

THE NUCLEAR NONPROLIFERATION TREATY†

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When the United States was the only nuclear power in the world, we thought one was too many.¹ Efforts since then to inhibit the spread of nuclear weapons to other countries have resulted in widespread agreement this year on a nonproliferation treaty. This commentary will describe the background of the treaty, summarize its main provisions, and discuss some questions of interpretation which have arisen.

1. THE BACKGROUND

Since the end of World War II, United States policy with respect to nuclear energy has had two basic purposes. These were stated in a 1945 Joint Declaration by President Truman, Prime Minister Attlee, and Prime Minister Mackenzie King, representing the three countries which had produced the first atomic bomb.² The two purposes were to (1) "prevent the use of atomic energy for destructive purposes" and (2) "promote . . . the utilization of atomic energy, for peaceful and humanitarian ends."³

To prevent the use of atomic energy for destructive purposes, the United States proposed the Baruch Plan in 1946.⁴ If accepted by the Soviet Union and other countries, it would have removed nuclear energy entirely from the military field. At the same time, the United States attempted to inhibit the spread of nuclear weapons to additional countries. The 1946 McMahon Act had this as a

† This commentary is derived from a speech made at the University of Wisconsin Law School on February 12, 1968.

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¹ This was the basis for the 1946 Baruch Plan to remove nuclear energy entirely from the military field. See Testimony of Secretary of State Dean Rusk, *Hearings on S. Res. 179 Before the Joint Comm. on Atomic Energy*, 89th Cong., 2d Sess., at 4 (1966) [Hereinafter cited as *JCAE Hearings*].

² See H. SMYTH, *ATOMIC ENERGY FOR MILITARY PURPOSES*, app. 7, at 255-87, and app. 8, at 288-96 (1948).

³ Joint Declaration by the heads of Government of the United States, the United Kingdom and Canada, Nov. 15, 1945, 60 Stat. 1479, T.I.A.S. No. 1504, 3 U.N.T.S. 123.

⁴ *THE UNITED STATES AND THE UNITED NATIONS: REPORT BY THE PRESIDENT TO THE CONGRESS FOR THE YEAR 1946*, at 169-78 (U.S. Dep't State, Pub. No. 2735, 1947). For the earlier Acheson-Lilienthal Plan, see *A REPORT ON THE INTERNATIONAL CONTROL OF ATOMIC ENERGY*, March 16, 1946 U.S. Dep't State Pub. No. 2498, (1946).

basic objective.⁵ The Atomic Energy Act of 1954, together with amendments enacted in 1958, authorized greater international cooperation in the peaceful uses of atomic energy.⁶ It also permitted the transfer of fissionable material and key non-nuclear parts for use in nuclear weapons to a United States ally which had, among other things, already made "substantial progress in the development" of nuclear weapons.⁷ But, with this limited exception for the United Kingdom—which had become by then a nuclear power—Congress prohibited the "transfer . . . in . . . foreign commerce" of any nuclear weapon.⁸

A number of international agreements made since 1946 have slowed the spread of nuclear weapons. President Eisenhower's "Atoms for Peace" plan resulted in a 1956 agreement to create an International Atomic Energy Agency (IAEA).⁹ It is an agency of the United Nations made up of almost 100 nations. It includes the great bulk of the international community including the United States, the Soviet Union, and most of their allies. The IAEA's objectives are two-fold: promote the peaceful use of the atom and, at the same time, guard against diversion of the products of this use to any military purpose.¹⁰ The IAEA has developed a safeguards system which now monitors peaceful nuclear reactors used for research and for producing electricity in some 30 countries.¹¹

Several other treaties have an impact on the spread of nuclear devices. A 1959 treaty made Antarctica the first internationally-agreed nuclear-free zone.¹² A second zone will be created in this hemisphere by the 1967 Treaty on the Prohibition of Nuclear Weapons in Latin America, signed by 21 Latin American countries.¹³ Finally, the 1967 Outer Space Treaty contains an agreement not to "place in orbit around the Earth," "install . . . on celestial bodies,"

⁵ Atomic Energy Act of 1946 §§ 4(b), 5(a) (3), 5(d), 6(b), 10(a) and (b), 60 Stat. 755-75.

⁶ Atomic Energy Act of 1954 §§ 54, 64, 82, 123, 68 Stat. 931, *as amended*, 42 U.S.C. §§ 2074, 2094, 2112, 2153 (1964).

⁷ *Id.* § 91(c), 42 U.S.C. § 2121(c) (1964). Non-nuclear parts which "will not contribute significantly" to a country's atomic weapons capability may be given to other military allies of the United States under certain circumstances.

⁸ *Id.* § 92, 42 U.S.C. § 2122 (1964).

⁹ International Atomic Energy Agency Statute, [1957] 8 U.S.T. 1093, T.I.A.S. No. 3873, 276 U.N.T.S. 3 (1956). [The Agency is hereinafter referred to as IAEA].

¹⁰ *Id.* art. II.

¹¹ IAEA, The Agency's Safeguards System, I.A.E.A. Doc. INFCIRC/66/Rev. 1 (1967).

¹² The Antarctic Treaty, Dec. 1, 1959, [1961] 12 U.S.T. 794, T.I.A.S. No. 4780; 402 U.N.T.S. 71 (1959).

¹³ E.N.D.C. Doc. ENDC/186, 12-33 (1967); U.N. Doc. A/C.1/946 (1967); UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY, 1967 DOCUMENTS ON DISARMAMENT 69 [hereinafter cited as DOCUMENTS ON DISARMAMENT]. Vice President Humphrey signed Protocol II to this treaty for the United States on April 1, 1968.

or "station . . . in outer space" nuclear weapons.¹⁴ Thus the Moon, other celestial bodies, and outer space have also been proclaimed nuclear-free zones.

While not prohibiting nuclear proliferation directly, the 1963 Partial Test Ban Treaty¹⁵ made it harder for the 90-odd non-nuclear countries which are parties to develop nuclear weapons on their own. By prohibiting nuclear testing everywhere but underground, the treaty eliminated the easiest, cheapest, and ordinarily most productive form of testing—in the atmosphere.¹⁶ It was the judgment of the Kennedy Administration that, for these reasons, a country signing the treaty would probably not do so without first deciding not to produce nuclear weapons—not at least for the time being.¹⁷

The first plan sponsored by the United States for an international agreement specifically to prohibit the transfer of nuclear weapons from one country to another was presented in 1957 in a package with other arms control measures.¹⁸ The policy which produced this proposal was explained by the late Secretary of State Dulles:

Already large nuclear weapons are so plentiful that their use in general war could threaten life anywhere on the globe. And as matters are going the time will come when the pettiest and most irresponsible dictator could get hold of weapons with which to threaten immense harm. Also the cost of maintaining competitive military establishments is getting so big that no nation can sustain that cost without grievously burdening its economy.

Your Government believes that this situation can and should be remedied.¹⁹

¹⁴ Treaty on Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, Jan. 27, 1967, T.I.A.S. No. 6347 (1967); 1967 DOCUMENTS ON DISARMAMENT 38.

¹⁵ Treaty Banning Nuclear Weapon Tests in the Atmosphere, in Outer Space and Underwater, Aug. 5, 1963, [1963] 14 U.S.T. 1313, T.I.A.S. No. 5433, 480 U.N.T.S. 43 (1963).

¹⁶ See Testimony of Secretary of State Rusk in *Hearings on the Nuclear Test Ban Treaty Before the Comm. on Foreign Relations*, 88th Cong., 1st Sess. 10-20 (1963); Address by ACDA Director W. C. Foster before the Economic Club of Detroit, Oct. 19, 1964, in 1964 DOCUMENTS ON DISARMAMENT 473.

¹⁷ See authorities cited in note 16 *supra*.

¹⁸ *Proposals for Partial Measures of Disarmament*, in 1957-1959 DOCUMENTS ON DISARMAMENT 868-70.

¹⁹ J. Dulles, radio and television address, July 22, 1957, in 1957-1959 DOCUMENTS ON DISARMAMENT 825-26. For a current, international assessment of the disadvantages to non-nuclear countries in acquiring nuclear weapons, see Thant, *Report of the Secretary General on the Effects of the Possible Use and on the Security and Economic Implications for States of the Acquisition and Further Development of these Weapons*, U.N. Doc. A/6858 (1967). The 1966 testimony of Secretary of State Rusk and former

Serious international consideration of a separate nonproliferation treaty began with a 1961 resolution sponsored by Ireland and adopted unanimously by the United Nations General Assembly.²⁰ This called on all states, particularly the nuclear powers, to seek

an international agreement containing provisions under which the nuclear States would undertake to refrain from relinquishing control of nuclear weapons and from transmitting the information necessary for their manufacture to States not possessing such weapons, and provisions under which States not possessing nuclear weapons would undertake not to manufacture or otherwise acquire control of such weapons.²¹

Extensive private talks and public debates filled the years following adoption of this resolution. In 1963, in presenting the Partial Test Ban Treaty to the American people, President Kennedy said that it was the first step in a program to prevent the further spread of nuclear weapons.²² President Johnson's 1964 message to the Geneva Disarmament Conference gave the details of that program.²³ It centered, of course, on the achievement of a nonproliferation treaty. Extensive negotiations within the Atlantic Alliance resulted in the presentation of a draft nonproliferation treaty by the United States to the Geneva Conference in August of 1965.²⁴ The Soviet Union responded with its own draft treaty in the fall of that year.²⁵

In 1966, the United States Senate achieved a broad consensus in support of a nonproliferation treaty. Without dissent, it adopted the Pastore Resolution urging the conclusion of such a treaty.²⁶ During the course of the hearings on this resolution, it became evident that no amendment would be made to the prohibition in the Atomic Energy Act on the "transfer" of atomic weapons in for-

Secretary of Defense McNamara before the Joint Committee on Atomic Energy contains a current statement of the reasons why non-proliferation remains a United States objective. *JCAE Hearings* 4-5, 74-75. See also address by W. C. Foster at the Institute of Strategic Studies, London, England, June 26, 1967 (on file in ACDA).

²⁰ G.A. Res. 1664 (XVI) 16 U.N. GAOR Supp. 17, at 5, U.N. Doc. A/4980/Add. 1 (1961); 1961 DOCUMENTS ON DISARMAMENT 693.

²¹ For prior Irish resolution on "prevention of the wider dissemination of nuclear weapons," which had less than unanimous support, see G.A. Res. 1380 (XIV), 14 U.N. GAOR Supp. 16, at 4, U.N. Doc. A/4286 (1959); G.A. Res. 1576 (XV), 15 U.N. GAOR Supp. 16, at 3, U.N. Doc. A/4680 (1960); 1960 DOCUMENTS ON DISARMAMENT 373.

²² J. Kennedy, radio and television address, July 26, 1963, in 1963 DOCUMENTS ON DISARMAMENT 250-57.

²³ E.N.D.C. Doc. ENDC/119; 1964 DOCUMENTS ON DISARMAMENT 5-9.

²⁴ E.N.D.C. Doc. ENDC/162; 1965 DOCUMENTS ON DISARMAMENT 347-49.

²⁵ U.N. Doc. A/5976; 1965 DOCUMENTS ON DISARMAMENT 443-46.

²⁶ The resolution was passed by an 84-0 vote with all absent members declared "for" but one. S. Res. 179, 89th Cong., 2d Sess., 112 CONG. REC. 10802 (1966).

eign commerce.²⁷ Such an amendment had been regarded as necessary to authorize the supply of United States nuclear weapons to a Multilateral Force (MLF) of surface ships "armed with Polaris missiles, owned, controlled, and manned jointly by a number of NATO nations" with evolution toward "European control" (i.e., not subject to United States veto) "by no means excluded."²⁸ The United States draft of the nonproliferation treaty would have permitted such a force.²⁹ According to the Soviet Union, this was the principal obstacle to agreement; in March, during the Pastore resolution hearings, the Soviet negotiator stated that if a provision prohibiting the transfer of nuclear weapons to multilateral control within a military alliance were included in the treaty, "we shall have no difficulty in agreeing on the final formula of the draft"³⁰ By then, it was clear that no agreement on such a force was likely within the Alliance at least for the foreseeable future.³¹

In June, after the hearings on the resolution, the United States negotiators probed the Soviet position to find out whether the MLF option was indeed the main obstacle to agreement.³² On July 5, President Johnson called for "an acceptable compromise" on treaty language to which both the United States and the Soviet Union could agree.³³ A few days later, the United States representative pointed out specific objectionable provisions of the Soviet draft which would have barred existing NATO arrangements for nuclear defense.³⁴ He did not, however, oppose the basic Soviet proposal to prohibit "transfer" of nuclear weapons, a provision which was parallel to the language of the United States Atomic Energy Act but did not appear in the current United States

²⁷ See Secretary Rusk's exchange with Senator Pastore in *JCAE Hearings* 20; see also ACDA Director Foster's exchange with Senator Pastore. *Id.* at 43.

²⁸ See address by C. G. Smith, Special Adviser to the Secretary of State, at the Naval Academy Foreign Affairs Conference, Apr. 22, 1964, in 1964 DOCUMENTS ON DISARMAMENT 172, 176.

²⁹ E.N.D.C. Doc. ENDC/162, art. I; 1965 DOCUMENTS ON DISARMAMENT 347; see also statement of the United Kingdom Representative to the ENDC, *id.* at 359; Statement of ACDA Director Foster, *id.* at 364.

³⁰ 1966 DOCUMENTS ON DISARMAMENT 89; see, e.g., 1964 DOCUMENTS ON DISARMAMENT 15-16, 276-78; 1965 DOCUMENTS ON DISARMAMENT 394-95; 1966 DOCUMENTS ON DISARMAMENT 24-28, 88-89.

³¹ Cf. Testimony of Secretary McNamara in *JCAE Hearings* 82, and in *Hearings on the Atlantic Alliance before the Subcomm. on Nat'l Security and Int'l Operations of the Comm. on Gov't Operations*, 89th Cong., 2d Sess., 205-09 (1966).

³² ENDC statement of ACDA Director Foster, in 1966 DOCUMENTS ON DISARMAMENT 385; ENDC statement of George Bunn, in 1966 DOCUMENTS ON DISARMAMENT 455.

³³ News conference, Weekly Compilation of Presidential Documents, Vol. II, No. 27 (July 11, 1966).

³⁴ ENDC statement of George Bunn, 1966 DOCUMENTS ON DISARMAMENT 455.

draft treaty. The Soviet representative thereafter stated that the treaty must include "as its most important element, the *non-transfer of nuclear weapons* This is the basic premise" ³⁵

Since this was also the basic premise of atomic energy legislation in the United States, the core of a compromise was at hand. President Johnson, Secretary Rusk, and Arms Control and Disarmament Agency Director Foster met with Foreign Minister Gromyko and Soviet disarmament experts in the fall of 1966 to enlarge on this core. ³⁶ During 1966 and 1967, after lengthy consultations within the Atlantic Alliance and negotiations with the Soviet Union, agreement was reached on a complete treaty text ³⁷ except for an article on inspections which was filled in early in 1968. ³⁸

II. THE TEXT

Article I of the text submitted to the United Nations on March 14, 1968 deals with the obligations of nuclear powers. ³⁹ First, they cannot "transfer" nuclear weapons or control over them "to any recipient whatsoever." Second, they cannot assist non-nuclear states to "manufacture or otherwise acquire" nuclear weapons. Third, these prohibitions are applicable not only to nuclear weapons but also to "other nuclear explosive devices."

Article II deals with the obligations of non-nuclear states and is the obverse of article I. ⁴⁰ First, such states cannot receive the "transfer" of nuclear weapons, or control over them, from any "transferor whatsoever." Second, and probably more important, they cannot "manufacture or otherwise acquire" nuclear weapons

³⁵ ENDC statement of Ambassador Roshchin, in 1966 DOCUMENTS ON DISARMAMENT 474, 475 (emphasis added); see also his statement of July 21, 1966, *id.* at 460, 461-62.

³⁶ 1966 DOCUMENTS ON DISARMAMENT 655-56; ACDA, SIXTH ANNUAL REPORT 3-4 (1967).

³⁷ E.N.D.C. Docs. ENDC/192, 193 (Aug. 24, 1967).

³⁸ E.N.D.C. Docs. ENDC/192/Rev. 1, 193/Rev. 1 (Jan. 18, 1968).

³⁹ Article I:

Each nuclear-weapon State Party to the Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons or other nuclear explosive devices or control over such weapons or explosive devices directly, or indirectly; and not in any way to assist, encourage, or induce any non-nuclear-weapon State to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices, or control over such weapons or explosive devices.

The treaty has been published in 58 DEP'T STATE BULL. 165. It was approved by the General Assembly by a vote of 95 to 4, with 21 abstentions, on June 12, 1968. N.Y. Times, June 13, 1968, § 1, at 1, col. 8.

⁴⁰ Article II:

Each non-nuclear-weapon State Party to the Treaty undertakes not to receive the transfer from any transferor whatsoever of nuclear weapons or other nuclear explosive devices or of control over such weapons or explosive devices directly, or indirectly; not to manufacture or otherwise acquire nuclear weapons or other nuclear explosive devices; and not to seek or receive any assistance in the manufacture of nuclear weapons or other nuclear explosive devices.

or seek or receive assistance for such manufacture. Third, these prohibitions are applicable not only to nuclear weapons but also to "other nuclear explosive devices."

Both articles treat peaceful nuclear explosive devices like nuclear weapons because such devices could be used as weapons and the technology for making them is essentially indistinguishable from that of nuclear weapons.⁴¹ The United Kingdom representative brought this point home by saying that a device which could move "a million tons of earth to dig a canal . . . could just as easily pulverize a city of a million people."⁴²

The nuclear powers recognized that the *benefits* which may some day be realized from nuclear explosions for peaceful purposes should be available to the non-nuclear states. In his message of February 21, 1967, to the Eighteen-Nation Disarmament Committee, President Johnson stated: "The United States is prepared to make available nuclear explosive services for peaceful purposes on a non-discriminatory basis under appropriate international safeguards. We are prepared to join other nuclear States in a commitment to do this."⁴³

The Soviet position was similar.⁴⁴ Consequently, an article⁴⁵ of the nonproliferation treaty now provides certain guidelines for working out the procedure for making the benefits of peaceful nuclear explosive devices available to non-nuclear countries, if and when these devices become technically and economically feasible. The draft states that the benefits would be made available "on a non-discriminatory basis." The charge for the devices would be "as low as possible" and would "exclude any charge for research and development."

⁴¹ ENDC statement of ACDA Deputy Director Adrian S. Fisher, in 1966 DOCUMENTS ON DISARMAMENT 525.

⁴² ENDC statement of Lord Chalfont, in ENDC/PV. 288, at 7 (Feb. 23, 1967).

⁴³ E.N.D.C. Doc. ENDC/187; 1967 DOCUMENTS ON DISARMAMENT 98, 99; see also ENDC/PV.295, at 23-26.

⁴⁴ ENDC statement of Ambassador Roshchin in ENDC/PV. 293, at 18 (Mar. 14, 1967).

⁴⁵ Article V:

Each Party to the Treaty undertakes to take appropriate measures to ensure that, in accordance with this Treaty, under appropriate international observation and through appropriate international procedures, potential benefits from any peaceful applications of nuclear explosions will be made available to non-nuclear-weapon States Party to the Treaty on a nondiscriminatory basis and that the charge to such Parties for the explosive devices used will be as low as possible and exclude any charge for research and development. Non-nuclear-weapon States Party to the Treaty shall be able to obtain such benefits, pursuant to a special international agreement or agreements, through an appropriate international body with adequate representation of non-nuclear-weapon States. Negotiations on this subject shall commence as soon as possible after the Treaty enters into force. Non-nuclear-weapon States Party to the Treaty so desiring may also obtain such benefits pursuant to bilateral agreements.

Article III contains the inspection provisions of the treaty.⁴⁶ It calls for the application of international safeguards on all nuclear material employed in peaceful nuclear activities of non-nuclear parties. These safeguards are intended to verify the prohibition on the manufacture of nuclear weapons by non-nuclear states. Their purpose is to give assurance to all parties that nuclear materials in the peaceful nuclear activities of non-nuclear parties will not be diverted to nuclear weapons.⁴⁷ They accomplish this objective in two ways. First, non-nuclear states agree to accept, on all their

⁴⁶ Article III:

1. Each non-nuclear-weapon State Party to the Treaty undertakes to accept safeguards, as set forth in an agreement to be negotiated and concluded with the International Atomic Energy Agency in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system, for the exclusive purpose of verification of the fulfillment of its obligations assumed under this Treaty with a view to preventing diversion of nuclear energy from peaceful uses to nuclear weapons or other nuclear explosive devices. Procedures for the safeguards required by this article shall be followed with respect to source or special fissionable material whether it is being produced, processed or used in any principle nuclear facility or is outside any such facility. The safeguards required by this article shall be applied on all source or special fissionable material in all peaceful nuclear activities within the territory of such State, under its jurisdiction, or carried out under its control anywhere.

2. 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.

3. The safeguards required by this article shall be implemented in a manner designed to comply with Article IV of this Treaty, and to avoid hampering the economic or technological development of the Parties or international cooperation in the field of peaceful nuclear activities, including the international exchange of nuclear material and equipment for the processing, use or production of nuclear material for peaceful purposes in accordance with the provisions of this article and the principle of safeguarding set forth in the Preamble.

4. Non-nuclear-weapon States Party to the Treaty shall conclude agreements with the International Atomic Energy Agency to meet the requirements of this article either individually or together with other States in accordance with the Statute of the International Atomic Energy Agency. Negotiation of such agreements shall commence within 180 days from the original entry into force of this Treaty. For States depositing their instruments of ratification or accession after the 180-day period, negotiation of such agreements shall commence not later than the date of such deposit. Such agreements shall enter into force not later than eighteen months after the date of initiation of negotiations.

⁴⁷ See first sentence of para. 1 of art. III quoted note 46 *supra*. See also the interpretive principles referred to in text at note 100 *infra*. To overcome political objections to acceptance of safeguards by non-nuclear countries, President Johnson offered on December 2, 1967, to accept IAEA safeguards on all nuclear activities in the United States, "excluding only those with direct national security significance." Address on the 25th anniversary of the first nuclear reactor, Weekly Compilation of Presidential Documents, 650 (Dec. 1, 1967). The United Kingdom has made a similar offer but the Soviet Union has not.

peaceful nuclear activities, safeguards set forth in an agreement to be concluded with the IAEA in accordance with its statute and safeguards system.⁴⁸ Second, all states agree not to provide nuclear material, or specialized equipment such as reactors, to non-nuclear countries unless the material involved is subject to the safeguards required by the treaty.⁴⁹

Designed largely for the benefit of non-nuclear parties, article IV⁵⁰ sets forth two "rights" concerning peaceful uses of nuclear energy. First, it makes clear that nothing in the draft treaty interferes with the right of the parties to develop nuclear energy for peaceful purposes in compliance with articles I and II (which, of course, prohibit the development of explosive devices by non-nuclear countries even for peaceful purposes). Second, it recognizes the right of the parties to participate in the fullest possible exchange of information for the peaceful uses of nuclear energy. These two rights are specific elaborations of the principle stated in the preamble "that the benefits of peaceful applications of nuclear technology . . . should be available for peaceful purposes to all Parties . . . , whether nuclear-weapon or non-nuclear-weapon States." As the preamble also makes clear, this principle includes not only modern reactor technology and the like, but also, "any technological by-products which may be derived by nuclear-weapon States from the development of nuclear explosive devices."⁵¹

These provisions make it clear that the treaty would promote, not discourage, national development and international cooperation with respect to the peaceful application of atomic energy. Moreover, by accepting the obligation not to manufacture nuclear weapons and by accepting international safeguards, non-nuclear countries will clearly reduce any apprehensions which may exist on the part of suppliers that the nuclear material to be supplied would be diverted to nuclear weapons.

The United States has already provided far more information on the peaceful uses of atomic energy than any other country—in part

⁴⁸ See para. 1 of art. III quoted in note 46 *supra*.

⁴⁹ See para. 2 of art. III quoted in note 46 *supra*.

⁵⁰ Article IV:

1. Nothing in this Treaty shall be interpreted as affecting the inalienable right of all the Parties to the Treaty to develop research, production and use of nuclear energy for peaceful purposes without discrimination and in conformity with Articles I and II of this Treaty.

2. All the Parties to the Treaty undertake to facilitate, and have the right to participate in, the fullest possible exchange of equipment, materials and scientific and technological information for the peaceful uses of nuclear energy. Parties to the Treaty in a position to do so shall also cooperate in contributing alone or together with other States or international organizations to the further development of the applications of nuclear energy for peaceful purposes, especially in the territories of non-nuclear-weapon States Party to the Treaty, with due consideration for the needs of the developing areas of the world.

⁵¹ E.N.D.C. Doc. ENDC/192/Rev.1 (Jan. 18, 1968).

at least because open publication was necessary to the maintenance of competition among American nuclear energy enterprises. Furthermore, ever since President Eisenhower's Atoms for Peace plan, the United States has led the way in international cooperation. It has provided peaceful reactors and nuclear materials to more than 30 countries and played a large role in creating two international organizations dealing with the peaceful uses of atomic energy—the IAEA and EURATOM.⁵² The provisions on international cooperation in the treaty draft are consistent with this policy. They may even result in making the exchange of information more of a two-way affair instead of the largely outward flow—away from the United States—which has typified the past.

Other treaty provisions would also benefit non-nuclear parties and deal with their desire to achieve "balance." For example, since they are to renounce nuclear weapons altogether, the non-nuclear states have questioned permitting the nuclear powers to continue and even escalate the nuclear arms race.⁵³

The Soviet Union and the United States have both indicated a desire to cut back their stocks of nuclear delivery vehicles such as strategic missiles and aircraft.⁵⁴ But differences over inspection and the weapons each side should retain have so far blocked agreement.⁵⁵ To meet the requests of non-nuclear countries, however, article VI of the draft nonproliferation treaty contains a significant new undertaking "to pursue negotiations in good faith on effective measures relating to the cessation of the nuclear arms race at an early date and to nuclear disarmament . . ."⁵⁶

The progress of these negotiations, as well as the operation of the treaty as a whole, would be reviewed at a conference of the

⁵² EURATOM is the nuclear organization of the European Communities. For a brief description see Scheinman, *EURATOM Nuclear Integration in Europe* (Carnegie Endowment for International Peace Int'l Conc. No. 563, 1967). United States assistance is provided pursuant to the EURATOM Cooperation Act of 1958, 72 Stat. 1084, *as amended*, 42 U.S.C. §§ 2291-96 (1964), *as amended*, 81 Stat. 578 § 13 (1967).

⁵³ See, e.g., ENDC statements of Indian Ambassador Trivedi, in ENDC/PV.334, at 15 (Sept. 28, 1967); and Brazilian Ambassador Azerdo da Silveira, in ENDC/PV.327, at 4 (Aug. 31, 1967). See also U.S. ACDA, SEVENTH ANNUAL REP. 7 (1968).

⁵⁴ For recent United States proposals on this score, see President Johnson's messages to the Eighteen-Nation Disarmament Committee of Jan. 21, 1964 and Jan. 27, 1966 (in author's files); E.N.D.C. Docs. ENDC/120 and 165; 1964 DOCUMENTS ON DISARMAMENT 7; 1966 DOCUMENTS ON DISARMAMENT 5.

⁵⁵ See, e.g., U.S. ACDA, FIFTH ANNUAL REP. 7 (1966); U.S. ACDA, FOURTH ANNUAL REP. 4 (1965).

⁵⁶ Article VI:

Each of the Parties to this Treaty undertakes 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, and on a treaty on general and complete disarmament under strict and effective international control.

parties five years after the treaty enters into force.⁵⁷ At five year intervals after this conference, a majority of the parties could call additional review conferences.⁵⁸ At the end of 25 years, a majority of the parties could bring the treaty to an end if they were not satisfied with the steps of disarmament then achieved or for any other reason.⁵⁹ In the interim a party could withdraw from the treaty if it decided that its "supreme interests" had been "jeopardized" by "extraordinary events" related to the subject matter of the treaty—such as the acquisition of nuclear weapons by a rival or neighbor.⁶⁰

Another measure to provide "balance" was proposed by the representatives of the United States and Soviet Union to the Geneva Conference on March 7, 1968. It is designed to respond to requests by non-nuclear countries, particularly India and the Federal Republic of Germany, that effective provisions be made for dealing with "nuclear blackmail."⁶¹ Non-nuclear countries have expressed concern over what will happen in the event of a nuclear threat or attack upon them if they renounce nuclear weapons altogether.

In response to this concern, the United States, United Kingdom, and Soviet Union have made parallel declarations of intention concerning action which would be taken by the United Nations Security Council, the organ of primary responsibility under the Charter for the maintenance of international peace and security.⁶²

⁵⁷ Paragraph 3 of article VIII provides:

Five years after the entry into force of this Treaty, a conference of Parties to the Treaty shall be held in Geneva, Switzerland, in order to review the operation of this Treaty with a view to assuring that the purposes of the Preamble and the provisions of the Treaty are being realized. At intervals of five years thereafter, a majority of the Parties to the Treaty may obtain, by submitting a proposal to this effect to the Depositary Governments, the convening of further conferences with the same objective of reviewing the operation of the Treaty.

⁵⁸ *Id.*

⁵⁹ Paragraph 2 of article X provides:

Twenty-five years after the entry into force of the Treaty, a conference shall be convened to decide whether the Treaty shall continue in force indefinitely, or shall be extended for an additional fixed period or periods. This decision shall be taken by a majority of the Parties to the Treaty.

⁶⁰ Paragraph 1 of article X provides:

1. Each Party shall in exercising its national sovereignty have the right to withdraw from the Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized the supreme interests of its country. It shall give notice of such withdrawal to all other Parties to the Treaty and to the United Nations Security Council three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

⁶¹ For India's proposal, see 1965 DOCUMENTS ON DISARMAMENT 142. For the Federal Republic's, see 1967 DOCUMENTS ON DISARMAMENT 179; Memorandum of the Federal Republic of Germany of Mar. 11, 1968 (on file at ACDA).

⁶² U.N. CHARTER art. 24.

The United States declaration is in part as follows:

Aggression with nuclear weapons, or the threat of such aggression, against a non-nuclear-weapon State would create a qualitatively new situation in which the nuclear-weapon States which are permanent members of the United Nations Security Council would have to act immediately through the Security Council to take the measures necessary to counter such aggression or to remove the threat of aggression in accordance with the United Nations Charter, which calls for taking "... effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace. . . ." Therefore, any State which commits aggression accompanied by the use of nuclear weapons or which threatens such aggression must be aware that its actions are to be countered effectively by measures to be taken in accordance with the United Nations Charter to suppress the aggression or remove the threat of aggression.

The United States affirms its intention, as a permanent member of the United Nations Security Council, to seek immediate Security Council action to provide assistance, in accordance with the Charter, to any non-nuclear-weapon State party to the treaty on the non-proliferation of nuclear weapons that is a victim of an act of aggression or an object of a threat of aggression in which nuclear weapons are used.⁶³

To give further substance to this and the parallel declaration of the United Kingdom and the Soviet Union, the Security Council has adopted a resolution which recognizes that nuclear threats or aggression would create a situation in which the Security Council, and particularly its permanent members having nuclear weapons, "would have to act immediately in accordance with their obligations under the United Nations Charter."⁶⁴ The resolution goes on to state that the Security Council:

Welcomes the intention expressed by certain states [the United States, United Kingdom, and Soviet Union] that they will provide or support immediate assistance, in accordance with the Charter, to any non-nuclear-weapon state party to the Treaty on the Non-Proliferation of Nuclear Weapons that is a victim of an act or an object of a threat of aggression in which nuclear weapons are used.⁶⁵

The Security Council resolution and the United States declaration would not involve the United States in any obligation beyond that contained in the United Nations Charter.⁶⁶ The declaration by

⁶³ S/Res./255 (June 19, 1968).

⁶⁴ S/P.V. 1430 (June 17, 1968).

⁶⁵ *Id.*

⁶⁶ See Testimony of ACDA Deputy Director Fisher in *Hearings on H.R.*

the United States would simply explain how it would carry out its obligations under the Charter in the event of a nuclear threat or attack of a non-nuclear party.⁶⁷ Clearly no obligation to engage in a nuclear war with the Soviet Union would result should it ever be responsible for a nuclear threat or attack.⁶⁸ On the other hand, a clear warning would be given to any potential nuclear aggressor. The United States and the Soviet Union have a mutual interest in the success of the nonproliferation treaty, and it will not last long if nuclear powers are free to threaten non-nuclear parties without fear of response. The great political impact of United States-Soviet agreement to a joint approach to meet nuclear aggression against non-nuclear parties to the treaty has not been lost on the international community, including the Chinese Communists who, with characteristic exaggeration, referred to the agreement as "another grave step toward an open nuclear-military alliance . . . to oppose China"⁶⁹ But, in the words of Arms Control and Disarmament Agency Director Foster, the Security Council action "will, we believe, constitute a heartening reaffirmation of the basic purpose of the United Nations and of the responsibility of the Security Council for the maintenance of peace."⁷⁰

III. QUESTIONS OF INTERPRETATION

Several important questions have arisen so far. These concern both military and peaceful uses of nuclear energy.

A. *Military Uses of Nuclear Energy*

1. Would the treaty interfere with existing arrangements within NATO for the defense of our allies against nuclear attack?⁷¹

No. The 1965 Soviet draft nonproliferation treaty appeared to prohibit existing arrangements for the deployment in allied territory by the United States of its nuclear weapons under its custody and control, for the training of allied troops for defense against nuclear attack, and for allied consultations and planning for such defense.⁷² The United States' representatives made clear that no treaty was possible if the Soviets intended to change these

14940 before the *House Comm. on Foreign Affairs*, 90th Cong., 2d Sess. 211 (1968) [hereinafter cited as *HFA Hearings*].

⁶⁷ *Id.* at 78, 88.

⁶⁸ *Id.*

⁶⁹ See New China News Agency, Statement of Mar. 13, 1968, Federal Broadcast Information Service, Daily Report (Mar. 13, 1968); see also Commentator, *People's Daily* (Mar. 13, 1968).

⁷⁰ ENDC/PV.375 at 22 (Provisional, Mar. 7, 1968).

⁷¹ This question arose in consultations within the Atlantic Alliance and in hearings before the House Foreign Affairs Committee. See *HFA Hearings* 67.

⁷² *Id.* at 90.

arrangements.⁷³ The compromise agreed upon would not.⁷⁴

2. Would the treaty permit the transfer of antiballistic missiles with nuclear warheads to NATO to be operated under NATO control?⁷⁵

No. The treaty would prohibit the transfer of "nuclear weapons" or control over them to "any recipient whatsoever." This would, of course, include the transfer of nuclear warheads for antiballistic missiles, or control over them, to NATO. Since defensive weapons can be used offensively, or can be used to make offensive weapons, no other result would be consistent with the objectives of the treaty.⁷⁶ The treaty would not, however, prohibit a United States antiballistic missile system designed to protect NATO allies and deployed on their territory but under United States custody and control.⁷⁷

3. Would the treaty bar a non-nuclear party from helping a non-nuclear nonparty in making nuclear weapons? For example, could the party ship uranium to the nonparty knowing it was to be used to make nuclear weapons?⁷⁸

The treaty draft prohibits *nuclear* parties from helping any non-nuclear country, party or not. But an express prohibition on assistance by *non-nuclear* parties was thought unnecessary. When the question arose in Geneva discussion, however, the United States representative responded as follows:

[I]t seems clear that a non-nuclear-weapon state which accepts the treaty's restrictions on itself would have no reason to assist another country not accepting the same restrictions to gain advantage from that fact in the field of nuclear-weapon development. If a non-nuclear-weapon party did nevertheless attempt to provide such assistance in the territory of a non-party, the presumption would immediately arise that these acts had the purpose of developing nuclear weapons itself, in violation of the treaty.⁷⁹

In a statement at the same session the Soviet representative gave a similar interpretation. He said: "If a non-nuclear State were to give assistance to another non-nuclear State in producing or acquiring nuclear weapons, in that case, under the provisions of Article II and the preamble to the treaty, it would be viewed as a

⁷³ See ENDC statement of ACDA Director Foster, in 1966 DOCUMENTS ON DISARMAMENT 385, 386; ENDC statement of George Bunn, in 1966 DOCUMENTS ON DISARMAMENT 455, 457-58.

⁷⁴ See testimony of ACDA Deputy Director Fisher, *HFA Hearings* 67, 89, 178, 206.

⁷⁵ Cf. *HFA Hearings* 161, 162.

⁷⁶ See testimony of ACDA Deputy Director Fisher, 178-79, 182-83.

⁷⁷ *Id.* at 178.

⁷⁸ ENDC statement of United Arab Republic Ambassador Khallaf, in ENDC/PV.367, at 5, 16 (Provisional, Feb. 20, 1968).

⁷⁹ ENDC statement of ACDA Director Foster, in ENDC/PV.370, at 51, 56 (Provisional, Feb. 27, 1968).

violation of the treaty."⁸⁰

4. Will safeguards apply to any reactors of a non-nuclear country used for the propulsion of warships?⁸¹

Article III provides for safeguards on nuclear materials in "all peaceful activities"⁸² because the statutory purpose of IAEA safeguards is to ensure that material or facilities under its control are "not used in such a way as to further any *military* purpose."⁸³ Neither the IAEA's statute nor its safeguards system provide for safeguards on military facilities.⁸⁴ However, so far as is known by the United States, none of the approximately 150 research and power reactors in non-nuclear states is employed for military purposes.⁸⁵ Thus, no practical problem now exists. And in any event, the basic article II obligation of non-nuclear countries not to manufacture nuclear weapons has force independent of the safeguards article. Moreover, under article I and the interpretation of article II discussed in the preceding question, all parties would have a duty to make sure that any shipment of nuclear materials to any non-nuclear country did not constitute assistance in the manufacture of nuclear weapons.

5. Would the treaty be self effectuating within the United States or would national legislation be needed to effectuate its provisions there?⁸⁶

The treaty's undertakings are described in terms applicable to sovereign states. For example, article I states: "Each nuclear-weapon State Party to this Treaty undertakes not to transfer to any recipient whatsoever nuclear weapons" States, of course, are the signatories, not private persons or corporations. Moreover, the draft contains no undertaking by states like that in the Partial Test Ban Treaty "to prohibit, prevent, and not to carry out" the proscribed conduct.

The safeguards article makes clear, however, that, when a non-nuclear state accepts safeguards, it must take measures to see that they are applicable to the peaceful nuclear activities of private persons and corporations under its jurisdiction. Thus, the state

⁸⁰ ENDC Statement of Soviet Ambassador Roshchin, in ENDC/PV.370, at 31, 42 (Provisional, Feb. 27, 1968).

⁸¹ See statement to newsmen by State Dep't Spokesman Robert McClosky, Mar. 14, 1968, on the subject of nuclear propulsion and the Non-proliferation Treaty (in State Dep't files).

⁸² Nonproliferation Treaty art. III. For text, see *supra* note 46.

⁸³ IAEA Statute, art. II, [1957] 8 U.S.T. 1093, T.I.A.S. No. 3873, 276 U.N.T.S. 3 (1956).

⁸⁴ See IAEA Statute, [1957] 8 U.S.T. 1093, T.I.A.S. No. 3873, 276 U.N.T.S. 3 (1956); and the Agency's Safeguards System, I.A.E.A. Doc. INFCIRC/66/Rev. 1 (1967).

⁸⁵ See statement *supra* note 82.

⁸⁶ Cf. statement of United Arab Republic Ambassador Khallaf, in ENDC/PV.367, at 12-16 (Provisional, Feb. 20, 1968).

agrees that safeguards are to be applied to all nuclear materials "in all peaceful nuclear activities within the territory of such state, under its jurisdiction, or carried out under its control anywhere."

While this provision does not in terms apply to the United States, a nuclear state, President Johnson has offered to accept IAEA safeguards on all nuclear activities of the United States, excluding only those with direct national security significance; existing atomic energy legislation is thought not to require amendment to carry out this offer.⁸⁷

In the case of the transfer and assistance obligations of article I, nuclear states must also take appropriate measures to assure control. As the United States representative put it:

No government that wishes to remain a government could let that control out of its hands [T]he laws of the United States already prohibit any disclosure of a nuclear explosive device. Furthermore, they prohibit private organizations or individuals in the United States from developing, manufacturing, acquiring or possessing nuclear explosive devices.⁸⁸

The Soviet representative said that the treaty would impose an undertaking on nuclear parties "to take appropriate measures to ensure the implementation" of their obligation not to transfer nuclear weapons.⁸⁹ The United States, of course, already has effective legislation regulating private atomic energy activities in a manner consistent with the treaty.

B. *Peaceful Uses of Nuclear Energy*

1. Article III requires non-nuclear parties to accept safeguards "as set forth in an agreement to be negotiated and concluded with the IAEA" Does it not thereby require acceptance of a "blank system of control yet to be formulated"?⁹⁰ Putting the question another way, is it not simply "an agreement to agree" and therefore of no validity?⁹¹

⁸⁷ Address by President L. Johnson on the 25th anniversary of the first nuclear reactor, *supra* note 47. Recent United States legislation permitting private ownership of fissionable material does not affect the Commission's power to safeguard such material in the United States "or to control such materials . . . exported from the United States by imposition of . . . security safeguards" Private Ownership of Special Nuclear Material Act, Pub. L. No. 88-491, § 20, 78 Stat. 607 (1964).

⁸⁸ ENDC statement of ACDA Director Foster, in ENDC/PV.370, at 56 (Provisional, Feb. 27, 1968).

⁸⁹ ENDC statement of Soviet Ambassador Roshchin, in ENDC/PV.370, at 42 (Provisional, Feb. 27, 1968).

⁹⁰ ENDC statement of Brazilian Ambassador de Araujo Castro, in ENDC/PV.363, at 28, 36 (Feb. 8, 1968).

⁹¹ This suggestion was made by Congressman Hosmer (R. Cal.). 114 CONG. REC. 325-26, 90th Cong., 2d Sess. (daily ed., Jan. 24, 1968).

The answer to both these questions is no. Article III sets standards for the safeguards to be applied. They must be those set forth in an agreement negotiated and concluded "in accordance with the Statute of the International Atomic Energy Agency and the Agency's safeguards system." Both the statute⁹² and the system⁹³ contain detailed criteria for the conclusion of safeguards agreements. The method by which a state ordinarily assumes safeguards is by entering into an agreement with the IAEA in accordance with the statute and the system. As is the case with safeguards agreements presently in effect with the IAEA, safeguards agreements pursuant to the nonproliferation treaty will probably incorporate by reference the relevant portions of the Agency's safeguards system.⁹⁴ The exact terms incorporated will depend, for example, on the kind of reactors and other facilities involved.⁹⁵

2. How will the IAEA deal with safeguards in the territory of the five⁹⁶ non-nuclear EURATOM countries which are already subject to EURATOM safeguards?⁹⁷

EURATOM countries will also enter into a negotiation with the IAEA to work out the safeguards applicable in their territory. They may, however, utilize the option provided by article III to negotiate with the IAEA "together with other States in accordance with the Statute of the International Atomic Energy Agency." That statute provides for "relationship agreements" between the IAEA and "any other organization the work of which is related to the Agency."⁹⁸

Article III was formulated on the basis of several principles worked out by the United States in consultation with its allies and the Soviet Union. One of these was:

In discharging their obligations under Article III, non-nuclear-weapon Parties may negotiate safeguards agreements with the IAEA individually or together with other Parties, and specifically, an agreement covering such obligations may be entered into between the IAEA and another international organization the work of which is related to the IAEA and the membership of which includes the parties concerned.⁹⁹

⁹² IAEA Statute, [1957] 8 U.S.T. 1093, T.I.A.S. No. 3873, 276 U.N.T.S. 3 (1956).

⁹³ IAEA, The Agency's Safeguards System, *supra* note 11.

⁹⁴ Testimony of ACDA Deputy Director Fisher, *HFA Hearings* 180.

⁹⁵ *Id.*

⁹⁶ Belgium, Federal Republic of Germany, Luxembourg, Netherlands, and Italy.

⁹⁷ Cf. *HFA Hearings* 71-72, 74.

⁹⁸ IAEA Statute, art. XVI(A), [1957] 8 U.S.T. 1093, T.I.A.S. No. 3873, 276 U.N.T.S. 3 (1956).

⁹⁹ Statement of ACDA Deputy Director Fischer, in ENDC/PV.357, at 14, 17.

Thus, article III permits a safeguards agreement between the IAEA and EURATOM covering the safeguards obligations of EURATOM members. The safeguards which result must permit the IAEA to "satisfy itself that nuclear material is not being diverted to nuclear weapons or other nuclear explosive devices."¹⁰⁰ At the same time, "in order to avoid unnecessary duplication, the IAEA should make appropriate use of existing records and safeguards" (e.g., those of EURATOM).¹⁰¹

EURATOM safeguards can thus be used by the IAEA, and can be kept in being.¹⁰² The relationship will probably be one in which the IAEA looks over EURATOM's shoulders in much the same way that a certified public accountant looks over the shoulder of a corporation's house accountants. At the same time, in order to apply safeguards on a world-wide scale, the IAEA will also have to utilize the existing safeguards and records of those parties which have national safeguards or materials accountability systems. In this way there will be equality of treatment for all systems, whether national or multinational.

The safeguards article, as the delegate from the United Kingdom put it, "meets the need for unity in diversity."¹⁰³ Explaining this conclusion, he said:

[U]nity is provided by the International Atomic Energy Agency, which will apply safeguards based on agreed principles. The diversity lies in the differing circumstances and requirements of the many countries which we hope will sign and ratify this treaty. These two are reconciled not in any artificial way but by the method which is already central to the Agency's application of safeguards: the conclusion of a safeguards agreement between IAEA and the country or countries concerned.

We believe that the present safeguards article will permit IAEA to negotiate agreements that take account of the fact that some of the parties are members of a regional organization that has its own safeguards system. What is important is that the safeguards established by the various agreements should achieve the same result, that they should inspire equal confidence that all the parties to the treaty are fulfilling its obligations. The details of the agreement will necessarily differ to take account of the circumstances of each case; but it is clear that IAEA must be enabled on a continuing basis to take appropriate measures to ensure that the safeguards are fully effective in every case.¹⁰⁴

¹⁰⁰ *Id.*

¹⁰¹ *Id.*

¹⁰² See Testimony of ACDA Deputy Director Fisher, *HFA Hearings* 74.

¹⁰³ ENDC statement of the Right Honorable Fred Mulley, in ENDC/PV. 358, at 5, 6 (Jan. 23, 1968).

¹⁰⁴ *Id.*

3. Can non-nuclear countries continue to receive materials without safeguards for the two year period after the treaty goes into effect during which safeguards agreements are to be negotiated with the IAEA?¹⁰⁵

This question arose because paragraph 2 of article III prohibits parties from shipping nuclear material or specialized equipment such as reactors to non-nuclear countries unless the nuclear material involved "shall be subject to the safeguards required by this Article."¹⁰⁶ The United States representative pointed out that the "safeguards required by this article" are

to take effect not later than at the end of the specified period. They are not safeguards required immediately upon entry into force of the treaty [because paragraph 4 of article III provides two years to conclude agreements with the IAEA to meet the requirements of article III]. Accordingly, paragraph 2 of Article III does not contain an obligation to interrupt transfers during the transition period.¹⁰⁷

During the transition period, the United States expects to continue its present policy of supplying materials and equipment under appropriate safeguards.¹⁰⁸ Such safeguards "will, as necessary, later have to be brought into conformity with the safeguards required by the treaty when the party in question concludes its agreement with IAEA."¹⁰⁹

4. Does article III require that the United States discriminate against non-nuclear countries which do not sign the nonproliferation treaty by refusing to ship them nuclear materials?¹¹⁰

No. Article III does not require any such result.¹¹¹ After its safeguards requirements are in effect, the United States may ship nuclear materials and specialized equipment to nonparties provided the material is subject to the kind of safeguards called for by the treaty.¹¹² If this requirement is met, there is no necessity for the consumer to be a party to the treaty.

¹⁰⁵ ENDC statement of Swedish Ambassador Myrdal, in ENDC/PV.363, at 5, 22-25 (Provisional, Feb. 8, 1968).

¹⁰⁶ Article III is set forth in full in note 47 *supra*.

¹⁰⁷ ENDC statement by ACDA Assistant Director Samuel DePalma, in ENDC/PV.368, at 17, 35 (Provisional, Feb. 21, 1968).

¹⁰⁸ *Id.* at 36.

¹⁰⁹ *Id.*

¹¹⁰ See letter from Congressman Findley (R. Ill.) to Secretary of State Dean Rusk, 114 CONG. REC. 1673-79, 90th Cong. 2d Sess. (daily ed., Mar. 5, 1968).

¹¹¹ See para. 2 of art. III, *supra* note 47; letter from William B. Macomber, Jr., Assistant Secretary of State for Congressional Relations, to Congressman Findley (R. Ill.), Mar. 11, 1968 (on file in ACDA).

¹¹² See letter from William B. Macomber, Jr., *supra* note 111.

IV. CONCLUSION

The non-proliferation treaty was opened for signature on July 1, 1968. More than 60 countries signed at that time.¹¹³ Since the treaty had been commended by a resolution of the General Assembly of United Nations for which 95 countries voted,¹¹⁴ even wider adherence is to be expected in due course.

We may hope, in the words of the treaty's principal negotiator, that the "achievement of the non-proliferation treaty and the implementation of the proposal on security assurances . . . will mark a turning point in man's efforts to achieve a firmer basis for lasting peace and international security in a world in which man will be the master, rather than the victim, of the atom."¹¹⁵

¹¹³ The following countries signed in Washington on July 1: United States, Britain, Soviet Union, Nepal, Somalia, Iceland, Afghanistan, Laos, Tunisia, Ireland, Austria, Dominican Republic, Ghana, San Marino, Haiti, Cyprus, Nationalist China, Morocco, Botswana, Paraguay, Iran, Greece, Malaysia, Hungary, Colombia, New Zealand, Romania, Liberia, El Salvador, Panama, Norway, Bolivia, Mauritius, Denmark, Senegal, Czechoslovakia, Lebanon, Poland, Nigeria, Bulgaria, Venezuela, Nicaragua, Peru, Costa Rica, South Vietnam, Uruguay, Ceylon, Togo, Finland, Philippines, South Korea, Kenya, Barbados, Dahomey, Ivory Coast, Honduras.

The following countries signed in London on July 1: Soviet Union, United States, Britain, Afghanistan, Austria, Bulgaria, Ceylon, Czechoslovakia, Denmark, Finland, Hungary, Iceland, Iran, Laos, Lebanon, Nepal, Nicaragua, Norway, Poland, Romania, Somalia, Tunisia, United Arab Republic.

The following countries signed in Moscow on July 1: Hungary, Bulgaria, Ireland, East Germany, Austria, Czechoslovakia, Iran, Poland, Romania, Mongolia, Finland, Syria, Tunisia, Senegal, Denmark, Iceland, Greece, Laos, Lebanon, Nepal, United Arab Republic, Malaysia, Afghanistan, Ceylon, Iraq, Nigeria, Norway, Chad, Somalia, Ghana, Morocco, Cyprus, New Zealand, United States, Britain, Soviet Union. *Washington Post*, July 2, 1968, § 1, at 6, col. 8.

¹¹⁴ Four countries—Albania, Cuba, Tanzania and Zambia—voted against the resolution. Twenty-one countries, including France and India, abstained. *N.Y. Times*, June 13, 1968, § 1, at 1, col. 8.

¹¹⁵ ENDC statement of ACDA Director Foster, in ENDC/PV.375, at 22 (Provisional, Mar. 7, 1968).