issue construction that can be put into a document. An important partial aim is to establish commitment to this consensual knowledge or issue construction. To achieve this aim the practitioner must be prepared to allocate resources and time to the process that may look excessive. The need for process time is greater if the aim is not only to reach consensus on the understanding of the issue but also to build up trust in a relationship between the parties. If the conditions are right, such an investment in time and resources will be profitable. A lesson from the Temelin case is that trust building may not only be a substitute for scientific risk assessment. It may also to some extent replace a formal agreement.

Rudolf Avenhaus and Gunnar Sjöstedt



The new PIN book Negotiated Risks – International Talks on Hazardous Issues. For details of its contents, see back cover

Inaugural Meeting of Netherlands Negotiation Network

On Monday 15 December 2008 the Clingendael Institute in The Hague welcomed the participants to the first and inaugural meeting of the Netherlands Negotiation Network (NNN), which unifies the Dutch branches of IIASA's Processes of International Negotiation (PIN) Program, the journal *Group Decision and Negotiation* (GDN) published by Springer in The Netherlands, and the Clingendael International Negotiation Group (CLING).

This new network aims at establishing contacts and understanding between practitioners, researchers, and trainers in The Netherlands and neighboring countries. It will meet once a year (in 2009 at the Clingendael Institute on 11 December), is setting up a LinkedIn Network, and envisages ad hoc common activities, the first of which took place at the UNESCO Institute of the University of Delft on 16 December.

For 2009 a Troika of Gwendolin Kolfshoten (Technical University Delft/GDN), Pieter van der Wijst (University of Tilburg/GDN), and Paul Meerts (Clingendael Institute/PIN) will act as a Coordinating Committee. The Netherlands Negotiation Network will consist of all participants and presenters of the December 2008 meeting and all others who have expressed the wish to be a network member.

The first network conference had Bernard Bot as its keynote speaker. As a former Minister of Foreign Affairs of the Kingdom of The Netherlands—as well as its Permanent Representative to the European Union, Deputy Permanent Representative to NATO, Ambassador to Turkey and Secretary General of the Ministry—he has a career-long involvement in diplomatic negotiations. His speech gave rise to a very interesting and comprehensive discussion.

After an opening statement on the purpose and future of the network, the morning session continued with a panel chaired by Gwendolyn Kolfshoten, followed by an afternoon panel presided over by Per van der Wijst. Panel members presented findings of negotiation research in The Netherlands, followed by Questions and Answers with 30 high-level participants, all of them practitioners, researchers, or trainers themselves.

Paul Meerts



Photo Credit: Erik Eshuis

Clingendael - Netherlands Institute of International Relations

La présidence française



Source: European Commission

How did the French Presidency of the European Union navigate in the second half of 2008? Of all the strategic modes of collaboration—compromise, avoidance, accommodation, and domination—clearly it was by the last means: domination. The European Union under the leadership of France, or better still, of the "omnipresent omniPresident" Nicolas Sarkozy (pictured above)—showed no neutrality, some fairness, but mainly French Napoleonic/Gaullistic-style domination, and (unsurprisingly) this is what Europe needed in the midst of a credit crisis tsunami and a war in prospect in NATO member Georgia.

Quite a different French Presidency compared with that of Jacques Chirac. Not only because of the differences in character between the two statesmen, but also because of Sarkozy's "no cohabitation this time," stance which made French internal decision making much more cohesive. Furthermore, there was a clear context change: Europe can no longer be seen—after its enlargement by 12 Central European countries—as the French backyard. Not even by the French. France now stands in the middle of the garden and has to tend it and rearrange it; protect the garden against storms, plant new trees to shield it; prepare it for a new future. This will be a garden with more visitors from the outside, for example, from Africa—a garden about to be implanted with dangerous seeds swarming in over the Atlantic, while, all the time, the Russian farmer next door is endangering its long-term stability by trying to monopolize the sources needed for its very survival.

The last French Presidency was different not only on style, but on content too. Thanks to Sarkozy it is more pro-European integration than before, notwithstanding the French *non* to a European Constitution. The French had some outspoken priorities on their agenda: 1) progress on immigration issues, 2) more flexibility toward NATO, 3) more effective measures to curb energy dependency, 4) progress on climate change negotiations ("Poznan"), 5) dealing with Turkey ("Reflexion Commission"), 6) the creation of a "Mediterranean Union" (whatever that might be). The French Presidency did quite well, making some progress on all issues, though there does appear to have been quite a bit of window dressing. Its most important achievement was its relative success in dealing with two sudden crises: the economy and Georgia. Clear leadership was needed, given,

and accepted. A struggling Czech Presidency happily accepted their interventionism. It is doubtful whether the Poles—but they are only on stage in 2011—would have accepted this kind of "assistance."

The chair of the European Council has to balance needs, observe different phases in the process, understand, and influence the people; it has to use the procedures in an effective way. If negotiation is to give something in order to get something, then chairing is to navigate some to get somewhere. Under the French Presidency from July to December 2008, which also affected the Slovenian Presidency before it and the Czech Presidency after it, navigation has been the norm. It has been a very "steering" Presidency. But the times demanded this. This was the right style at the right moment shown by the right people. But when things calm down, a dominant chair(wo)manship of this type could not endure and would soon lose its effectiveness. The EU member states are, in general, too assertive to accept a steering style. We can see this in the aftermath of the French Presidency when Sarkozy called for a special meeting of the Ministers of Finance of the euro countries to discuss what should be done to keep the euro stable. But with the French Presidency over, member states gave the idea the cold shoulder. Germans, especially Angela Merkel, abhor political interference in monetary issues.

The future of the EU Presidency will be revealed to us only if the Irish change their mind on the Lisbon Treaty. Nowadays, a majority seems to be in favor of it, as some changes have been made, for example, all countries will now have a Commissioner in Brussels under the Treaty. Anyway, the lesson from the French Presidency is that while any future independent EU President—with a term of 30 months—will have to be more assertive than the average chairing style we have observed in EU presidencies to date, he/she should steer away from the dominant posture of Sarkozy, unless the times demand it. The Sarkozy way would lead to a struggle with the member states that could not be won by a president who is not in control of one of the three major European powers: Germany, France, United Kingdom.

With apologies, of course, to Italy, Spain, Poland and everyone else who sees themselves as decisive wheelers and dealers.

Paul Meerts

New PIN Book

Unfinished Business: Saving International Negotiations from Failure

Franz Cede and Guy Olivier Faure (Editors)

Part I

- Chapter 1: Introduction (Franz Cede and Guy-Olivier Faure)
- Chapter 2: Success and Failure in Negotiation (Victor Kremenyuk)

Part II: Selected Cases

- Chapter 3: Negotiations on the Iraqi Issue (Axel Marschik)
- Chapter 4: Camp David 2000 (Moty Cristal)
- Chapter 5: The Palestinian-Israeli Taba Talks – An Illustration of Failed Formulas for Partition (Mahdi Abdul Hadi)
- Chapter 6: Iran-EU Negotiations (2003–2005) (Anthony Wanis-St. Johns)
- Chapter 7: The Cyprus Conflict – Will it Ever End in Agreement? (Raymond Saner)
- Chapter 8: The Biological Weapons Convention (Jez Littlewood)
- Chapter 9: The Negotiations on the Status of Belgium (London Conference 1830–1833) (Daniele Fridl)
- Chapter 10: Two Hostage Negotiations (Waco, Munich Olympics) (Deborah Goodwin)

Part III: Actors

- Chapter 11: Psychological Causes of Incomplete Negotiations (Christer Jönsson)
- Chapter 12: Culture and Negotiation Failure (Catherine Tinsley et al)

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- Chapter 13: Structural Dimensions of Failure in Negotiation (Anthony Wanis-St. John and Charles Dupont)
- Chapter 14: Institutions as Cause of Incomplete Negotiations (M. Boyer)
- Chapter 15: Issue Content and Incomplete Negotiations (P. Terrence Hopmann)

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- Chapter 16: Explaining Failed Negotiations – Strategic Causes (Cecilia Albin)
- Chapter 17: A Failure to Communicate – Uncertainty, Information and Unsuccessful Negotiations (Andrew Kydd)

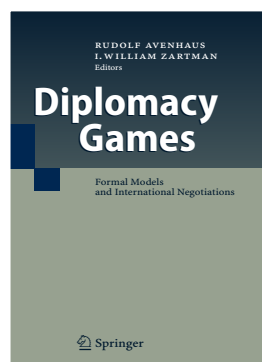
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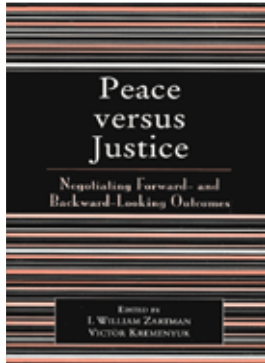
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- Chapter 21: Lessons for Theory (Guy-Olivier Faure)
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Further Reading . . .



... Further Reading



New PIN Book

Talking with Terrorists

Guy Olivier Faure and I William Zartman (Editors)

Introduction Guy Olivier Faure and I William Zartman

I Preventive Negotiations: Introduction

1. I William Zartman, IIASA, and Maha Khan, SAIS: "Negotiation in Terrorism's Life Cycle I: Growing Up"
2. Robert Lambert, University of Exeter: "Terrorist Recruitment in London"
3. Carolin Goerzig, LSE: "Change through Debate: Gama'a Islamiya"

II Practical/Tactical: Introduction

4. Laurent Combalbert, GEOS: "Handbook for Negotiators with Terrorists"
5. Alex Schmid and P. Flemming, St Andrews University: "Quantitative and Qualitative Aspects of Kidnapping and Hostage Negotiation"
6. Adam Dolnik, University of Wollongong: "Beslan and Beyond"
7. Victor Kremenyuk, Iskan, Russian Academy: "Visible and Hidden Agendas"
8. P. Sahadevan, Jawaharlal Nehru University: "The Grand Swap—the Khandahar Hostage Case"

III Strategic/Political: Introduction

9. William Donohue, MSU, and Moty Cristal, NEST Consulting: "Negotiation in Terrorism's Life Cycle II: Growing Down"
10. Camille Pecastaing, SAIS-JHU: "Reaching the Terrorist"
11. Karen Feste, Denver University: "The Impact of Terrorist Negotiating Strategy in Lebanon"
12. Stacie Pettyjohn: "Making Policy toward Terrorist Organizations"
13. Kristine Höglund, Uppsala University: "Tactics in Negotiations with Terrorists"

IV Conclusions

14. Faure/Zartman: "Lessons for Practice (UN-MSU Handbook)"
15. Zartman/Faure: "Lessons for Theory"

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Recent PIN Book

Negotiated Risks

International Talks on Hazardous Issues

Rudolf Avenhaus and Gunnar Sjöstedt
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The Multimodal Character of "Talk" and the Negotiation of Joint Financial Risk Management in an International Context

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Negotiating Risks across Cultures: Joint Ventures in China

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