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UNITED STATES ARMS CONTROL AND DISARMAMENT AGENCY  
WASHINGTON

November 22, 1968

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Mr. Brooks*

OFFICE OF  
THE DIRECTOR

MEMORANDUM

TO: S/S - Mr. Benjamin H. Read  
FROM: William C. Foster *W.C.F.*  
SUBJECT: Basic Issues Regarding NPT and  
Timing of Ratification  
REFERENCE: Your November 19 Telephone Request

Policy Issues:

1. Is it in the interest of the US to proceed with the NPT?
2. Is early ratification desirable?

Discussion

Preventing the spread of nuclear weapons to additional countries is generally accepted as a national interest of the US, going back at least through three administrations. In 1966 the Senate voted 84-0 for a resolution supporting negotiations for a NPT. The NPT has broad public support, as indicated by a Harris poll in July, 1968, showing 81% in favor and 9% against the treaty idea.

The main proponents of nuclear proliferation are a handful of European intellectuals like General Beaufre, who have argued that there has been no warfare between any of the nuclear powers, but quite a few wars among non-nuclear

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countries since the nuclear era began. The true origin of such arguments probably lie in rationalization of the uneconomic French force de frappe. In any event, such arguments have made little dent on opinion in this country, Europe, or elsewhere, largely because they beg the question of US and Soviet involvement, rivalry, and interest in local conflicts around the globe. Also ignored is what US and Soviet reactions would be once a nuclear weapon was employed, particularly in an area such as the Middle East.

There has been more dispute over whether a non-proliferation treaty is the best instrument to prevent proliferation. The MLF was an alternative solution tried in Europe which failed. A comprehensive test ban has been out of reach as long as there is no stabilization of the US-Soviet nuclear arms race and in any case might not prevent the acquisition of simple nuclear weapons. Accordingly, the present Administration embarked on the NPT route.

#### Arguments Against the NPT and Rebuttals

The NPT, which was signed by the US on July 1, 1968, has been criticized by a number of Germans and other Europeans, as well as a few Americans, such as Congressmen Hosmer and Findley, and Dr. Edward Teller and Admiral Strauss. The critics have alleged that the NPT would impede European unification, disrupt Euratom, prevent a European MLF and alliance deployments of ABMs whose nuclear warheads could only be used for defensive purposes.

Against such criticism of the NPT lies the overwhelming bulk of the US scientific community, prominent public figures such as John McCloy, Roger Blough, and General Gruenther, who have testified before Congress or made public statements, supporting the NPT.

#### European Unification

The US position regarding European unification is contained in interpretations, furnished in written form to the

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Soviets. The interpretations affirm that the NPT only deals with what is prohibited and not what is permitted, and that a politically unified Europe would succeed to the nuclear assets of its component parts. The Soviets have not indicated formal agreement with these interpretations, but they have not challenged our right to make them. The Soviets are on notice they would bear the responsibility for the serious consequences which would result if our interpretations were contradicted by them. These interpretations were made public during the Senate hearings in July, 1968. No Soviet protest has been registered so far.

### Euratom Problem

NPT safeguards were seen in Western Europe as a threat to the continuance of Euratom safeguards, and thus as a threat to Euratom itself, and by extension, West European unification. Final agreement on the NPT was delayed by over one year mainly because of our effort to achieve a safeguards article text adequately protecting Euratom's interests. When agreement finally was achieved on the safeguards article (Article III), countries especially interested in the Euratom problem, including the FRG, expressed general satisfaction with the terms we were able to negotiate but made clear that they would delay ratification of the treaty until an IAEA-Euratom agreement on safeguards which they deem satisfactory is negotiated. Here it should be added that major threshold countries not sharing Euratom's particular concerns, such as Japan and Sweden, have expressed anxieties about a privileged role for Euratom under the NPT.

### ABM Deployment

The NPT would not prevent deployment of ABMs on allied territory provided the nuclear warheads are owned and controlled by an existing nuclear weapon state. The NPT does

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prohibit transfer of ownership and control of nuclear bombs and warheads, as does the US Atomic Energy Act. As for the UK and France, it is widely recognized that they are most unlikely to share their ownership and control of nuclear weapons with the FRG or Italy. We do not consider the argument that the UK and/or France could furnish ABM defensive warheads to the FRG or Italy is politically realistic (apart from the question of whether the UK or France can technically produce such warheads in the foreseeable future). We also dispute the argument that defensive-only nuclear warheads can be transferred to the ownership and control of other governments, without the latter being able to acquire essential technical knowledge about such sophisticated weapons through X-rays or other means. In sum, the transfer of a defense-only warhead to a non-nuclear power would give it the possibility of acquiring most up-to-date weapon design information, apart from the political suspicions that would be aroused among other countries not in on the deal, allied as well as adversary.

### Safeguards

A major strength of the NPT is that it calls for safeguards on fissionable materials in non-nuclear states to ensure that they will not be diverted to nuclear weapons. The coming into force of the treaty will provide for international inspections to ensure that the treaty is being observed. This will impose restrictions on non-parties to the treaty as well, unless they rely on indigenous resources for nuclear weapons development, inasmuch as NPT parties will not be permitted to export fissionable materials and associated equipment to non-parties unless such materials are subjected to safeguards provided for by the treaty. The prospect that France or Communist China would transfer weapons to non-parties is more theoretical than real. France has stated in the UN that it will not act contrary to the NPT and China is likely to act in the same way out of self-interest.

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During the period that the NPT safeguards article was being negotiated, President Johnson made a public offer to place all US peaceful nuclear facilities under NPT safeguards except those directly relating to national security when NPT safeguards go into effect. This was done after consultations with Congress and industry, which raised no objections. This offer played a major role in allaying suspicions among industrially-advanced countries that the NPT would promote industrial espionage or work to the commercial disadvantage of those countries. The UK made a similar offer. The Soviet Union still remains adamant against accepting inspections on its territory but has made an important concession in principle in agreeing to international inspections of other "socialist states", including of course Soviet-assisted programs, under the NPT. Soviet refusal to accept safeguards is not germane to the main objective of the treaty -- to prevent further proliferation of nuclear weapons.

#### Objection to IAEA Safeguards in US

Congressman Hosmer recently suggested that the IAEA would be swamped by having to inspect the extensive US peaceful nuclear facilities and suggested possible withdrawal of the President's offer. We do not share Hosmer's anxieties. IAEA safeguarding of US facilities already has existed in certain US plants for a number of years on a demonstration basis. Following through on President Johnson's offer will be essential to maintain US credibility that the NPT will not be exploited commercially against the interests of non-nuclear-weapon states.

#### Peaceful Nuclear Explosion Services

Senator Aiken has requested clarification of the undertaking in Article V of the treaty to make nuclear explosion services available to non-nuclear-weapon states and assurance that this would not involve subsidization of foreign projects

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at the expense of US taxpayers. We have made clear that the charges for any services that may be made available under the treaty will be the same as those made to industrial users in the US. Said charges are expected to be the subject of US legislation, which is required before such services can be made available commercially.

### Other Considerations

In addition to the NPT's substantive merits, I believe other important factors should be kept in mind. One of these is the diplomatic effort already spent by the US on the project and its inter-relationship with other arms control measures. A set-back to the NPT could impair the prospect of starting strategic arms limitation talks. Moreover, it would create serious difficulties for us when the ENDC reconvenes on March 6, 1969. Having fended off pressures for starting negotiations on a comprehensive test ban and "cut-off" agreement on the production of fissionable materials for weapons use with arguments that the NPT should come first, we would be in a vulnerable position at the ENDC if the NPT is allowed to languish.

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### Record of NPT Signatures

Since the NPT was opened for signature on July 1, 83 countries (not counting the GDR) have signed it. Momentum was building up for further signatures before the Czech invasion. The Benelux countries and Sweden signed in August. Italy planned to sign on August 26 and Switzerland shortly thereafter. Japan and the FRG probably would have signed in early autumn after the Non-Nuclear Conference was completed -- except for the Czech events. Had these important countries signed, other nuclear-capable countries, which have been

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hanging back, such as Israel, Australia, and South Africa, would presumably have begun to feel isolated. In this connection it is important to note that all the countries enumerated above (except the FRG which is not a UN member) voted for the June 12, 1968, UNGA resolution commending the NPT. Likewise none of them have said they would not sign. We thus anticipate that when momentum for the treaty is built up again, there will be relatively few non-signers among countries with considerable potential for going nuclear in the near future. A major exception is India, whose posture on the NPT has become introverted in domestic political weakness. Pakistan's attitude is largely dictated by India's, in mirror image. Nevertheless, India keeps repeating publicly that it will not develop nuclear weapons. Brazil is likely to delay for sometime but its nuclear potential is of a relatively low order.

#### Effect of Czechoslovakian Events

Since the invasion of Czechoslovakia removed the momentum which the NPT acquired with the substantial number of initial signatories and the steady trickle of signatures before August 21, action by the US to complete ratification probably is more necessary now than otherwise would have been the case to restore momentum to the treaty. Although Senate consent to the treaty would be viewed by some countries as a sufficient basis for them to sign or ratify the treaty themselves, delay in the deposit of the instrument of ratification might be interpreted as an indication that the new Administration has reservations about the treaty and could be used as a pretext for certain countries to delay further their signature or ratification. Additionally, it is most doubtful that the Soviet Union will ratify until the US has.

#### International Consequences of Senate Action

The Senate Committee on Foreign Relations recommended that the President take into consideration the status of

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treaty action by "near-nuclear" countries before depositing the instrument of ratification. We told our NATO allies, who are members of Euratom, that we would bear in mind the status of their safeguards negotiations with the IAEA in deciding when to complete our ratification. This was done at the time that Article III on safeguards was being negotiated. Since then it has become clear that Euratom cannot commence formal negotiations with the IAEA until all its non-nuclear members have signed the NPT. This means in effect that such negotiations cannot start until Italy and the FRG have signed the NPT. Although Italy may sign relatively soon, there seems little prospect that the FRG will sign soon unless the NPT again builds up considerable momentum. Early completion of US ratification thus may become necessary to stimulate such momentum. If we are to consider doing this, however, it would be desirable to consult with the Euratom countries about their views on the effect of the delay in commencing Euratom-IAEA negotiations on the treaty project as a whole. In this connection it should be noted that the UK, one of the depositary governments, probably will already have ratified by the time the US Senate has acted.

It does not seem feasible or desirable to coordinate the timing of our ratification with that of other depositary states (the UK and USSR). The UK seems determined to act independently. Soviet spokesmen have said that the USSR will not ratify until the FRG has done so. However, it is possible that the USSR will wish to ratify promptly after the US has done so, particularly if the Soviets calculate that this would serve to hasten the FRG's adherence to the treaty.

Independent action by the US on ratification would blur the fallacious impression which persists among critics of the treaty that it somehow represents a form of US-Soviet collaboration. Nevertheless, it would be prudent to approach the

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USSR bilaterally before completion of US ratification to determine what Soviet plans are regarding Soviet ratification of the NPT.

On balance, I feel that there is no question that this treaty serves our national interest and that the problems encountered during the negotiations have been or can be solved to our satisfaction and that of our allies, but that the vital issue now is the speed with which we act to ratify the treaty. Any substantial delay on our part will be taken by other key potential signatories as a sign of lack of US interest and will lead them to reevaluate their own attitudes toward the treaty, with the almost certain result that the treaty will not come into force.

Attachments:

1. Transmittal Message of the President containing texts of NPT and Security Assurances Resolution and Declaration.
2. Report of the Senate Foreign Relations Committee on the NPT.

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