

Although many problems face international efforts to prevent the spread of nuclear weapons to additional countries in the years ahead, none is more important than gaining a lengthy extension of the Non-Proliferation Treaty (NPT). Action on extension will be taken by majority vote of the over 160 parties at a conference called to consider this question in 1995. This paper will consider why a lengthy extension of the NPT is important; what options for, and obstacles to, extension exist; and what the NPT's strongest supporters can offer to NPT members who are skeptical about a long extension in order to win their votes.

The common concern that produced the NPT and caused over 160 countries to join it is that, without a widely agreed-upon rule against additional countries obtaining nuclear weapons, more and more would do so. In the mid-1960s when the treaty was negotiated, there were five acknowledged nuclear weapons "have" countries: Britain, China, France, the Soviet Union, and the United States. But U.S. experts thought then that more than 10 additional countries had the capability, within a decade, to acquire nuclear weapons together with the missiles and aircraft to deliver them.²

The basic purpose of the NPT was to provide another choice--to establish a common nonproliferation norm that would assure cooperating nuclear weapons "have-not" countries that if they did not acquire nuclear weapons, their neighbors and rivals would not do so either. It was a compromise between the haves and the have-nots in which the have-nots promised to forswear nuclear weapons while the haves kept theirs--for the time being.

There were three basic elements of the bargain:

1. The have-nots agreed not to acquire nuclear weapons and to accept international safeguards, including inspections of their nuclear activities to assure other countries that they were not acquiring weapons. The haves agreed not to transfer nuclear weapons to anyone.³

2. The haves agreed to "negotiate in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament...."⁴

3. All agreed to cooperate on "applications of nuclear

energy for peaceful purposes," especially in the territories of have-not countries, and all agreed not to provide nuclear materials and equipment to any have-not country unless subject to international safeguards.⁵

**VIEWPOINT:
THE NPT
AND
OPTIONS
FOR ITS
EXTENSION
IN 1995**

by George Bunn

**THE IMPORTANCE OF THE NPT
AND ITS EXTENSION**

If the NPT is not extended in 1995, this important bargain would be lost and practices based on it could lose their legitimacy. What would be lost is important for at least four reasons:

First, the NPT is the only treaty providing a global norm against adding new nuclear weapons states to the five acknowledged ones of the mid-1960s. This norm has had significant impact.⁶

Second, the NPT is important because it provides for a global safeguards-and-inspections regime. This is supervised by the International Atomic Energy Agency (IAEA).⁷ The NPT requires that all shipments of nuclear material and equipment by nuclear supplier countries be subject to IAEA safeguards and that all have-not parties to the NPT accept safeguards on their nuclear activities.⁸

The third reason why the NPT is important is that it legitimizes international cooperation to prevent--except under safeguards--exports of nuclear material and equipment.⁹

The fourth reason that the NPT is important is because its Article VI requires "negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament...." This requirement is buttressed by provisions that authorize conferences

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to review the operation of the treaty every five years (starting in 1975) and a conference in 1995 to decide for how long to extend it.¹⁰ The 1995 conference will both review the operation of the NPT and decide upon its extension, the latter by a majority vote of all the parties. Thus, for the first time since they joined the NPT beginning in 1968, the many have-not parties will have real bargaining leverage on the five haves (all now NPT members) to extract promises

- to give up making weapons-usable fissionable materials,
- to stop testing if they have not done so already,
- to cut their nuclear arsenals further, and
- to provide stronger assurances that they will not use nuclear weapons on have-not countries and will come to their assistance if others do so.

OPTIONS FOR THE LENGTH OF THE EXTENSION

Three main options, affecting the length of extension, are provided by the NPT's language. The 1995 Conference is to "decide whether the Treaty shall continue in force [i] indefinitely, or shall be extended for [ii] an additional fixed period or [iii] periods."¹¹ Each of these options--and their implications--are worth examining in detail.

Indefinite extension, meaning unlimited duration, has been advocated by the Conference on Security and Cooperation in Europe, by the European Union, NATO, the Group of Seven industrialized democracies, the South Pacific Forum, and the Secretary-General of the United Nations.¹²

Some countries, on the other hand, have suggested that the 1995 conference follow the example of the NPT's negotiators and agree on a 25-year extension. This is the sort of extension that clearly comes within the single "fixed period" language.¹³

Some members of the Non-Aligned Movement, to force prompt negotiation of a comprehensive test ban (CTB), have proposed that, if none is achieved by 1995, then only a short NPT extension, say two years, should be agreed to in 1995. Under this proposal, another extension conference would have to be held in 1997 to decide on a further NPT extension, assuming that a CTB has been achieved in some form by 1997.

The NPT, however, provides explicitly for only one extension conference: "Twenty-five years after the entry into force of the Treaty, a conference shall be held to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods."¹⁴ Since this is the only provision for extension, a strong case can be

made that a second extension conference would be illegal. Thus, if a two-year extension to be followed by a second extension conference was all that was ordered in 1995, the NPT could come to an end in 1997.¹⁵

Furthermore, the uncertainty as to the NPT's future caused by such a short extension could defeat the basic purpose of preventing the spread of nuclear weapons. Some have-not parties, concerned about whether an NPT would still exist to prevent their rivals or neighbors from acquiring nuclear weapons, might well lay plans for acquiring nuclear weapons themselves during the short extension period. Keeping the nuclear option open in case the treaty came to an end could become a common strategy for the many states with the expertise and infrastructure necessary for a nuclear weapons program.

There is, however, a safer way for those who seek leverage over the nuclear weapons states to achieve further steps to freeze and reduce nuclear arms. This is implicit in the plural "fixed...periods" in the NPT, the third option considered next.

The 1995 Conference can decide to extend for "additional fixed...periods." Suppose it decided upon two 25-year periods, one following the other without any conditions or additional extension conference. The decision for a second 25-year period starting in 2020 would thus be made by the 1995 Conference without the participation of any conference in 2020. This would certainly be within the "fixed...periods" language and would not entail more than the one 1995 extension conference authorized by the NPT. But, at the same time, it would not be different in result from a 1995 decision to extend for *one* "fixed period" of 50 years.

If this is all that "additional fixed...periods" means, "periods" is redundant; two "periods" of 25 years are the same as one "period" of 50 years. Since law and practice provide a strong presumption that drafters do not mean to do useless things, a search was made in the negotiating history to determine what the NPT's drafters meant.¹⁶ The history revealed that the drafters were trying to meet part-way at a position advanced by Italy and supported by some other have-not countries, both industrialized and developing. Instead of the indefinite extension then advocated by the co-chairmen of the conference, the Soviet Union and the United States, Italy proposed that the treaty be of fixed term but *automatically* renewable for additional fixed terms for all parties except those who decided to withdraw at the end of the first or any successive fixed term. The Italian proposal was that, after the first fixed period of years--later set at 25--the treaty would "automatically be extended for terms equal to its initial duration for those governments which, subject

to six months notice, shall not have made known their intention to withdraw."¹⁷

The American and Soviet drafters took from this proposal the idea of successive "additional fixed...periods" but rejected the idea of easy individual withdrawal at the end of the first or any other period. The NPT draft then before the conference already contained the present withdrawal clause, limiting the reasons that can be given to justify withdrawal and requiring notice to the Security Council, presumably so that it could act against withdrawal if necessary. Instead of authorizing periodic times of easy *individual* withdrawal (for any reason and without notice to the Security Council) as the Italians proposed, the drafters permitted a form of "group withdrawal"--ending the treaty for all parties either by a short extension in 1995 or by non-renewal at the end of any of the "additional fixed...periods" that are authorized in 1995 if this option is chosen.¹⁸

If this automatic renewal option is chosen, it would be authorized by the one extension conference provided for in the NPT, the one to be held in 1995. A review or some other conference after that could then decide whether to halt further automatic renewals if such action was authorized by the 1995 conference. The conference that called a halt would not be equivalent to an extension conference because it would not have made the basic decision to extend the treaty for "additional fixed...periods." It would only call a halt to automatic renewal.

The parties' decisions as to whether to call a halt would presumably be premised upon their review of the NPT and its observance by all parties, including the haves' compliance with their Article VI obligation to "pursue negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament...."¹⁹ Thus, without holding additional extension conferences, when only the one in 1995 is provided for, the have-nots could nevertheless gain considerable leverage on the haves to freeze nuclear weapons production and to move toward further nuclear disarmament.

WHERE WILL THE MAJORITY NECESSARY FOR EXTENSION COME FROM?

By 1995, there will likely be more than 170 parties to the NPT. There were 162 at the end of 1993, and only seven of the 14 non-Russian former Soviet republics had joined.²⁰ Several other former republics, plus other non-members such as Algeria, Angola, Argentina, Brazil, Chile, and the United Arab Emirates may join before 1995 in order to participate in the extension conference.

Assuming 170 NPT members in 1995, at least 86 votes for extension will be necessary at the conference. Initial surveys by Canada and the United States suggest that about 80 NPT members prefer an indefinite to a shorter extension.²¹ Those preferring indefinite extension include four of the five nuclear weapons haves (excepting China). They include the traditional allies of the West, former allies of the Soviet Union, some former Soviet republics, and 40 or more developing countries. But future attitudes could change.²² Moreover, a majority of the parties preferring that option must not only attend the conference but vote that way in 1995; much more than a simple majority in any pre-conference "straw vote" is needed to gain a simple majority at the conference.²³

Opposition to indefinite extension is likely to come from have-not countries that do not want to give up forever the option to secure nuclear weapons. During the NPT's negotiation, Germany and Italy opposed unlimited duration because their alliance with the United States, their substitute for having their own nuclear weapons, was not unlimited.²⁴

Well over two-thirds of the NPT's parties have no nuclear alliance at all. When faced with a vote on indefinite extension, many of them will prefer a shorter period. The main advantage of the NPT for them is its assurance that their potential antagonists will not seek nuclear weapons. But in an uncertain world, how can they be assured that no potential antagonist will attack them with nuclear weapons or overwhelming conventional forces? Why should they give up the bomb forever unless everybody who might threaten them does so, or unless they have a credible assurance that the United Nations or a country with nuclear weapons will come to their defense if they are threatened?

Opposition is also likely to come from NPT have-nots who want to maintain at least the bargaining leverage that periodic review conferences and an extension-conference vote give them now. Bargaining leverage may be most important for them in trying to assure that the haves stop nuclear weapons testing, halt production of nuclear weapons and eventually eliminate nuclear arsenals.

Over 65 NPT members belong to the Non-Aligned Movement (NAM) which, at its summit meeting in 1992, called for an end to the testing and production of nuclear weapons, final implementation of the START treaties, and a promise to eliminate nuclear weapons by a certain date--all as part of the NPT's review and extension in 1995.²⁵ A 1993 NAM foreign ministers' meeting noted the "non-fulfillment by nuclear weapons states of commitments undertaken in Article VI [of the NPT] for nuclear disarmament within a time-bound framework...."²⁶ According to one report, at the

closed meetings of NPT members in May 1993 to prepare for the 1995 conference, many non-aligned "delegates pointed to the prospect that if the nuclear powers strongly resist disarmament initiatives, the [1995] NPT review process could turn into a test of wills. Non-aligned diplomats insisted they are not bluffing in their threat to block indefinite extension."²⁷

At the General Assembly debates in 1993, NAM leaders clearly saw the upcoming extension conference as an opportunity to achieve a *quid pro quo* for their adherence to the NPT, a *quid pro quo* expressed not just in ending the nuclear arms race and disarmament. They also sought to receive promises from the haves not to attack them with nuclear weapons and to cooperate with them in the development of their peaceful nuclear power programs.²⁸ Many have-not countries see the NPT as "discriminatory" in that it permits five countries to have nuclear weapons and prohibits all others from exercising that right. For them, the ultimate purpose of Article VI is to end that discrimination. Asking them to commit to indefinite extension without a promise of nuclear disarmament by a date certain, a promise that is unlikely in 1995, is asking them to vote to perpetuate that discrimination and to give up the bargaining leverage they now have.

In my view, achieving a bare majority for an indefinite extension might be counterproductive: the losers might go home mad and even withdraw from the treaty. Since the NPT's effectiveness depends so much on the widest possible consensus, a narrow victory leaving many angry losers should be avoided.²⁹ In the end, only widespread international cooperation among NPT parties can implement the NPT regime and extend the treaty. As a report by the Congressional Office of Technology Assessment states, the "best chance for non-proliferation in the long term lies in building consensus among potential proliferants that it is in their interests to refrain jointly from acquiring the weapons."³⁰ This suggests finding a solution that has very broad support.

If at the beginning of 1995 there is not a very large majority for indefinite extension, a compromise option is available as an alternative: a series of 25-year extensions each automatically succeeding its predecessor, unless there is a negative vote. This could provide an extension that is indefinite. Yet, it would also preserve the bargaining leverage that the have-not countries now have.

REGIONAL PROBLEMS THAT COULD AFFECT VOTES IN 1995

Probably the most difficult regional problem is that Ukraine's parliament may still be claiming ownership and

control of the nuclear weapons on its soil in 1995, despite the recent Clinton-Kravchuk-Yeltsin agreement to eliminate them. Ukraine's claim could send strong signals to potential proliferators that the NPT is a paper tiger.³¹ Moreover, Ukraine's claim would prevent putting the START I or II treaties into effect.³² These were to have been listed in 1995 as major Article VI accomplishments by Russia and the United States. If START implementation is stymied, there will be much less available to demonstrate compliance by the haves with their obligation to negotiate toward nuclear disarmament. Ukraine's action could thus have an adverse effect on extending the NPT in this respect alone.

Moreover, if the NPT's supporters are unable to restrain Ukraine, they may not be very persuasive in restraining India, Israel, Pakistan, and North Korea. And what will be the impact on Western and Central Europe, on Germany, Poland and Hungary, for example? Will they be interested in voting for indefinite extension if they see that as giving up the nuclear option for themselves forever? At the same time, will they continue to oppose Ukraine becoming a nuclear power if imperialistic politics in Russia (with consequent threats to Ukraine) appear more likely as a result of the December 12, 1993 Russian elections? The future effect of the Russian-Ukrainian arguments over nuclear weapons, and of the political direction in both countries, is very difficult to predict.

After Ukraine, the North Korean problem may be the most disruptive to securing an indefinite extension. If North Korea has not accepted full-scope IAEA safeguards by 1995, neither South Korea nor Japan is likely to vote for an indefinite extension. Indeed, they may feel the need eventually to pursue the nuclear option themselves. If Northeast Asia faces the prospect of runaway proliferation by 1995, votes for indefinite extension outside the region may be lost as well.

The Arab states nearest Israel did not sign the Chemical Weapons Convention because of Israel's suspected nuclear weapons capability; some of them saw chemical weapons as a nuclear weapons substitute that might help deter Israel's use of nuclear weapons. Given this attitude, they are unlikely to vote for a long extension of the NPT if there has been no progress in restricting Israel's bomb-making capability by 1995. The Middle East peace process contains an arms control segment, and two first-step proposals are that Israel and its neighbors agree to halt the production of weapons-usable fissionable material and that Israel place its nuclear reactors under IAEA safeguards, just as most Arab states have done. Progress toward limiting Israel may help gain Arab votes for a long extension.

Agreement between Israel and its neighbors to cut off the production of fissionable material for nuclear weapons could be part of a global cut-off agreement that included both haves and have-nots--as proposed in September by President Clinton.³³ Another regional problem that this could ease is in South Asia. India is prepared to join a global cut-off agreement assuming China and other haves, as well as Pakistan and other have-nots do so. Pakistan has indicated its willingness if India agrees. China's position remains in question.

A global CTB could place another nuclear inhibition upon India, Israel, and Pakistan. Supported now by President Clinton, it is also the Article VI measure longest sought from the haves by the have-nots.³⁴

GLOBAL PROBLEMS THAT COULD AFFECT VOTES IN 1995

The single most important global problem in 1995 may be a perception by some have-not NPT members that nothing can stop the inevitable spread of nuclear weapons to more and more countries. If they believe that knowledge of how to make the bomb, as well as the materials and equipment for doing so are spreading almost uncontrollably, they may be reluctant to vote for unlimited extension. To counter this perception, the NPT must be more effective in detecting clandestine nuclear weapons making than it was in the case of Iraq before the Gulf War, and the U.N. Security Council must be more effective in enforcing IAEA inspections and stopping detected NPT violations than it has been so far in the case of North Korea. Thus, strengthening the IAEA and the U.N. Security Council to deal with clandestine weapons making is important to a lengthy extension. Much has been suggested in the case of the Security Council and some actually accomplished in the case of the IAEA.³⁵

The second most important global problem is probably a perception by some have-not NPT members that the promise of Article VI has been frustrated--that halting the nuclear arms race and reducing nuclear weapons have been stymied. With genuine progress by 1995 toward a CTB, toward a cut-off in the production of weapons-usable fissionable material and toward the dramatically-lower levels of strategic arms agreed to in START II, gaining a strong majority for a long NPT extension would be eased. But, if nuclear testing is continuing, the cut-off negotiations are going nowhere and movement toward START II is still blocked by Ukraine, a long extension of the NPT will be difficult. Indeed, banning testing is so linked to NPT extension in the minds of many non-aligned members that gaining a sufficient major-

ity for a long extension may be impossible without agreed-upon treaty language on at least the scope and duration of the prohibition on tests. Until such agreement is reached, there may be insufficient votes to do anything but recess the extension conference pending further test ban negotiations.

There is probably no way to know for sure how important Article VI really is to developing countries until they are faced with voting in 1995. For some, the NPT may be essential for security reasons: "If we don't get the bomb, our rivals won't either--assuming we are all NPT members and the treaty is effective in providing timely warning of clandestine bomb making." These views should outweigh other factors for countries that hold them.

To most countries, the easier availability of nuclear supplies that comes with NPT membership is extraordinarily important. The Nuclear Suppliers Group, strong NPT supporters, control most of the supply. If they take the position that they will continue the supply restrictions of the NPT regime, even if the NPT comes to an end, some developing countries might see less value in ending the NPT sometime soon.

WHAT *QUID PRO QUO* FOR A LONG EXTENSION?

In achieving a final consensus in 1995, there will likely be three defining issues for have-not countries. The first is security. Each have-not state with the capacity (in the foreseeable future) to make nuclear weapons must decide whether it is better off without them: "Have all our potential enemies also agreed not to get them? Is our national survival threatened in a way that can be countered by nuclear weapons? Have all potential enemies already having nuclear weapons made credible promises not to threaten us with them? Has the Security Council, or a country or countries having nuclear weapons, said convincingly that they would come to our aid if we are threatened or attacked?"

The nuclear umbrella provided by a military alliance with the United States was enough for Germany, Italy, and Japan to join the NPT in the 1970s. A 1968 non-alliance alternative provided through the U.N. Security Council was insufficient for India when it felt threatened by China's nuclear weapons.³⁶ The 1968 alternative consisted of political declarations by Britain, the Soviet Union, and the United States made on the adoption of a U.N. Security Council resolution on the subject.³⁷ These documents suggested that immediate assistance pursuant to the U.N. Charter would be provided to any have-not NPT party that was the victim of aggression or a threat of aggression in which nuclear weapons were used. The three participating permanent members of

the Council did not agree to give up the veto in such cases, but they promised to call an emergency meeting of the Council and explicitly suggested the availability of collective self-defense involving at least one of them if Council action was vetoed by another.³⁸

For many countries other than India, this alternative was helpful--particularly when unilateral political declarations were later added to it by countries having nuclear weapons stating (albeit with some qualifications) that they would not use or threaten nuclear weapons against have-not NPT parties.³⁹ But China and France were not part of the 1968 Security Council resolution, and the unilateral declarations of non-use have been criticized for over a decade as inadequate by many of the countries they were meant to satisfy. An important *quid pro quo* for the have-nots in 1995 is to strengthen these security assurances, to achieve common language among the five haves both on what assistance should be provided to those threatened or attacked and on what commitments not to use or threaten to use nuclear weapons they are prepared to make.⁴⁰

The second defining issue for have-not NPT members is whether the NPT is working and will work to prevent future proliferation. If countries such as India, Israel, North Korea, Pakistan, and Ukraine can avoid the NPT norm, what perception will have-not NPT members have of the effectiveness of the NPT to prevent future proliferation by potential enemies? They must be convinced that the NPT will protect their interests into the indefinite future if they are to vote for its indefinite extension. For them, the most important *quid pro quo* relating to effectiveness is strengthening the IAEA and the Security Council to enforce the NPT's norm.

The third defining issue is likely to be compliance by the haves with Article VI. For many have-not NPT members, voting for indefinite extension means voting for an indefinite license for the five haves to hold nuclear weapons forever--unless some mechanism is available to the have-nots to "enforce" Article VI. Indefinite extension would mean giving up much of their present bargaining leverage--the threat to vote no at an extension conference.

Why should the non-aligned have-nots, in particular, trust the haves to keep moving toward nuclear disarmament without even that threat to provide an incentive? When Article VI went into effect in 1970, proposals for a CTB, a cut-off of the production of fissionable material for nuclear weapons, and a no-first-use agreement were at the top of the agenda of the multilateral Geneva conference on disarmament.⁴¹ But they got nowhere, and for some years the United States did not negotiate seriously on any of them. Not until

1993 were the test ban and the cut-off put forward again as U.S. proposals.⁴² The United States still does not support Geneva negotiations for a treaty to prohibit first use of nuclear weapons against countries not having them. Moreover, even if START I and II are fully implemented, Russia and the United States will each have *more* strategic missile warheads than they had when Article VI came into force.⁴³ Despite reciprocated American-Russian withdrawals of short-range nuclear weapons, agreement to a treaty eliminating American and Soviet intermediate-range missiles, and continued unilateral warhead dismantlement, this is not a record that inspires trust in already suspicious non-aligned have-not countries.

What is necessary to provide an important Article VI *quid pro quo* is obvious: real progress on both a CTB and a cut-off, continued implementation of START I and II, initiation of talks among the five haves looking toward further reductions beyond START II levels, and national planning for the end game of nuclear reductions. These steps are in the U.S. interest in order to de-emphasize the role of nuclear weapons and to place our reliance instead on our superior high-technology conventional weapons that were so successful in the Gulf War.

In 1962, the United States was prepared to submit a plan for a world in which national nuclear weapons would be eliminated.⁴⁴ The U.S. plan suggested the many changes toward a more peaceful world that would be necessary to go to zero. It did not resolve the issue of whether a U.N. peace force should be left with some residual nuclear weapons to deal with clandestine violators.⁴⁵ But the very existence at the time of a U.S. plan for complete national nuclear disarmament, listing the changes in the world that would have to occur, made American proposals for more modest steps--such as an NPT--more credible with nuclear have-not countries.⁴⁶ Why isn't that sort of planning possible between now and 1995?⁴⁷

There are other steps that can be taken to de-emphasize the importance of nuclear weapons as legitimate instruments of war. I have urged an agreement among the five haves on common language foreshadowing the use or threat of use of nuclear weapons against have-nots that are observing the NPT or some similar international obligation.⁴⁸ An alternative would be an agreement among the five--an agreement that might be joined by all countries (including threshold countries)--saying that the only purpose of nuclear weapons is the deterrence of, and possible response to, nuclear attack by others; and that no one will use or threaten nuclear attack except to respond to such an attack.⁴⁹ Even short of such an agreement, changes in strategies and targeting plans can be

important to have-not NPT members. For example, the United States need not retain a first-use nuclear capability against developing countries that have nuclear ambitions in order to deter or destroy their efforts to acquire nuclear weapons.⁵⁰ U.S. officials should refrain from statements implying that we cannot foresee a future time when we will not need nuclear weapons for our security. It is hard to convince have-not countries that nuclear weapons are not important for their security while insisting they will always be essential to ours.⁵¹

Finally, strengthening the capacity of regional security organizations and the United Nations to settle international disputes, to keep the peace, and to provide adequate deterrence or response to aggressors is important for discouraging proliferation, whether the aggressors threaten the use of nuclear weapons or not. The most important demand for nuclear weapons is for national security. In an insecure world, that demand is likely to be greater, even though it is highly questionable whether nuclear weapons can provide that added security.

In sum, there is much to be done before the NPT conference in 1995. The obstacles to securing a lengthy extension are truly formidable, but they must be overcome.

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² See table provided by U.S. Defense Department experts to President Kennedy in February 1963 and excerpted in George Bunn, *Arms Control by Committee: Managing Negotiations with the Russians* (Stanford, Calif.: Stanford University Press, 1992), p. 68. In chapters 3 and 4, this book describes the important U.S.-Soviet negotiations that produced the first three articles.

³ NPT Arts. I and II.

⁴ NPT Art.VI. The language of the article continues: "and to general and complete disarmament under strict and effective international control." The article calls upon all parties to negotiate in good faith on all these measures, but the have-nots obviously have greater responsibility for nuclear measures than the have-nots.

⁵ NPT Arts. IV and III.2.

⁶ Several countries that once had nuclear weapons programs are known to have pulled back from them under the influence of the NPT and the international pressure and trade sanctions it legitimizes: Argentina, Brazil, South Korea, South Africa, Sweden, Switzerland, and Taiwan. Other countries with the capability to make nuclear weapons refrained from doing so: Belgium, Canada, Czechoslovakia, Germany, Hungary, Italy, Japan, and Poland, for example. All but Belgium were listed in the Pentagon's 1963 list of countries with the capability within a decade to acquire nuclear weapons and the aircraft and missiles with which to deliver them. (See note 2.)

Despite the NPT, there are three "threshold" states that have acknowledged nuclear weapons capability: Israel, India, and Pakistan. They are not parties to the NPT, their nuclear capability is regarded as a problem by most of the more than 160 parties to the NPT, and they can no longer receive nuclear materials and equipment from parties to the NPT who comply with the rules of the NPT regime.

Iraq and North Korea, both NPT parties, had clandestine programs to make nuclear weapons but did not get as far as India, Israel, and Pakistan. They have been slowed from going further by the U.N. Security Council, by International Atomic Energy Agency (IAEA) inspections, and by international pressure legitimized in part (even in Iraq's case) by the NPT. U.N. Security Council Resolution 687 (1991), calling among other things for Iraq's denuclearization, cites the NPT as part of its justification.

Three of the non-Russian successor states to the Soviet Union were left with Soviet nuclear weapons on their territory: Belarus, Kazakhstan, and Ukraine. Only Ukraine now claims to control the weapons there. The parliaments of both Belarus and Kazakhstan have approved their countries' accession to the NPT as non-nuclear-weapons states, and Belarus has deposited its instrument of ratification. Ukraine's president has promised to give up the nuclear weapons on its soil, but the Ukrainian parliament has not yet agreed. Ukraine cannot join the NPT except as a non-nuclear weapons party. Thus, the NPT helps to legitimize international pressure and, eventually, the cut-off of nuclear trade and financial assistance, if Ukraine persists in its claims to these weapons. (On Ukraine's international obligations with respect to nuclear weapons, see George Bunn and John B. Rhineland, "The Arms Control Obligations of the Former Soviet Union," *Virginia Journal of International Law* 33 (Winter 1993), pp. 323, 335-38, 342-47.)

⁷ The original plan was for that agency to be a nuclear "bank," loaning nuclear materials for peaceful purposes on the condition that the recipient countries accepted safeguards on and inspections of their nuclear activities. However, the have-nots were unwilling to provide sufficient nuclear materials to the IAEA for this purpose. Thus, the agency ended up with little bargaining leverage to insist upon such inspections for countries wanting materials for peaceful programs--unless the supplier country insisted.

⁸ See Bunn (1992), *op. cit.*, chap.3.

⁹ To help enforce safeguards, the major nuclear suppliers formed a cooperative to prevent nuclear exports covered by the NPT from being shipped to have-not countries--whether or not members of the NPT--unless subject to safeguards. The cooperative, now a 27-member Nuclear Suppliers Group, recently added a long list of "dual-use" items that have both nuclear and non-nuclear uses. Members have agreed to require assurances from recipients that dual-use items will not be used to make nuclear weapons and to take other steps to prevent proliferation. Although the cooperative is not expressly authorized by the NPT, it would have been hard to gain the widespread cooperation of both suppliers and recipients without the NPT's norm and its prohibition on nuclear shipments without safeguards.

Art. III.2 of the NPT states: "Each State Party to the Treaty undertakes not to provide: (a) source or special fissionable material, or (b) equipment or material especially designed or prepared for the processing, use or production of special fissionable material, to any non-nuclear-weapon State for peaceful purposes, unless the source or special fissionable material shall be subject to the safeguards required by this article." The IAEA's Zangger Committee, the predecessor of the Nuclear Suppliers' Group, began by agreeing on what the language of (a) and (b) meant: what materials and equipment may not be shipped unless subject to safeguards in the recipient country? The Suppliers have continued this effort and gone somewhat beyond it.

¹⁰ At each of the four review conferences so far, the have-not countries, particularly those not allied with either the Soviet Union or the United States, have put pressure on these two countries and Britain (the three have then party to the NPT) to stop the testing and manufacture of nuclear weapons and to cut their nuclear arsenals. (For descriptions of the most recent NPT review conference see Charles N. Van Doren and George Bunn, "Progress and Peril at the Fourth NPT Review Conference," Arms Control Today 20 (Oct. 1990), pp. 98-102; George Bunn, "The Non-Proliferation Review Conference of 1990" in David Newsom, ed., The Diplomatic Record, 1990-1991 (Boulder, Colo.: Westview Press, 1992), pp. 195-212.)

¹¹ NPT Art. X.2.

¹² The Group of Seven's political declaration adopted July 8, 1993, at the Tokyo summit stated: "We reiterate the objectives of universal adherence to the NPT as well as the Treaty's indefinite extension in 1995 and nuclear arms reduction." The inclusion of the goals of universal adherence and nuclear arms reduction with that of indefinite NPT extension were reported to be necessary to gain Japan's agreement to the indefinite extension language. Japan apparently wanted to make the point that significant progress toward universality and nuclear reductions was necessary for indefinite extension (Financial Times, July 9, 1993). Further nuclear disarmament and yet another condition to Japan's 1995 vote for indefinite extension (continuing permission for Japan to separate and recycle plutonium) were later stated by Japan's Atomic Energy Commission, even though Japan's prime minister had publicly stated Japan's support for indefinite extension without this condition. (See "Japan AEC Says NPT Extension Depends on Recycle `Freedom,'" Nucleonics Week, November 11, 1993.)

¹³ See George Bunn and Charles N. Van Doren, "Options for Extension of the NPT," PPNN Study No.2 (University of Southampton, England, 1991), pp. 6-8.

¹⁴ NPT Art. X.2.

¹⁵ Bunn and Van Doren, *op. cit.*, p. 10.

¹⁶ Bunn and Van Doren (1991), *op. cit.*; Bunn and Van Doren, Two Options for the 1995 NPT Extension Conference Revisited, (Washington, D.C.: Lawyers Alliance for World Security, 1992).

¹⁷ Bunn and Van Doren (1991), *op. cit.*, p. 7.

¹⁸ *Ibid.*; Bunn and Van Doren (1992), *op. cit.*

¹⁹ NPT Art.VI.

²⁰ Armenia, Azerbaijan, Belarus, Estonia, Latvia, Lithuania, and Uzbekistan. Though Kazakhstan's parliament had approved the NPT, formal ratification had not been deposited.

²¹ Tariq Rauf, Address to the Conference on "Nuclear Non-Proliferation: The Challenges of a New Era," Carnegie Endowment for International Peace, November 18, 1993, Washington, D.C. Assuming 80 percent of the NPT's members come in 1995, a higher proportion than has attended review conferences and preparatory meetings so far, more than 60 percent would have to vote affirmatively to gain a bare majority of the members in favor of a particular extension. To have real assurance of such a majority at the conference, and to provide the broad consensus of members desirable, a pre-conference vote count of 120 would seem a bare minimum. If 80 percent of 120 came and voted yes, the favorable percentage would be only 56 percent (assuming 170 members).

²² Note even the vacillations of such a steadfast U.S. ally and strong supporter of the NPT as Japan (see note 12).

²³ See the example in note 21 for an illustration of the problem.

²⁴ Bunn and Van Doren (1991), *op. cit.*, pp.2-8.

²⁵ The number of NAM members that belong to the NPT is from a Feb. 1992 compilation by Charles N. Van Doren. The NAM summit meeting results are from its October 1992 communique.

²⁶ "Linkage of CTB and NPT," Disarmament Times 16 (October 1993), pp. 1,3.

²⁷ Jim Wurst, "NPT Meeting Launches Preparations for 1995," Basic Reports, No.30 (May 21, 1993), p. 2.

²⁸ "Linkage of CTB and NPT," *loc. cit.*, pp. 1,3.

²⁹ See Lewis Dunn, "NPT 1995: Time to Shift Gears," Arms Control Today 23 (November 1993), pp. 14-19.

³⁰ U.S. Congress, Office of Technology Assessment, Proliferation of Weapons of Mass Destruction: Assessing the Risks (Washington, D.C.: GPO, August 1993), pp. 4, 98.

³¹ An estimate of the technical capability of Ukraine to fire the nuclear weapons left on its soil by the dissolution of the Soviet Union appears in William H. Kincaid, "Nuclear Weapons in Ukraine: Hollow Threat, Wasting Asset," Arms Control Today 23 (July/August 1993), pp. 13-18; Martin J. DeWing, The Ukrainian Nuclear Arsenal: Problems of Command, Control, and Maintenance (Working Paper No. 3, Program for Nonproliferation Studies, Monterey Institute of International Studies, October 1993). For an estimate of the effect of Ukraine's claims to be a nuclear weapons state upon NPT extension in 1995, see Spurgeon M. Keeney, Jr., "It's Ukraine, Stupid," Arms Control Today 23 (September 1993), p. 2.

³² See Bunn and Rhineland, *op. cit.*, p. 346.

³³ Address to the U.N. General Assembly, September 27, 1993; White House, "Fact Sheet, Nonproliferation and Export Control Policy," September 27, 1993.

³⁴ Radio Address by President Clinton, July 3, 1993, Federal News Service Transcript.

³⁵ See, e.g., statement by IAEA Director General Hans Blix to IAEA General Conference, September 27, 1993, IAEA GC (XXXVII)/OR.353, paragraphs 105-139; David A.V. Fischer, Ben Sanders, Lawrence Scheinman, and George Bunn, "A New Nuclear Triad: The Non-Proliferation of Nuclear Weapons, International Verification and the International Atomic Energy Agency," PPNN Study No.3 (University of Southampton, England, 1992); George Bunn and Roland Timerbaev, "Nuclear `Weaponization' under the NPT: What is Prohibited, What Can Be Inspected, Who Should Do It?" (draft memorandum prepared for the International Organizations and Nonproliferation Project, Program for Nonproliferation Studies, Monterey Institute of International Studies).

³⁶ See George Bunn and Roland Timerbaev, "Security Assurances for Non-Nuclear-Weapon States," The Nonproliferation Review 1 (Fall 1993), pp. 11-12.

³⁷ U.N. Security Council Resolution 255 (1968).

³⁸ The resolution and U.S. declaration appear in ACDA, Documents on Disarmament, 1968 (Washington, D.C.: GPO 1969), pp. 444,439. The British and Soviet declarations were substantially identical because the three had negotiated an agreed text beforehand.

³⁹ See Bunn and Timerbaev, *op. cit.*, pp. 12-13.

⁴⁰ *Ibid.*, pp. 13-18.

⁴¹ The agenda adopted after the NPT was signed began as follows: "1. Further effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament.

Under this heading members may wish to discuss measures dealing with the cessation of testing, non-use of nuclear weapons, the cessation of production of fissionable material for weapons use, the cessation of manufacture of weapons, and reduction and subsequent elimination of nuclear stockpiles...." "Report of the Eighteen Nation Disarmament Committee to the General Assembly," August 28, 1968, ACDA, Documents on Disarmament, 1968 (Washington, D.C.: GPO, 1969), pp. 591, 593.

⁴² See notes 33 and 34 above.

⁴³ The total U.S. and Russian land-based and sea-based strategic warheads (not counting gravity bombs) would be about 2,200 each if START II were fully implemented (The New York Times, December 30, 1992, table entitled "Limiting Nuclear Warheads"). These were, of course, what President Reagan called the "fast flyers." They were also the most threatening weapons during the mid-1960s when the NPT was negotiated. They are therefore probably the most important from the view point of Art.VI--as well as for populations in Russia and the United States. In 1969-70, at the beginning of the SALT negotiations (just before Article VI went into effect), the maximum number of U.S. and Soviet strategic missile warheads that both sides assumed would result from a freeze on these missiles (which did not have multiple warheads) was under 2,000, counting those already deployed and those in the "pipeline." (See Lawrence D. Weiler, The Arms Race, Secret Negotiations and Congress (Occasional Paper No. 12, Stanley Foundation, 1976), p. 16.

⁴⁴ See "United States Proposal Submitted to the Eighteen Nation Disarmament Committee: Outline of Basic Provisions of a Treaty on General and Complete Disarmament in a Peaceful World, April 18, 1962," ACDA, Documents on Disarmament, 1962, pp. 351-382. See Stage III, Part C.1 on p. 378.

⁴⁵ Ibid., see "U.S. Proposal...", Stage I, Part H.5.c., p.368; Stage II, Part. G.3, p.375; Stage III, Part C.1, p.378 and Part H.3, p.380.

⁴⁶ The point of the American plan was to show convincingly not only why a position of zero national nuclear weapons was not then realistic, but also to describe the conditions under which it might be. The purpose was to get on with the negotiation of first-step measures that were realistic: a hot-line agreement, a test ban, an NPT, a cut-off in the production of fissionable material for nuclear weapons, a ban on placing nuclear weapons in orbit around the earth, advance notification of military movements, exchanges of military missions, and a freeze (and then reduction) of missiles. These were described in the first stage of the plan, and most have since been agreed. While it is impossible to say that they would not have been agreed upon without the 1962 plan, as one of the participants, I believe that the debate over the plan helped smooth the way for the first-step measures. A further description of the reasons for the plan appears in George Bunn, "U.S. Law of Nuclear Weapons," Naval War College Bulletin 32 (July-August 1984), pp. 46, 47.

⁴⁷ For a thoughtful attempt to devise such a plan, see Roger D. Speed, The International Control of Nuclear Weapons (publication forthcoming, Center for International Security and Arms Control, Stanford University, 1994).

⁴⁸ See Bunn and Timerbaev, op. cit., pp. 17-18.

⁴⁹ See National Academy of Sciences, Committee on International Security and Arms Control, "The Future of the U.S. -Soviet Nuclear Relationship" (Academy Press, 1991), p. 3; Michael M. May and Roger D. Speed, "The Role of U.S. Nuclear Weapons in Regional Conflicts" (publication forthcoming, Center for International Security and Arms Control, Stanford University, 1994).

⁵⁰ Compare Michael M. May and Roger D. Speed, op. cit. with Thomas C. Reed and Michael O. Wheeler, "The Role of Nuclear Weapons in the New World Order" (statement presented to the Senate Armed Services Committee, January 23, 1992).

⁵¹ Ambassador V. Trivedi, the Indian representative to the multilateral disarmament conference in Geneva, where much of the NPT was negotiated, kept reminding the American and Soviet negotiators that their attempts to persuade other countries not to get the bomb were like the attempts of an Indian Rajah, himself an alcoholic, to persuade his subjects not to drink alcohol. "Do as I say, not as I do," is not as persuasive as setting a good example.